Chapter 13

Disclosure of Corporate Information

Introduction

Corporations generate, accumulate and sometimes disseminate vast quantities of data. The nature and range of corporate information is as varied as that of corporate activity itself. Early in our work we decided that one of the main issues facing us was to determine whether, in the face of major concentrations of corporate power, the public interest would be better protected if more of this information, or better information, were required to be made public.

Much has been written about disclosure of corporate information, and we do not propose to discuss more of the various views and arguments than is necessary. To obtain a perspective as neutral and objective as possible, we commissioned an independent research study on disclosure, which we are publishing separately. This study, by John Kazanjian, is quite thorough, and readers who are interested in pursuing the subject in more detail than we are able to provide here are referred to it. As part of its analysis, the study makes the point that most of the various disclosure requirements are found in different places, not by accident but because they are intended to accomplish different purposes and satisfy the needs of different segments of society. There is not, nor do we think there can be, one totally comprehensive disclosure regime in Canada. Because information about corporations is needed for different purposes it is not easy to devise one practical scheme that will satisfy all requirements.

The most difficult problem is not how to make corporate information available, but to decide what should be disclosed. It is easy enough to pile one disclosure requirement upon another; indeed that is what the law has tended to do, creating in the process a mixture of the significant and the trivial, with overlapping and duplicated collection systems and filing requirements. The result is an enormous mass of undigested data, which is often inaccessible and incomprehensible to those who might want to use it.

In the following discussion we refer to both corporate disclosure and corporate reporting. We intend the former phrase to refer to information that

is communicated, either directly or through an intermediary (such as a governmental agency) to some person in the public domain, such as an investor or shareholder. Communication of this kind is the same, for large corporations, as disclosure to the public at large. Corporate reporting, on the other hand, denotes the delivery of information by corporations to government, to be used by government for its own purposes. Such information is not necessarily further conveyed to the public, and sometimes statutes forbid it. We will discuss both of these concepts and their practical implications.

To put corporate disclosure in perspective, we will segregate the mandatory disclosure and reporting obligations of large Canadian corporations into three broad categories. We will then give a brief overview of these requirements, having in mind the largest Canadian companies (and assuming where necessary that they are governed by the Canada Business Corporations Act). While there may be some overlapping within these categories, particularly in the investor and shareholder areas, generally the requirements and the purposes are distinct.

Current Disclosure and Reporting Obligations

Disclosure to Investors

The provincial securities commissions (particularly the Ontario Securities Commission, which has led the others) regulate trading in corporate securities. In a practical and important way, stock exchanges also have some power. For example, both the Ontario Securities Commission and the Toronto Stock Exchange have certain disclosure requirements. Each is concerned, but in different degrees, with disclosure of information relating to both the primary issue of securities and trading in secondary markets. Rules on disclosure are found both in the Securities Act and Regulations and in the policies of the Securities Commission and the Stock Exchange. In the case of the widely held, public company, the reporting or filing of material by it with one of these authorities constitutes disclosure to the public, since any person who is interested in the affairs of a particular company is able to obtain much of the information held by these agencies (except that in private files). The delivery of most information by companies to these bodies is, therefore, tantamount to the disclosure of it to any interested creditor, supplier, medium of public communication or member of the general public.

A brief summary of some of the principal disclosure documents may be helpful. These include prospectuses, takeover bid circulars, insider trading reports, financial statements, and other documents containing significant information concerning a company's affairs. One of the primary disclosure instruments is a prospectus, which is pre-cleared with a securities commission and delivered to the purchasers of securities when a company offers its securities to the public. The prospectus contains general information, plus particulars relating to such matters as the securities being offered, dividend payments, options, directors' and officers' interest in transactions with the company and principal holders of the corporation's securities. Certain financial statements

are also included in a prospectus. Prospectuses are thus a source of considerable corporate information, but since they are prepared in connection with a particular sales effort they have a very short useful life. Some companies offer securities infrequently; others do so regularly. A current prospectus can provide timely and useful information whereas one that is some years old is likely to be unreliable for many purposes.

Takeover bids and the documents accompanying them contain some information on the bidding company and its key individuals. If a bid involves payment in securities, then it must contain information equivalent to that required in a prospectus.

As well, insider trading reports must be filed by certain persons (directors, senior officers and persons owning more than 10% of certain kinds of shares) when they trade in the securities of the company. The reason the law requires insider trading reports to be filed is not primarily because there is a great public interest in the information contained in them. The principal purpose of the law is to deter trading in corporate securities by insiders using confidential information. The law presumes that the very fact that trades have to be disclosed publicly will deter those who might otherwise engage in improper transactions.

Comprehensive audited financial statements must be filed annually by publicly held companies, which are also obliged to file interim unaudited financial statements for the six-month period that commences after each fiscal year end. These statements are substantially the same documents usually sent to shareholders. The Toronto Stock Exchange also requires quarterly publication of unaudited financial statements.

Public companies are also required to make prompt disclosure of all significant information about their affairs. This information would include changes in corporate control, acquisition or disposition of material assets, takeovers, changes in capital structure, unusual changes in earnings, or any other material change that might substantially affect the market value of a company's securities. These "timely disclosure" rules are an important element in the investor disclosure system.

The rules of these authorities have been devised to accomplish specific purposes. Each separate component in the disclosure scheme is thought to have an identifiable function in attaining the objectives. Collectively these rules are intended to protect investors, to act as a deterrent against fraud in securities dealing, and to facilitate the orderly working of the capital markets. Protection of investors by disclosure is a well-accepted policy in Canada, as it is in the United States and other Western countries. While the securities commission and stock exchange rules are not a general disclosure system, the information that corporations divulge under this regime constitutes one of the major repositories of corporate data available to the public.

In fact, the public makes little direct use of this source of information; studies show that almost nobody reads prospectuses and other information in the files of the Ontario Securities Commission. Undoubtedly, the same is true

of the similar information filed with the other provincial securities commissions and with the Department of Consumer and Corporate Affairs in Ottawa. This, however, is not an argument against public filing. Analysts, financial journalists and other expert commentators do use this information, and they disseminate it to the public in a distilled and understandable form.

Disclosure is not static. Disclosure for investor purposes is under constant review by securities commissions and other regulatory bodies. There have been, and will continue to be, many suggestions for changes in disclosure to investors. The federal Department of Consumer and Corporate Affairs is also studying the regulations of the securities markets in Canada, and disclosure of information to investors will be an important part of that study.

Disclosure to Shareholders

As with disclosure to investors, any information that is reported by very large companies to their shareholders is, in effect, in the public domain. Shareholder reporting requirements are found in corporate law (the Canada Business Corporations Act and its provincial counterparts), and to some extent in securities law, and constitute one of the principal methods by which the managers of corporations account for their stewardship to the owners of corporations.

One of the main shareholder disclosure instruments prescribed by law is the proxy information circular, which must be given to shareholders before any meeting where their proxies are solicited. It contains information that government has determined is likely to be useful to the shareholder whose proxy is sought. The information may also be of value to others. For example, we found proxy information circulars very helpful in our study of corporations. These circulars, which are issued at least annually, must contain, for example, information about financial assistance that may have been given by the corporation to certain persons, management remuneration, indemnification of directors or officers, changes in corporate control and the material interest of certain persons in transactions with the company.

Financial statements are another principal source of information, and they must also be sent to shareholders. In addition, although corporate law does not specifically require them in the form now common (except for the financial statements), custom and convention dictate that companies send annual reports to their shareholders.

It is generally recognized that the ordinary shareholder does not read these documents carefully (as most individual investors do not read prospectuses with any great care), although the annual report probably receives more attention than other material. Most of the shareholder (and investor) documents are necessarily legalistic, partly because they are prescribed in considerable detail in the law, but chiefly because they can create far-reaching legal obligations and liabilities if they are not drawn with the utmost care. This inevitably gives a legal tone to the documents, which in turn undoubtedly

contributes to the recipients' disinclination to read them. They do, however, provide another source of publicly available data that cannot be overlooked when examining the question of corporate disclosure.

Disclosure to Governments

It is our impression that major corporations do not quarrel much with the disclosure obligations placed upon them under the two systems mentioned above, although there is some disagreement with certain details and considerable apprehension about new requirements. On the whole, there is a state of relative resignation toward the requirements of disclosure to investors and shareholders but, at the same time, some doubt that all the requirements are absolutely necessary. In the area of disclosure (or reporting) to governments, however, there is widespread dissatisfaction among corporations, for reasons to be discussed shortly.

This part of the disclosure system is by far the most complex, and it is possible for us only to outline in quite general terms some of the main requirements at the federal level (there are other requirements at other governmental levels). Considerable quantities of corporate information are collected by the federal government, either sporadically or regularly, and, if regularly, on an annual, semi-annual, quarterly, monthly, or even daily basis. It may cover financial status and activities, production activities, sales and export activities, employment data and practices, payroll information, research and development activities, basic identifying data, ownership data, taxation information or an infinite number of other things. Information and statistics reported to the government may be used for statistical, regulatory, law enforcement, policy and administration or other purposes. Sometimes the information collected is used exclusively within the particular department requesting it (often because either a statute or an express or implicit understanding with the provider requires such confidentiality). Sometimes the data is exchanged among several departments, and sometimes it is made available to the public at various levels of aggregation. While there are several possible methods of cataloguing government's corporate data collection work, we will divide the system into four broad categories.

LAW ENFORCEMENT OR INVESTIGATIVE PURPOSES

Data collected for these purposes range from information obtained by the Royal Canadian Mounted Police, to data seized under warrant by the Combines Investigation Branch, to financial and wage settlement data filed with the Anti-Inflation Board. The law usually requires this data to be kept confidential by the collecting department, because it is considered that the dissemination of it within the government or to the public could be unfairly prejudicial to legitimate private interests.

STATISTICAL PURPOSES

Another important category is the collection of corporate information in statistical form. A great deal of data is collected by Statistics Canada from

individual companies. To prevent commercially sensitive information from being exploited by competitors or others, the data are not made available to other government departments, or the public, on an individual firm basis. Only aggregated data are published. It must be said that aggregated industrial data are used by many businesses and are quite important to them for planning and other purposes.

POLICY AND ADMINISTRATIVE PURPOSES

General. To examine the implications of policy alternatives, to judge the effectiveness of current policies and to administer existing programs, federal departments and agencies request information from corporations. Data collected under this category range from those obtained by regulatory agencies like the Canadian Transport Commission to ad hoc departmental surveys of selected firms in specific industries. Information collected is usually kept confidential within the department, but partially for a reason different from the one mentioned earlier. Here confidentiality is the rule (usually as a matter of policy but not of law) because it is felt that disclosure might cause harm, and also because the concept of ministerial responsibility as it is practised requires it. Release of information other than through the appropriate minister is thought to be a potential source of jeopardy to the neutrality of public servants. If any information collected under this category is not to be kept confidential, the policy requires such a decision ultimately to be made by the appropriate Minister, who is then accountable to Parliament for that decision.

Most corporate information, and particularly that collected unsystematically, is provided under this category. While there are occasional shared collection efforts by departments, and some interdepartmental data exchanges, this part of government's program is dependent mainly on decentralized collection with a policy of quite limited interchange of data. Each department is free to request whatever it chooses, even if the information has already been collected in substantially the same form by another department or agency. There is no central coordinating unit in government that maintains an index of material requested and received by the various government departments. There is nothing in the law requiring governmental data requests to be compatible with existing data series in Statistics Canada or elsewhere. Indeed, even Statistics Canada produces series that cannot be linked to other series because of definitional, sample or timing differences. So in this area there is less than adequate coordination and, inevitably, some duplication of requests.

CALURA. One of the principal instruments used by the government in collecting data from business sources is the Corporations and Labour Unions Returns Act (CALURA), which was passed in 1962. CALURA is administered by the Chief Statistician of Canada under the authority of the Minister of Industry, Trade and Commerce. Its purpose is "to collect financial and other information on the affairs of certain corporations and labour unions carrying on activities in Canada. Such information was considered necessary to evaluate the extent and effects of non-resident ownership and control of corporations in Canada and the extent and effects of the association of Canadians with international labour unions."

Part I of CALURA deals with corporations whose gross revenue during a reporting period exceeds $500,000 or whose assets exceed $250,000. Bill C-7, introduced in October 1977, proposes to raise these amounts to at least $10 million and $5 million respectively. Crown corporations and corporations operating under such federal statutes as the Canadian and British Insurance Companies Act, the Trust Companies Act, the Loan Companies Act, the Small Loans Act, the Radio Act and the Railway Act are exempt to avoid duplication of returns where substantially the same kind of information is available under other federal legislation.

CALURA (when amended) will apply to every corporation incorporated in Canada and also to every corporation doing business in Canada regardless of the jurisdiction within which it is incorporated unless it is exempted by legislation. There are a number of corporations that are incorporated outside Canada but, because of their operations in Canada, are reporting corporations under CALURA. At present, the exempt corporations are generally those that provide similar information under federal regulatory legislation or that are government-owned, non-profit, or smaller than the minimum size specified in CALURA. The principal reporting exclusions are the more than 350 Crown corporations and their subsidiaries in Canada.

Corporation returns are divided into confidential and non-confidential sections. The non-confidential section (Section A) includes information on the incorporation, officers and directors, and ownership of the corporation's issued shares. The confidential section of the return (Section B) includes financial statements similar to those required under the Income Tax Act and a schedule of selected payments to non-residents. The data base under CALURA is very broad, but the non-confidential information at least is very limited in scope. If the range of the Section A information were to be expanded significantly, it would be desirable to reduce the number of reporting corporations by setting higher threshold criteria as proposed in Bill C-7.

The returns are made to the Chief Statistician of Canada. CALURA provides that the non-confidential part (Section A) shall be kept on record in the Department of Consumer and Corporate Affairs to which one copy is forwarded by the Chief Statistician of Canada. Anyone is permitted to inspect these copies upon payment of a nominal fee. Section B of the corporation return remains in the control and custody of the Chief Statistician of Canada and is not available to anyone other than an official or authorized person.

One of the inevitable results of this confidentiality is that companies have to supply to other government departments information they have already supplied under Section B of CALURA. Part of the price that is thus paid (in this category as well as others) to maintain confidentiality of data is limited departmental exchange of data and some duplication and inefficiency.

TAX COLLECTION PURPOSES

Tax returns are a separate category in our analysis. Since government revenues emanate from taxation, it is obviously essential that the returns filed

by all taxpayers, including corporations, be as accurate and complete as possible. It is generally believed that confidentiality of tax returns will help to produce accurate reporting of income. There is a tradition (certainly perceived as such by the general public) that tax returns are confidential documents, and statutes such as the Income Tax Act have elevated that concept to a statutory requirement. That Act, for example, stipulates that, except in narrowly described cases, it is an offense for any official to communicate to any other person any information collected under the Income Tax Act. Further, as a matter of practice, access to all tax data, corporate or otherwise, is severely restricted, since tax returns are required for the collection of revenue, not information.

* * * *

While there may be other kinds of information-gathering by government, such as the Canada Business Corporation Act's requirement that certain information regarding federal companies be filed with the government and be open for public inspection, the principal categories have been listed here. It is clear that, considering all information included in the investor/shareholder documents, and that made available through government, there is in the public domain considerable data on major companies. Indeed, most corporate information used by us consisted of such publicly available details. These information bases are supplemented by commercial sources such as the various Financial Post services.

Some corporations disseminate information to the public voluntarily. Since this consists primarily of commentary on and interpretation of publicly available data, there is a substantial public relations aspect to the information produced. One reason why some corporations do this is their concern that lack of cooperation or initiative will lead to further compulsory disclosure.

Arguments for and against More Disclosure

Some observers might conclude that there is now adequate information in the public domain about major corporations. However, many witnesses came before our public hearings to urge that large corporations be required to make much greater disclosure of their affairs. It is useful to summarize the principal arguments made by the proponents of more disclosure.

Arguments for More Disclosure

The arguments for greater disclosure rest on the proposition that major corporations command such considerable material and human resources, and have such an impact on people and public policies, that they should be made to account for their use of these resources. Since the present public disclosure regime is based mainly upon the corporation's legal obligations to investors and shareholders (whose interests are relatively narrow), the rest of society has insufficient information about them. The "public" (by which is usually meant the many interest groups in society) needs information to make sound judg-

ments about corporate actions. Among the groups alleged to be touched and affected in a material way by major firms are consumers, employees, suppliers, creditors, present and potential competitors, the media, residents of communities where the corporation is active, in short (especially when one includes investors and shareholders) all groups in society.

Accountability to diverse groups is impossible unless an adequate base of information, different from that now disclosed to investors and shareholders, is available. Many corporations acknowledge that there is an information gap and that the information disclosed by them is not sufficient for broad public purposes. We have been told by several very large corporations that there has been insufficient information revealed about corporations. While some firms recognize the existence of this gap there is no agreement on how to solve the problem.

Some proponents of fuller disclosure also argue that if the size and nature of our economy are such that we will inevitably have a high degree of corporate concentration, the adverse effects of this can be ameliorated in part by making more information about large firms available to the public.

Many advocates of further disclosure are quite general in their approach, while others are specific. To illustrate areas of corporate information some argue should be disclosed, we quote from a brief we received from the Taskforce on the Churches and Corporate Responsibility urging that major corporations be required to disclose publicly the following data "to make citizens aware of the extent of concentration, power and influence of corporations". We offer no comment on this particular list, except to point out that it is similar to many of those compiled by various other groups.

a) a full list of subsidiaries, domestic and foreign, including companies over which, through partial ownership, some aspect of control is exercised;
b) a record of all other directorships and/or management positions held by each director and officer in any other corporation or public authority;
c) earnings of each senior management officer;
d) record of numbers of shares owned, directly or beneficially in any one corporation by each director and officer of that corporation;
e) international intra-corporate transfer payments;
f) ownership of land and of natural resources;
g) taxes paid and to what country as well as nature and amount of tax concessions and from what authorities;
h) financial and other contributions and/or gifts made to political parties, individual politicians and senior civil servants in Canada and abroad;
i) government export guarantees and export insurance arrangements;
j) developmental ventures, at the initial stages of planning.

That same brief argues that corporations be required to disclose to their shareholders on request (which would have the effect of public disclosure) the following additional information:

a) personnel policy and practice relating to employment conditions, equal opportunities, labour relations, wage structures, in-service training and accident prevention;

b) operating policy and practice relating to environmental protection and community impact;
c) product quality and safety; and
d) military contracts.

Those who support fuller disclosure point to other jurisdictions and suggest that Canada emulate them. For example, companies whose shares are traded on stock exchanges in the United States (including some large Canadian companies) must file periodically with the Securities and Exchange Commission many documents (such as an annual Form 10-K, discussed below), some of which contain more information than companies are required to disclose in Canada to investors and shareholders. Further, the Organisation for Economic Cooperation and Development (of which Canada is a member) has recently issued guidelines for multinational enterprises which suggest the disclosure of more information by such enterprises than is now legally required of large Canadian firms. We comment later on the OECD guidelines.

Some advance the proposition that Canada is more likely to avoid corporate scandal, and the serious difficulties experienced as a result, if more is known about corporate activities. This is not a new idea. In 1913 Mr. Justice Louis Brandeis of the U.S. Supreme Court argued that "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." This philosophy underlies many of the disclosure requirements in our present securities laws. So public disclosure, it is said, is not only correct in principle but may also be an effective deterrent to harmful conduct.

Finally, those who argue for disclosure of more information suggest that it is in the corporations' own interests as the best alternative to greater governmental or institutional intervention.

Arguments against More Disclosure

There is much opposition to these arguments for more disclosure, mainly from companies that might be expected to be subject to any additional requirements, although not all of them are opposed to broader rules. We will summarize here the principal arguments against more disclosure. It is argued that, while corporate activities obviously affect many groups in society, only the investor and shareholder groups are readily identifiable, and only they have a clear and measurable connection with the company. It is suggested that there is no public consensus that corporations have a general responsibility to other segments of society (such as environmentalists or consumers) and it is therefore an untenable argument that the corporation should be accountable to a multitude of interests. If there are corporate obligations to other groups, such obligations should become the subject of explicit legal provisions, and not be camouflaged as disclosure rules. The corporation should (and can only) be held "accountable" to those with a direct financial investment in it (the shareholders and investors) because corporations are not, as some suggest, political institutions. They are instruments comprising essentially private capital forma-

tions whose object is to foster the interests of the proprietors. Requiring disclosure for some nebulous public purpose is an unwarranted intrusion into corporate privacy.

One of the main objections relates to the vast amount of information that corporations are now required to report (principally because of the proliferation of demands by governments) and to the lack of coordination of the many requirements. It is urged that, if any significant new disclosure burden is imposed, there must first be a major rationalization of present requirements to eliminate duplication and reduce cost.

It is also argued that because disclosing information may be costly, those who advocate more disclosure should be obliged to demonstrate that there will be a resulting benefit greater than the cost. This is particularly true in those many cases where the demand for disclosure is being made by some "activist" group, since the cost will usually be borne not by the group but by the shareholders or the purchaser of the corporation's products.

A similar argument is that since most information likely to be of any benefit to anyone is already disclosed in one way or another, the onus ought to be placed on those insisting on more information to establish that it will satisfy a legitimate and unfilled need. A related argument is that too much information can obscure understanding.

Finally it is said that further disclosure requirements should not be created without a precise identification of the intended recipient of the information, for disclosure is not an end in itself, and the nature and quality of the information provided is determined by the position and purpose of the end user. For example, if the user is an investor or shareholder, a certain level or standard of disclosure (such as "prospectus level") is generally expected, and corporations are well aware of the legal implications that flow from such standards. If the user is a competitor, care must be taken or competitive harm, rather than benefit, may result from more disclosure. If the recipient is government, the precise purpose should be identified; otherwise the corporation will find it very difficult to determine what information should be provided and exactly how far to go in providing it. If the intended user is the general public, then it will be very costly and time-consuming to provide specific information unobscured by large quantities of less useful data. As well, it is argued, because the needs and interests of the public are so diverse, there are no adequate analytical and dissemination techniques through which the information could be made useful to the public.

The Commission's View

After considering all these arguments and studying much of what has been written, we have concluded that the disclosure question is best resolved in two stages and, in a sense, at two levels. Our mandate includes a consideration of whether safeguards may be required to protect the public interest in the presence of major concentrations of power. The fundamental and central disclosure issue before us is the degree to which the Canadian public should have knowledge and information about large Canadian corporations. Much of

this information is already in the public realm (although not centralized for ready access). The question remaining to be settled is whether there should be more or at least more useful, disclosure.

We think the public does have a right to know more than it does now, but, as well, that many of the present disclosure requirements should be clarified and simplified. It is important that we make clear that the view we have reached, and which we will explain in some detail, is applicable only to the very largest Canadian companies, and should not be seen as applying to small or medium-sized enterprises.

We have in mind two categories of firms: financial and non-financial. In the financial area, which would include banks, insurance companies, trust companies and sales finance companies, our comments apply only to those firms with assets of $1 billion or more. Assets are the most useful measurement of a financial firm's significance. The figure we have suggested would mean that, out of the 1976 *Financial Post* list of 35 large financial enterprises, 26 firms would qualify. In the non-financial area we would lower the asset figure to $250 million, and would also apply, as an alternative, a sales figure test of $250 million per year. The non-financial group would include manufacturers, merchandisers, some Crown corporations, real estate companies, natural-resource-based companies, holding companies and other firms. In 1975/76, 114 non-financial firms had sales, and 78 had assets, exceeding $250 million. In both financial and non-financial areas each firm's subsidiaries and affiliates are included: thus the levels we suggest are on a consolidated basis.

Our conclusion that more relevant (and less irrelevant) information should be in the public domain is not related to any specific objective, such as investor protection or consumer knowledge. There are so many constituencies in the community, and their relationships with any particular corporation are so complex and fluid, that it is neither possible nor necessary to classify them. Rather we think that large enterprises should focus their disclosure policy on making information available to the public in general, so that all constituent groups can be better informed. Most of the corporate information now open to the public has been made available as part of the process of the operation of capital markets. While this is, naturally, an essential feature of our economic life, the focus on this market has strongly influenced the disclosure rules. We think that all segments of society should have a broad base of information upon which to found rational judgments about the activities of major corporations. The general public, which is made up of diverse constituent groups, should have the opportunity to know more than it does at present about the structure, the workings and the impact of major corporations.

We have come to this conclusion because we are convinced that openness is fundamental to confidence, and it would be in the public interest if there were more understanding of our major business enterprises. That is often lacking. We do not suggest that openness guarantees confidence, but we do think that lack of openness inhibits it.

The Royal Bank of Canada, in a special brief to us on disclosure, put the issue clearly: "There is growing recognition that in the post-capitalist society which is now evolving, major corporations will have multiple responsibilities and multiple accountabilities. Fuller disclosure of information about all facets of corporate activity will be an inevitable concomitant of these developments". In our view disclosure of information to the general public (and not just to, or for the benefit of, any particular component of the public) is an integral part of a large corporation's social responsibility.

Approaches to Further Disclosure

Importance of a Sectoral Approach

We will elaborate on the kinds of items we think should be disclosed, but we will not do this in great detail, for specific reasons. First, and most importantly, we are more concerned to indicate here our general attitude and our position on the question of openness than to delve into the intricacies, benefits and problems raised by the disclosure of particular items. Secondly, it will be apparent that differences among industries mean that the significance of some areas of disclosure will vary from industry to industry. Appropriate disclosure of a particular item will vary among manufacturing companies, service corporations, utilities, holding companies and banks. To illustrate, disclosure of loss ratios by borrower size, or where directors or other insiders are borrowers, may be significant for lending institutions but not for other kinds of firms. The particulars of the operations of land developers, such as those relating to land assembly, current asset values, development plans and other items uniquely related to that business, are not applicable in other industries.

We think that, with very large firms, better disclosure will result only from a process of detailed, sectoral analysis. This should be done industry by industry, so that the disclosure requirements affecting the large firms in each industry are determined by reference to that industry. In each case (and so far as practical, with each particular item) the benefits and costs of requiring or not requiring the disclosure will have to be considered. The premise on which each decision should be based should be that of openness, unless it can be shown that disclosure in any particular instance would be unfairly prejudicial in terms of cost or competitive harm.

For an illustration of the possibilities of specific sectoral disclosure, reference may be made to the disclosure code voluntarily adopted in November 1976 by BankAmerica Corporation and mentioned by us in Chapter 10. Among the many items the bank will disclose are an analysis of its loan portfolio, data on problem loans, loan loss experience by major categories, loans and credits to affiliated organizations, geographic distribution of loans and investments, standard terms and conditions of consumer loans, consumer credit policies and practices, and aggregate loans made to board members and their companies.

U.S. Form 10-K Requirements

Consideration should be given to disclosure requirements in other countries. As in Canada, most of these have developed in response to a need to satisfy requirements of the capital markets. But even in the United States, where disclosure rules are quite involved and precise, some of the particular requirements are only peripherally related to investor protection. In the course of our work on this subject we examined several of the "Form 10-Ks" filed with American authorities by certain Canadian corporations. Form 10-K is a continuing disclosure document that must be filed annually with the Securities and Exchange Commission in the United States by each company whose securities are traded on stock exchanges or are required to be registered for trading in the United States (whether or not the firm is "going to the market" with a fresh issue of securities). That form contains information that is not normally or regularly disclosed by corporations in Canada although a good deal of it is discussed as a matter of convention in annual reports and some must be disclosed when a prospectus is issued. For example, Form 10-K requires a disclosing company to make annual public disclosure of the following items, which relate to its specific business activities and the environment in which it operates:

1. The business done and intended to be done by the company and its subsidiaries.
2. Competitive conditions in the industry or industries involved and the competitive position of the company. If several products or services are involved, separate consideration is given to the principal products or services or classes of products or services. An estimate of the number of competitors is included, and, where material, the particular markets in which the company competes are identified. Where one or a small number of competitors are dominant, they are identified.
3. If a material part of the business is dependent upon a single customer or a few customers, the loss of any of whom would have a materially adverse effect on the business of the company, the name of the customer or customers, their relationship, if any, to the company and material facts regarding their importance to the business of the company.
4. The sources and availability of raw materials essential to the business.
5. The importance to the business and the duration and effect of all material patents, trademarks, licences, franchises and concessions held.
6. The estimated dollar amount spent during each of the last two fiscal years on material research activities relating to the developments of new products or services or the improvement of existing products or services, indicating those activities which were company-sponsored and/or those which were customer-sponsored.
7. The material effects that compliance with federal, state and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the company and its subsidiaries.

8. The number of persons employed by the company.
9. The principal methods of competition (e.g., price, service, warranty, or product performance) and positive and negative factors pertaining to the competitive position of the company, to the extent that they exist.
10. The location and general character of the principal plants, mines and other materially important physical properties of the company and its subsidiaries, whether owned or leased, and, if leased, the expiration dates of material leases.
11. A list or diagram of all parents and subsidiaries of the company and, for each entity named, an indication of the percentage of voting securities owned, or other basis of control, by its immediate parent, if any. The list or diagram includes the company submitting it and shows clearly the relationship of each entity named, both to the company and to the other entities named.

We are not able to say that from the perspective of the Canadian investor or shareholder it is essential that large Canadian firms provide this kind of information annually. We recognize that, even from the point of view of the security holder, the present 10-K requirements are not flawless. But we do think that the regular publication of such information about major companies would be in the public interest, and would contribute significantly to the public's ability to comprehend and evaluate corporate activity. The Form 10-K information listed above would probably be appropriate for disclosure in industries where the major Canadian firms are found. Certainly the production of such data (which are already disclosed in the United States by more than 100 Canadian firms) would not be harmful to corporate interests, and the cost of its disclosure is clearly tolerable for the very large corporations. The Canadian Manufacturers' Association has told us that their "information generally suggests that corporations having experience of this type of disclosure have little objection to it". We can see no valid objection to a similar kind of disclosure in this country.

We have not included in our list the controversial 10-K requirement of disclosure of remuneration paid to each of the three highest paid corporate officers, and each director who received more than $40,000. Personal information like this should remain confidential.

OECD Guidelines

Another approach to a consideration of specific items is found in the recommendations of the Organisation for Economic Cooperation and Development (OECD) briefly referred to earlier. Its "guidelines" for multinational enterprises, while not binding, further illustrate the kind of detail on corporate activity that it would be useful for the public to have. As with the Form 10-K data, some of the OECD information is now already disclosed by Canadian firms in annual reports, prospectuses or other documents. When considering the OECD guidelines, the focus should be on the Canadian corporation. Many of our large firms are themselves subsidiaries, and while we would impose the

disclosure obligations on the Canadian firm and its own subsidiaries, we would require it to file information about its parent organization only to the extent such information is available to it, or available in the foreign parent's country.

As with the examples from Form 10-K, the OECD guidelines would apply in most of our major industries. Where the guidelines refer to "geographical area", we have substituted "province". OECD suggests annual disclosure of at least the following:

i) the structure of the enterprise, showing the name and location of the parent company, its main affiliates, its percentage ownership, direct and indirect, in these affiliates, including shareholdings between them;
ii) the provinces . . . where operations are carried out and the principal activities carried on therein by the parent company and the main affiliates;
iii) the operating results and sales by province and the sales in the major lines of business for the enterprise as a whole;
iv) significant new capital investment by province and, as far as practicable, by major lines of business for the enterprise as a whole;
v) a statement of the sources and uses of funds by the enterprise as a whole;
vi) the average number of employees in each province;
vii) research and development expenditure for the enterprise as a whole;
viii) the policies followed in respect of intra-group pricing;
ix) the accounting policies, including those on consolidation, observed in compiling the published information.

The OECD and 10-K examples are two sets of rules that we think would be useful as starting points, although some modifications might be necessary to suit Canadian circumstances. For example, import and export statistics would be of some value here. Also, there should be appropriate criteria to preclude the publication of trivial data. Considerable experience has been gained in the United States with the 10-K requirements. Each item would be applicable in most, if not all, Canadian industries. However, there would still be a need, as we have mentioned, for an analysis of this applicability and effect, and to determine what further disclosure might be required in specific industries.

Minimum Standards

Some large corporations are presently exempt from even minimal disclosure requirements. For example, federally regulated financial institutions are not subject to the provisions of general corporate law, including those relating to financial and other disclosure. The government's *White Paper on the Revision of Canadian Banking Legislation* (August 1976) recognizes this as a deficiency, and proposes that it should be remedied. In our view, similar action should be taken regarding other regulated corporations, including Crown corporations, so that all very large firms, regardless of the nature of their business, are generally subject to the same minimum disclosure requirements.

Possibility of Competitive Harm

One of the considerations that bears on the question of disclosure is the competitive harm that might result, and this would certainly have to be examined when industrial analyses are made. Public disclosure of certain kinds of information would cause serious competitive harm. If such harm would be industry-wide (for example, where foreign imports provided significant competition), then none of the firms should be required to make public disclosure of that particular information. If individual firms would suffer competitively there ought to be an exemption procedure, similar to that now found in the Canada Business Corporations Act.

However, in assessing general or specific justification for exemption it should be borne in mind that the public interest is often served when competitors exploit the information contained in financial statements. For example, the disclosure of large profits can bring more competitors into a market and lead to the efficient allocation of productive resources. While the disclosing firm may suffer some decrease in profits because of the greater competition, this is no more than the play of market forces responding to the proper signals. To define it as competitive harm resulting from disclosure is inconsistent with a private enterprise economy since, as Kazanjian has said, "it would insulate competitors from normal market forces and allocate resources not to the most efficient producer but to the most efficient concealer".

Cost

Although we are conscious of the cost of disclosure, we do not suggest that the public should have more information only if there is no incremental cost attached to its disclosure. The issue is too important for that to be paramount. Moreover, with very large firms, virtually all the information that might be disclosed to the public, following the lines of our approach, is already reported in some fashion to government, or, at any rate, is readily available. This includes such diverse items as inter-corporate transactions, processing of raw materials, exports, sources of financing, advertising expenditures, pollution control costs, plant-specific figures and a long list of other items. Since under one or more of the governmental data collection systems we have described most, if not all, of these details are already reported to government, it would not involve the corporations in much additional cost to make them publicly and regularly available.

Government Handling of Business Information

Opposition to further requirements for information for internal government use is hardening. There is no doubt that governments now make many demands on business for information. Both large and small businesses are affected, and the latter have more difficulty in complying with such demands (we are glad to see that demands on them have recently been reduced). Yet the opposition is not just a reflex reaction to problems that might arise from a requirement for more reporting; it is more subtle than that. Corporations on

the whole have been content with disclosure rules relating to investors and shareholders because they see a direct and legitimate link between these groups and the company. A growing number of corporations, however, are refusing to accord the same legitimacy to some governmental requests for information. They are not persuaded that there is much benefit to anyone in complying with certain requests for data, even though many businesses make use of data collected and disseminated by government and generally understand the government's need for corporate information. Contributing to this attitude is the variety of different collecting processes and the duplication that inevitably results from an emphasis on confidentiality and limited interdepartmental and intergovernment access to data.

We are not experts in the precise needs of government for corporate information, nor in the best methods of collecting, distributing or disseminating data. The following comments are thus necessarily tentative suggestions for consideration only.

We said earlier that large firms should be more open about their activities, and that government has a central role to play in achieving that goal. We believe that the time has come for a review and possible reform of the system of government handling of certain business information.

There are three aspects to this question. We defer briefly our consideration of one of them, the matter of government's collection of business information, but we will now discuss the other two parts: distribution within government and dissemination outside government of information collected from business, particularly from the largest and economically most significant companies in Canada.

Major Firms and Confidentiality

Government should move away from rigid adherence to the rule of confidentiality. Major corporations cannot be treated in all respects as private institutions. For the reasons we have given earlier, much of the information these firms report to government already has a quasi-public character. There could be some benefit if more of it were freely interchangeable among government departments (except Revenue Canada and the Bureau of Competition Policy). For example, most, if not all, the data reported by these firms on the present Section B of the CALURA form could be distributed or available within government with no detriment to the company concerned. For these major corporations we are suggesting a significant shift in emphasis: the rule regarding their data would be one of open access within government subject to necessary exceptions such as data related to law enforcement. One of the principal results of this policy should be a reduction in aggregate information demands upon such firms. With a freer interchange of information, requests from different sources for similar data should be less common. Any company that has filed data once should not have to file substantially similar data with another federal government department.

Recognizing what has happened in the past, it would probably be desirable to do more than merely discourage the tendency in government to proliferate

and duplicate data collection. If, for example, a corporation has filed an information return containing information of the kind we have suggested, government departments should not be allowed to demand the same or similar information again. Corporations should be required to file only whatever supplementary information is properly required by a particular department.

Need for a Central Repository

To complement the freer distribution of major corporate data within government, and to help achieve greater openness, an effective method of disseminating data on these large firms to the public is needed. It would be desirable to establish a central repository for corporate data intended to be made available to the public. The additional information we have discussed earlier would be included in this category. With the aid of modern copying and computer techniques the logistics of this should not be a serious problem. The advantage is that all data and all documents that these major corporations provide to shareholders, investors, the press and government agencies, and that should be open to the public, would be accumulated, centralized and readily accessible. Because housing this data in Ottawa, while necessary, is not convenient for most Canadians, arrangements should be made to make the data accessible in other centres also, for example, the regional offices of the Department of Consumer and Corporate Affairs.

This central repository should be flexible enough in its structure and workings so that companies could, if they wished, also deposit there copies of documents they give to investors, shareholders, stock exchanges and securities commissions. To the extent that corporations disclose in such documents matters that would be required to be disclosed under the proposal we have made, the deposit of the documents would thereby relieve the corporations of having to make a separate disclosure report on those matters. (If desired, additional material, such as that given by the firms to the media or financial analysts, could also be deposited.) We do not suggest an alteration in the nature of these documents, which are primarily intended for investor or shareholder purposes. A great deal of work and care goes into their preparation, and they have all come to be regarded as "public" documents. Their deposit in the central repository would merely accord some official recognition to this fact, and make them continuously available.

Under this proposal, there would in time be developed a truly comprehensive collection of important corporate information, to which all those concerned with one or other aspect of corporate activity would have ready access. The cost to the companies should be nominal. CALURA is already used for the purposes of collecting certain kinds of corporate data, and we think that Act, and the facilities established pursuant to it, can be adapted to the purpose we have suggested. The benefit to the public should justify the costs.

While we favor the concept of differential disclosure (a system where the data requested of the largest corporations and made publicly available is more detailed and extensive than would be the case with other firms), the system should be flexible enough to permit other public corporations to participate if

they wished to do so. They would then be accepting the fact that most of the data reported to government would be interchangeable among departments and deposited in the public repository. In addition, they would be subject to the extended disclosure requirements applicable to the very large firms. On the other hand, any information filed by them should come within the rule prohibiting individual government departments from requesting it again.

Periodic Review

Since large quantities of data are collected from the hundreds of thousands of businesses with which we have not been directly concerned, we think we should comment on the collection process itself, not only in reference to the very largest companies but to all Canadian businesses. As indicated earlier, although we have not conducted a detailed analysis of the multitude of data requests made by government to business, we have seen and heard enough to reach some conclusions.

We think it would be a productive process—and a healthy discipline—for there to be a periodic public review of the broad issues involved in government's collection of business data. Those issues would include the general processes by which information is collected, the degree of coordination of data requests within government, the problems of duplication and confidentiality (clearly related), the integration of federal requests with those made by other governments, and related general questions. The reviewing body could also consider things such as the difficulties created when a branch of government that has determined it needs certain data for a particular purpose succumbs to the bureaucratic tendency to allow that practice to become entrenched permanently. This kind of analysis and evaluation should be conducted regularly, perhaps every five years, but it does not require a permanent body. Indeed some argue that CALURA itself should become a "sunset law", either renewed or allowed to die at regular intervals (say, every five to seven years).

However accomplished, the law should create a public review committee of people from within and outside the public service, with a majority of members and a chairman from outside government. We think qualified people from outside government should and would participate in this kind of review, particularly since there would not be long time commitments involved: a few weeks should suffice to conduct the kind of critical evaluation and analysis we think would be desirable.

Permanent Control Mechanism

This procedure is not intended to be a substitute for effective control in the implementation and handling of government's collection efforts. The periodic review will necessarily concern itself mainly with broad principles, and will examine details only as an aid in coming to general conclusions. It is equally important that there be a continuing and permanent control mechanism so that the policies and principles established by government following the report of the review committee are realized in practice, and in the most efficient manner. To achieve that it is necessary to require specific departmental data requests to

be approved by a review committee to ensure that the broad guidelines are adhered to in practice. For it is in the implementation process that duplication and lack of coordination may result.

We think there should be a body drawn largely from within government to perform a continuous review, between the periodic reviews, of the information-collecting process. Since we see this as a permanent job it is not practical to expect outsiders to participate full-time; but outsiders may agree to examine specific situations for short periods, and we suggest that they be asked to do so. This body might perform the task (to a certain degree now performed by the Treasury Board) of approving specific data requests to be made by government of businesses, both large and small. It would act as a central, co-ordinating agency, responsible for ensuring that there is no duplication, that the data have not already been provided to another department, that the request and the manner of its implementation conform to the policies established by the review committee. This agency should also pay close attention to the difficulties smaller businesses have in reporting information to government, and should make every attempt to reduce the burden upon those firms. This agency and the work it will perform are necessary complements to the periodic review committee.

Those of our recommendations requiring legislative action can probably be implemented by amendments to the Corporations and Labour Unions Returns Act. The implementation of these ideas need not interfere with the work of other authorities (such as securities commissions), which will continue to examine possible innovations in their own disclosure regimes.

We cannot leave this discussion, however, without mentioning that the aim of reducing the multiplicity of information collection requirements will not be achieved unless there is better federal-provincial coordination. Much of the present duplication exists because information that must be filed under federal law must also be filed, for example, under the securities legislation of one or more provinces. Often, we are told, there are trivial differences in forms and the like, which prevent the filing with one agency of a copy of a document filed with another, even though the information is in all important respects identical. There is no easy solution to this problem because it is a problem of federalism itself. Nevertheless, governments should be more conscious than they are of the cost of disclosure.

It should be possible for the review committee to include provincial government representatives, and for the central information repository to include much of the information that would otherwise be collected individually by provincial governments and agencies.

Private Companies

Companies whose shares are closely held ("private" companies) do not rely on the capital markets for equity funds in the same way as widely held, public companies. For this reason it had long been considered that their financial affairs were of concern only to their own shareholders and creditors,

and that the public had no legitimate interest in such a firm's financial statements. In 1970 the Canada Corporations Act was amended to require any private firm incorporated under that Act whose annual revenues exceeded $10 million or whose assets exceeded $5 million to make public its annual financial statements by filing them with the government. Firms above the stipulated size level (an admittedly arbitrary one) were presumed to have a sufficient public impact to warrant their financial statements being publicly available. However, provincial legislatures have not yet implemented similar rules applicable to provincially incorporated firms.

We have two comments to make on this subject. Public disclosure of financial statements by some closely held companies above an appropriate size, wherever incorporated, seems to us valid in principle. It is certainly justified where they receive grants, subsidies, loans or assistance from the federal or other governments. It seems to us correct in principle that any such firm, regardless of the place of its incorporation or its share ownership, that receives public funds or assistance, should be required to make the same public filings of its financial statements (and those of its affiliated companies) as is now required of all large private federally incorporated firms. This information would be useful to Parliament and others when considering such matters as trade and industrial policies. Most importantly, if public funds are going to be used to aid a large private company, it should be on the condition that the public receives certain financial information about it.

The Irving Group of Companies

Virtually all the companies we examined in the course of our work are very large organizations with impact in many regions of Canada. Indeed, a good many are significant nationwide, and some are important outside Canada as well. There are probably very few firms in Canada that are active within only one particular geographic area but that are nevertheless so important to that area as to be truly a "concentration of corporate power". The most significant such regional corporate force is the Irving group in New Brunswick.

Founded by K. C. Irving in the 1920s and now headed by his three sons, the Irving group consists of about one hundred companies. The group is one of the predominant forces in the Maritime region in oil refining and distribution, pulp, paper, timber products, shipbuilding and newspapers and is a powerful influence in the life of the region. Collectively, it probably employs more than ten thousand people and may have aggregate annual revenues exceeding a billion dollars. By any measure it is a major concentration of power and within the context of the Atlantic provinces it is especially significant.

A good deal has been written about the Irving group, although most of it has been based more on educated guesswork than on fully reliable facts. This is so because the Irving companies do not make public any information about their size, scope of activities or financial affairs unless required to do so by law. The law (particularly provincial law) at present imposes very few requirements of public disclosure on privately owned firms such as the Irving companies.

As we have done with a number of other firms, we commissioned a study of the Irving group. These studies are intended to describe in some detail the nature and role of these major corporate concentrations. All the other studies include considerable financial and corporate information because the shares of the various firms are widely held, and so the firms make public their financial statements (and generally much other data). Since this was not so with the Irvings, we requested them to provide us with some basic financial information for the purposes of the study. Concurrently we compiled a corporate chart, which is as accurate as public information permitted (and which is published in the study).

Through their counsel the Irvings said that they would not provide us with the basic financial information needed for a study which would be made public. We gave considerable thought to the matter and also engaged New Brunswick counsel to advise us on local procedure in case we decided to attempt to obtain the information by legal process in that jurisdiction. Our assessment of the situation was that, while any legal process we initiated would likely be successful eventually, we would probably be embroiled in a protracted, distracting and expensive contest. We concluded that the circumstances did not justify such a diversion from the more important task of compiling this *Report*. The study on the Irving group, while not as complete as the others we have commissioned, is being published along with the rest because it does add somewhat to the public knowledge about this important group of companies.

This experience is a vivid illustration of the deficiencies in the law upon which we have commented in this section and which, as we have said, should be remedied.

Line-of-Business Reporting

One of the other issues we wish to discuss is whether some advanced form of "Line-of-Business" (L.O.B.) financial reporting should be required of large companies. L.O.B. reporting, or segmented reporting, would apply to a diversified firm operating in more than one industry, or producing many products, and would require that firm to report its financial results by major product lines. Some people suggest that this will highlight profitable opportunities for potential competitors, provide additional information for investors, and lead to a better allocation of economic resources. As we said in Chapter 9, we also think it is important to workable competition.

The Canada Business Corporations Act, in force since December 1975, requires corporations coming under it to produce financial statements in conformity with the Regulations under the Act. Regulation 47, which applies to a corporation that carries on a diversified business, requires from federally incorporated companies a form of L.O.B. reporting. The regulation requires that the financial statements of such corporations disclose separately a summary of financial information for each class of business the revenue of which is 10% or more of the corporation's total revenue. The directors must determine the classes of businesses, usually in accordance with the Statistics Canada

Standard Industrial Classification Code. However, the directors can select a different classification if they think that would be more appropriate. The Ontario Business Corporations Act also requires L.O.B. reporting, and the Ontario Securities Commission has published a draft regulation under which L.O.B. reporting will be required.

The U.S. Securities and Exchange Commission requires companies to include segmented financial information in their annual 10-K reports. The requirements as to line-of-business reporting are similar to those in Ontario, the determination of the particular lines of business being left to the directors of the company.

The most controversial and far-reaching proposal for L.O.B. reporting is that of the U.S. Federal Trade Commission, which in 1974 began a program requiring large firms to report to the FTC income statement and balance sheet information on some 275 different categories. The program is quite complex, and was explained to us in testimony by F. M. Scherer, who was at the time the director of the Bureau of Economics of the FTC, and one of those responsible for the implementation of the program.

Scherer pointed out that the L.O.B. data are aggregated, so that individual company data are not identifiable in any report by the FTC. His testimony contains details of the uses to which L.O.B. data will be put, and the benefits that are expected to flow from the program. These benefits are related in part to the role played by the FTC in the U.S. antitrust enforcement program. The program is intended to assist the FTC in its analysis of competitive market performance; long-term above-average profits in any line of business are regarded as evidence of high barriers to entry in that sector.

Scherer told us about the difficulties in the program, and the strong objections that have been raised. A number of firms refused to comply, resulting in legal proceedings between them and the FTC. One of the serious problems is the necessity of defining categories of product on a somewhat arbitrary basis, leading some opponents to argue that the data produced are bound to be "contaminated" and therefore unreliable. Opponents of the program argue that no reliable conclusions could be drawn from information about sales or profits in a category which includes (as is the case with one FTC category) aircraft seats, church pews and blackboards. A further problem arises in vertically integrated firms. Since different firms will use different methods of pricing products transferred from one division to another, it is argued that there is bound to be too much inconsistency of practices to permit comparisons of results. Another major problem is in allocating common costs to separate categories of product. With different allocation methods among firms, widely varying results are bound to occur.

In our view the new federal requirements (supplemented by the Ontario rules) should provide all the benefits to Canada that might reasonably be expected of a segmented or line-of-business reporting program. We cannot, of course, comment on the utility of the FTC's program for the United States, but we do not believe that as detailed a program should be introduced in Canada.

Inflation Accounting

The lack of an adequate method of accounting for inflation almost certainly produces the single most important gap in financial disclosure by Canadian enterprises. During an inflationary period the financial statements of corporations, prepared using generally accepted accounting principles based on historical cost figures, contain serious distortions. For example the rate of growth in sales and profits is overstated. Actual profits are overstated, because expenses such as depreciation and cost of goods sold are understated. Return on investment is overstated because profits are overstated and invested capital is understated. Management of capital is distorted, because management has paid income taxes and dividends based on illusory profits. Balance sheets lose much of their meaning as mixed dollar balances are accumulated. In these and other ways, the usefulness and relevance of information provided by historic cost accounting is greatly reduced in periods of high inflation.

The problems raised by historical accounting practices are more pronounced in Canada than in the countries with which it competes in export markets, because Canada is one of the few countries where industry currently receives no allowance for inventory replacement through use of the LIFO (last in, first out) method in the calculation of taxable income although the tax law grants a small deduction. LIFO accounting is permitted in the United States, Great Britain, Japan, and other countries.

The difficulties confronting Canadian companies are, of course, not solely the result of current accounting practices; they are caused by inflation itself. But the accounting problem is pressing, and a good deal of concern has been expressed to us about it.

There are further implications. The recording of artificially high profits may accelerate demands from various segments of society, such as shareholders and employees, for a larger share of profits, when in reality profits are less than they appear to be. Clearly the fall in the real rate of return on investment, coupled with the distribution of what may be excessive dividend payments, has made it more difficult for many firms to acquire or retain the funds needed for expansion.

These and other implications are discussed in a May 1976 study, *Inflation: Its Impact on Business*, by Touche Ross & Company, chartered accountants. The Touche Ross study indicates, for example, that annual depreciation charges against earnings by Canadian business, based on the historical costs of existing assets, are far below the actual annual outlays of capital needed to replace this productive capacity. In the two-year period 1974-75, depreciation calculated on the basis of replacement cost of assets was said to exceed the historical depreciation charged against earnings by $5.7 billion.

Various methods have been proposed for recognizing and reflecting the reality of inflation in financial statement presentation. These are being reviewed and analyzed by many groups in this country. The accounting profession, several large accounting firms and individuals in several disciplines

have produced and published discussion papers on LIFO inventory accounting, price-level accounting and current value accounting, which are the three variations to current practice under most active consideration. The federal government is now participating with the Canadian Institute of Chartered Accountants in its study of the various methods that might be utilized to alleviate the problem. An Ontario Select Committee has also looked at this problem.

We are not proposing to do more than draw attention to this difficult problem. This is a technically complex issue, and must be studied in considerable detail. Skills of a number of disciplines must be applied to an analysis of the implications of alternative proposals. We believe that the appropriate groups and public authorities in Canada are properly aware of the problem, and are addressing it. We hope a solution is reached soon, so that the public may have a better understanding of the true economic position and performance of Canadian business.

General Comment on Disclosure

This chapter would not be complete unless we expressed our view on a further aspect of disclosure. We have a bias in favor of openness, and its healthy effects. We have dealt here with corporate openness, but the approach we have suggested would apply equally to other major organizations in Canada. Other examples would be trade unions, pension funds and government. Little is known by the public about the structure or financial significance of trade unions and pension funds. Some pension funds have assets in the many hundreds of millions of dollars and, as we said in Chapter 10, at least one, that of the Canadian National Railways, exceeds a billion dollars. They are becoming large concentrations of corporate ownership. Their beneficiaries should receive information about their activities and investments in much the same way as shareholders of corporations do.

It is beyond our mandate to do more than draw attention to this situation and to say that the same approach to disclosure that we have suggested apply to large and important companies is also appropriate for other large institutions.

In a democratic society dominated by large institutions it is natural that there should be as much demand for accountability and openness regarding government's activities as there is from the corporate sector. Yet there are many implications in the policy of allowing the public more access to and knowledge about government and its actions. It is not for us to consider this complex and controversial issue, and we have not been asked to appraise it. But we are urging more openness, and we must say that it would be consistent with what we have proposed for corporations if there were effective laws providing for disclosure of government information. Public confidence in government is even more important than public confidence in corporations, and disclosure of information is central to the maintenance of that trust.

Chapter 14

Corporate Influence

Among the potentially most important social implications of major concentrations of corporate power is the influence exerted by corporations upon public authorities and public opinion. For the purposes of this chapter, influence may be thought of as both "the capacity or power of persons or things to produce effects on others by intangible or indirect means", and the capacity to persuade.

Most theories of the contention of competing interests in society assume both that the process of contention is good ("democratic pluralism") and that the powers possessed by the legitimate contending interests will not be so disproportionate as to render the contest a ritual. If, however, as some argue, unequal contests arise when knowledgeable, well-financed, and well-organized corporate interests enter the debate in the formation of public policy, the prospect of corporate concentration raises the possibility that this reputed advantage will be enhanced.

While corporate influence is described extensively in the literature, beliefs about its nature differ widely. At one extreme, the view is held that because of the nature of class power and the power of the purse, big business molds public opinion largely as it desires and controls government actions by some form of conspiracy with ruling members of the federal and provincial governments. At the other extreme, the view is expressed that lobbying does not exist in Canada, that the mass media are dominated by radical writers and broadcasters, that governments are so dependent for votes on popular measures that their economic and social policies are invariably antibusiness, and that this produces an economic environment in which private enterprise and investment cannot continue to provide growth and prosperity.

Clearly, both extremes misrepresent the reality. This Commission has relied on information gathered from a wide variety of sources in reaching an opinion on the subject, including the briefs and testimony presented to us, previously published research and research studies commissioned by us.

Corporate Involvement in Government Decision-Making

We are here concerned with the influence of major corporations upon public authorities: governments at the federal, provincial and municipal levels and their regulatory agencies. In general, as the size of jurisdiction decreases and the constitutional field of responsibility narrows, the large corporation might be expected to become a more dominant force in decision-making. Put differently, the larger the corporation and the smaller the government unit, the more influence that corporation is likely to have. The one-company town is the extreme example of this phenomenon.

Many of the gaps in research on corporate influence in Canada exist because of the form of government we have in this country. The cabinet and parliamentary form of government and the lesser importance of committees and their chairmen in Parliament as compared with the U.S. government do not give rise to nearly the amount of publicly recognized lobbying activity as that evident in the United States. Moreover, the traditions of cabinet and public service confidentiality hide the most important parts of the process by which many interest groups and important individuals may influence the decisions of governments in Canada. At the local level the process is more open but probably less important to an understanding of the implications of major concentrations of corporate power.

Two separate issues must be considered. The first is the question of access to those engaged in policy-making and administration, and the second is whether, given access, the representatives of major corporations have an undue share of influence.

Access to public authorities is an essential part of the democratic process. It is available in principle both through members of Parliament (and of the provincial legislatures), including members of Cabinet and their personal political staffs, and through the various departments and offices of the public service. This access is less than satisfactory for many people, particularly those living away from Ottawa and the provincial capitals and those who do not normally deal directly with government and so have not developed expertise or contacts. Also the information upon which to make a case is often not in the public domain and is too expensive to produce independently.

There is little doubt that the representatives of major corporations can and do have greater access to both politicians and public servants than do other individuals through trade associations, their own professional representatives and, perhaps most effectively, private conversations between corporate officers and those involved in the policy-making and legislative process. This type of access is achieved not only by business but also by farm and labor groups and by many others with special interests who have organized themselves and acquired the knowledge necessary to achieve such access.

Contacts between leaders of government and business can be very close and personal, though this is by no means general. It is not surprising that there

should be close contact between many businesses and the governments of Canada and the provinces in which they operate, for there is a comon concern with a wide variety of economic and social problems and legislative and regulatory measures. The success of government measures requires knowledge of how they may be expected to affect particular industries or companies, while the success of business projects will require a knowledge of the laws and public policies that will apply to them. It is in the public interest that there should be consultation in these matters.

It seems to this Commission, however, that not only should the public authorities be making some serious efforts to provide information to, and access for, early consultation with other interests affected by the same kinds of policies and measures that are the subject of consultation with businesses, but also they should make public the policy alternatives and background materials that underlie proposed bills. In this way those who are not knowledgeable about the ways of government will have a better chance to identify and promote their interests in these matters. Already some steps along these lines have been taken in Ottawa and some provincial capitals, but more seem to be needed to counterbalance the substantial organizational and financial advantages that businesses have in consulting with governments. There is the much greater availability of background studies and data in the U.S. congressional system and in relation to U.S. regulatory agency decisions.

When we turn from the question of access to consider whether it results in effective influence, we are on more difficult ground. Under our parliamentary system, important decisions are basically made by ministers, either in Cabinet, or Cabinet committees, or in their offices in discussion with their senior officials. Generally the discussions are not made in public, nor are the final papers underlying them usually published. The decisions are proposed to Parliament or the legislatures for action or announced publicly and are then usually debated and defended at length. Those who make the decisions take responsibility for them and must defend them with arguments but need not say who or what influenced them (although they frequently will). The consequence is that evidence is usually lacking on who really influenced a decision. Even when the result coincides with the views of major businesses it should not be assumed that undue influence rather than the facts of the situation and general government policies led to the decision.

Some writers, such as Wallace Clement, have observed the extent to which the corporate "élite" and the government "élite" (political and bureaucratic) spring from similar classes and have concluded that "it appears the alliance between government and business is not an alliance of equals but one dominated by the interests of corporate capitalism".

On the other hand, two sociologists, Donald P. Warwick and John G. Craig, who testified before us, reported in their brief:

None of the élite studies in Canada has been able to establish that the large or concentrated corporations, or their related interest group associations, have a disproportionate influence on political decision-making at the federal or provincial level when compared with unions, parties, consumer organizations, or other lobbies. This is not to deny that such influence exists, but to point out that research to date has not supplied convincing evidence on the political influence of corporations. Presthus (1973) has carried out the most intensive study to date. At the empirical level his research attempted to trace the interactions among interest group directors and two other groups: federal and provincial legislators; and federal and provincial higher civil servants. While this study provides useful information about the resulting interactions, it permits no generalizations about the relative influence of large or concentrated corporations. Needless to say, research in this area is extremely difficult. The Gray Report (Government of Canada, 1972) faced similar difficulties in assessing the political impact of foreign-controlled corporations.

One of the most detailed and well-documented case studies of the efforts of major corporations to influence public policy in Ottawa was the study by Ronald Lang (*The Politics of Drugs*) on the efforts of the international pharmaceutical industry between 1961 and 1969 to influence policies and legislation directed to reducing drug prices in Canada. This case illustrates both the various means that can be used to influence policy and how they can be overcome by determined effort. Lang compares the effectiveness of the lobbying techniques of the Pharmaceutical Manufacturers' Association of Canada (PMAC) and the Association of British Pharmaceutical Industries (ABPI). The ABPI was successful in its efforts in Britain to maintain drug prices, but the PMAC in Canada was not. The reason why the PMAC's efforts did not meet with more success in Canada than they did rests at least in part with the fact that it employed American congressional lobbying techniques, which were unsuited to the parliamentary system. The imported tactics served to alienate both parliamentarians and media alike. Lang describes the PMAC's lobbying techniques as intensive, ineffective, and highly inappropriate in contrast to the highly organized and credible ABPI efforts in Britain.

Published references to corporate influence in connection with revisions to the combines legislation include the picture H. G. Thorburn has given us (in the *Canadian Journal of Economics and Political Science*, 1964) of a campaign in which business groups undertook to persuade the government to change proposed anti-combines legislation through the "personal influence of prominent business leaders and elaborate briefs prepared by skilled lawyers". Thorburn concluded that, in that instance, the government "gave in to interested parties to such an extent that its most important amendments could not be defended by rational analysis". William Stanbury, in *Business Interests and the Reform of Canadian Competition Policy, 1971-75* (1977), has presented a similar picture of a more recent attempt to revise the same legislation. This literature conveys a picture of substantial and effective business influence on competition policy.

The history of tax reform between the publication of the *Report* of the Royal Commission on Taxation in 1967 and the passage of legislation in

December 1971 was another example of the process by which business attempted to influence policy and highly technical legislation. In this case much of the action took the form of published briefs and statements and the proceedings of the Standing Committee on Finance, Trade and Economic Affairs of the House of Commons. It was complicated by the active participation of the provincial governments, most of whom argued both in private and in public in favor of certain business views in preference to the initial position of the federal government. Some business views ultimately prevailed on detailed points and certain major issues pertaining largely to business-related aspects of taxation. Certainly though, the principle components of tax reform were put into legislation in a form that led most business commentators to feel they had lost the battle.

Business leaders have told us in public and in private, singly and in groups, that their views on the country's economic and social needs are not being taken into account by governments. This is consistent with their public statements during the last few years, and with the decisions that numerous businesses have taken to defer capital projects or to invest outside Canada. Among other issues businessmen have cited the rush for increased royalties and tax revenues from petroleum and other minerals in 1974, the way government borrowing has affected capital markets, "excessive" wage increases, particularly in the public sector, the rapid growth in public expenditures and taxation, the increasing encroachment by government in the marketplace by agencies such as the Foreign Investment Review Agency (FIRA), the nature and confusion of the Anti-Inflation Program and the suggestions that the controls may be followed by basic changes in business-government relations.

Formal collective consultations between government and business (and between trade unions and government) have not been particularly productive for many years. Therefore, the importance of the governments' contacts with individual industries and companies on particular issues has increased. Some efforts are now being made to bring about more formal consultations of government leaders with both labor and business leaders and with others such as farmers' and consumers' representatives. Perhaps, in new circumstances, these may achieve some success and reduce the widespread suspicion and concern. But until they do, governments should be as frank as possible about their consultations with particular industry groups and individual businesses and make efforts to have consultations on the same subjects with other interested and informed groups who may have a different perspective.

The close relations between many members of the Senate and major corporations, which are usually quite open and well known, have given rise over the years to a concern about conflicts of interest. This concern would probably have been greater if people thought the Senate wielded more effective power vis-à-vis the House of Commons. Possible means to deal with these conflicts of interest were studied and reported upon by the Standing Senate Committee on

Legal and Constitutional Affairs during 1976. This Commission does not believe that its mandate extends to making further suggestions for parliamentary reform.

Corporate Contributions to Political Parties

Public perceptions of the influence of corporations upon governments have been reinforced in the past both by the contributions made to the financing of political parties and the election expenditures of candidates for political office and by the secrecy of these contributions. This problem has been well known in Canada since the famous "Pacific Scandal" of 1872. What is less well known is the role that contributions by businessmen and corporations have always played in sustaining the political process in Canada and the increasing need for contributions from various sources as the costs of communication and campaigning have increased.

There has been a good deal of serious study and action on this subject, commencing in Quebec in 1960. To bring the information and analysis up to date we commissioned a research report on the subject by Khayyam Paltiel, and his report is being published separately by the Commission. It analyzes the federal and provincial election laws in Canada and includes a summary survey of political finances and their control in the United States, Britain, France, Germany, Sweden and Japan.

The principal federal legislation on the subject is the Election Expenses Act of 1974. It gives legal status both to political parties and to candidates and imposes on them responsibilities for controlling and reporting their expenses and for disclosing both the contributions received from various types of givers (individuals, trade unions, associations, and corporations) and the identity of all those giving more than $100. The Act sets limits, related to the number of electors in the district in which he runs, on the amount of a candidate's campaign expenditures. There are also limits on the amount of broadcasting time that may be purchased by political parties; half the cost of this time is reimbursed from public funds. Candidates who gain at least 15% of the votes cast in their ridings are reimbursed from public funds for part of their election expenses. A carefully defined tax credit is allowed under the Income Tax Act to taxpayers for contributions to federal or provincial parties or candidates.

There is a wide variation among provincial laws, which it is impractical to review here. Quebec has been the leader in reform as well as in the recognition of the problem. The following paragraphs from Paltiel's study sum up his review of legislation:

> The legal accountability of parties, candidates and their agents, for their financial practices is an essential first step in any reform program, but the efficacy of the legislation has yet to be tested in the readiness of responsible officials to prosecute

and the courts to punish violations; a complaisant or coopted control body, no matter its formal authority, can well undermine the intent of any law. Much has been done to remove the mystery surrounding party funds through the enactment of detailed reporting and disclosure provisions, but only Ontario and Saskatchewan have tackled the problem of funds from non-domestic sources and only Manitoba has sought to eliminate the influence of corporate gifts. The federal law attempts to inhibit the swamping of the electorate by advertising on the electronic media but the Ontario ceilings on advertising expenditures simply invite wealthy parties and candidates to outshout their competitors. Subventions to candidates have introduced a measure of equity to the political process but apart from Quebec no jurisdiction provides direct aid to parties between elections and they remain crippled as formulators and communicators of policy and programs, and the electorate remains largely ignorant of alternative options. Tax incentives may encourage giving in Ontario and the federal level, but it has yet to be shown that the older parties can organize mass fund-raising and abandon their dependence on business sources. Publicity and disclosure are helpful but the control bodies appear to take an accounting rather than an analytic or scholarly approach to the data at their disposal. A plethora of facts can confuse as well as illuminate if represented in undigestible form.

Probity, openness and equity have been fostered but significant reductions in campaign costs have yet to be achieved in Canada and its provinces. Solutions must yet be found to stimulate greater participation in the electoral process which is the only substitute for the tactics of violent confrontation.

Since the completion of Paltiel's study, the National Assembly of Quebec has passed an Act that bars outright all contributions by corporations to political parties and candidates. Manitoba also bans such contributions and Ontario limits them (but at a high level). Under federal, Ontario and Saskatchewan laws, corporate contributions must be disclosed both by parties and candidates if they exceed $100.

Corporate contributions may lead to some sense of obligation and conflict of interest, as well as suspicion, even though the companies involved often contribute to two or more rival parties or candidates and neither ask nor expect any *quid pro quo*. In the short term, we think suspicions can be diminished and potential conflicts of interest revealed by requiring disclosure of contributions from organizations as well as individuals. This should be supplemented by annual corporate disclosure of aggregate political contributions. This seems to us where the detailed and comprehensive obligation should lie. Canada can control and require disclosure of contributions from Canadian corporations whether foreign-controlled or not, and we think that no distinction should be made among them at present as long as the parties and candidates are required to give in detail the identity of all donors of substantial amounts and the corporations make the disclosure we have mentioned.

We do not propose that Canada seek to prohibit political contributions made in other countries by Canadian corporations or their officers or subsidiaries. We do think, however, that they should be disclosed in Canada. The permissibility of such donations is a matter for the foreign countries to control

and Canada should not seek to legislate extraterritorial behavior, as we have objected to other countries doing in regard to Canada.

Corporate Influence on Charitable Organizations

Another way in which corporations affect their environment is through their general policies regarding donations to, and participation in, charitable organizations. The number of requests for corporate donations, tax laws that allow deductions for charitable donations up to 20% of net income before tax, and general acceptance by corporation executives of the desirability of making donations indicate that we can expect this practice to continue.

Since 1958 there has been a general upward trend in Canadian corporate donations both in absolute amounts and as a percentage of individual donations. This emphasizes the growing reliance by organizations seeking money on continuing donations by corporations. On the other hand, corporate donations as a percentage of total corporate net income before tax declined from 1958 through 1967 and were stable at around .7% from 1969 to 1974. Canadian corporations contribute a considerably smaller percentage of net income before tax (a weighted average of .67%) than do their U.S. counterparts (a weighted average of 1.1%). (See Table 14.1.)

Statistics Canada figures based on taxation statistics and reporting the ratio of charitable donations to profits by major industry groups for 1969-74 show relatively unconcentrated industries like knitting mills, clothing industries, furniture manufacturing and leather products as having consistently high ratios of donations to profits. At the other extreme, with consistently low ratios, are found more concentrated industries such as public utilities, communications and mineral fuels. This suggests some support for the hypothesis that the more concentrated the industry, the lower the relative level of charitable contributions. Available data is really inadequate to draw such a general conclusion however, nor are data available that will allow us to obtain unambiguous results in comparisons of contribution levels by asset size of contributing industry. The figures in Table 14.1 do not include company-paid staff time donated by employers, or the use of corporate facilities by charitable groups.

Whether various community functions should have to be supported by voluntary contributions at all is an important question, but one beyond our mandate. Nevertheless it must be recognized that corporate donations are and will continue to be an important factor in the continuation of many of these services. At present the donations policies of large Canadian corporations remain largely hidden. We think corporations should disclose in their annual reports their aggregate donations, plus detail by category of recipient. In addition we think the tax authorities should provide aggregate statistics on both corporate and personal donations as shown in returns submitted to them. Some rational assessment of the donations process is required and this would be facilitated by such disclosure.

Table 14.1

Corporate and Individual Charitable Donations, Canada and United States, 1958-75
(Millions of Dollars and Percentages)

	Canada				United States	
		Corporate Donations			Corporate Donations	
Year	Individual Donations	Amount	As a Percentage of Individual Donations	As a Percentage of Net Income before Tax	Amount	As a Percentage of Net Income before Tax
1958	$326	$38	11.6	1.31	$395	.96
1959	358	42	12.0	1.20	482	.93
1960	n.a.	39	n.a.	1.20	482	.99
1961	302	38	12.6	1.10	512	1.05
1962	298	40	13.4	.89	595	1.11
1963	308	42	13.5	n.a.	657	1.14
1964	326	46	14.1	n.a.	729	1.13
1965	299	64	21.4	.97	785	1.04
1966	224	64	28.6	n.a.	805	1.00
1967	243	74	30.5	.96	830	1.07
1968	251	73	29.1	n.a.	1005	1.17
1969	260	67	25.8	.70	1005	1.26
1970	268	69	25.7	.80	797	1.11
1971	281	74	26.4	.70	865	1.05
1972	345	93	26.9	.85	1009	1.05
1973	393	118	30.0	.72	1174	1.01
1974	440	170	38.6	.70	1250	.98
1975					1175	1.03

Sources: Canada: 1958-59, Dept. of National Revenue, *Taxation Statistics* (1960, 1961); 1960-75, Institute of Donations and Public Affairs Research, *Corporate Giving in Canada* (1971-1975); net income before tax, Statistics Canada, *Corporate Financial Statistics*, Cat. 61-207.

United States: Conference Board in Canada, *Annual Survey of Corporate Contributions* (1975).

Note: n.a. = not available.

Corporate Activities Abroad

Any discussion of the influence of large corporations must at least touch some of the issues confronting Canadian corporations doing business internationally.

Corporations encounter practices in other countries which would be offensive or illegal if carried out in Canada. We live in a world where payments of one kind or another are both common and expected in many countries and are often not specifically prohibited under the laws of those countries or are sanctioned by general practice. Apparently such payments are routinely made by corporations competing with those from Canada. Under such circumstances answers can never be simple nor can they be uniform across all situations and all countries. We do not think that Canada should attempt to dictate morality or business practice to other countries. If international codes of conduct are desirable, they should originate in international bodies such as the Organisation for Economic Cooperation and Development.

A distinct but related situation is that in which Canadian firms operate in areas of the world where social conditions are not to the liking of Canadians: Canadian banks and mining corporations in South Africa are examples. Here again the situation is not simple. While some have argued that such a presence supports and legitimates the government involved, others argue that foreign corporations that practise non-discriminatory hiring and treatment represent the leading edge of change in many areas of the world.

Several Canadian corporations testified before us that their policy was to consider business operations in each individual country on their own economic and social merits unless it was explicit Canadian government policy that they not participate. This seems to us the proper approach to this problem.

Corporate Advertising

The most visible way that major corporations endeavor to influence opinion is by advertising their products and, on occasion, their political, social or economic views. Each year corporations spend large sums in Canada on advertising: about $800 million in 1976, of which $240 million was spent on television advertising alone.

Advocacy Advertising

Apart from product advertising, large businesses can influence public opinion through the resources they devote to presenting their political, social or economic views to the public through paid media advertising. This is referred to as advocacy advertising, a term that has been defined by Claude Thompson, a lawyer for the Association of Canadian Advertisers, in the following way:

> ...it is something more than advertising directed to improve a corporate image, it attempts to inform and persuade the public about matters that are not directly related to the sale of a product or a service. It reacts and retaliates against unfair

> attacks upon such of the free enterprise system as remains. It attempts to influence government and the public at election time....

Most print and broadcast media in Canada will accept advocacy advertising from commercial clients. A partial exception is the Canadian Broadcasting Corporation whose commercial acceptance policy says:

> The CBC does not sell time for controversial or opinion broadcasting...

and goes on to say that:

> Institutional advertising must avoid offering a point of view on a subject that is controversial or urging the audience to adopt a particular attitude or course of action on economic, social or political subjects.

We characterize this as a "partial exception" in noting that the CBC found no violation of this code in running the 1976 Imperial Oil Limited advertisements with the slogan: "Each year Imperial spends hundreds of millions of dollars on the big, tough, expensive job of developing petroleum supply.... If Imperial is to continue to help Canada lessen its oil dependence on other countries the company will have to put even more money to work." This was an advertisement that many advertisers and agencies in Canada viewed as a political statement dealing with an area of public controversy, and which an executive of Imperial's own advertising agency classified as "a prototype of advocacy advertising of the future." Critics of the Imperial Oil advertisements argued that Imperial claimed a profit of only 6 cents on the sales dollar, which is not the way a company would normally report its profits. In 1975, Imperial's rate of return on invested capital was about 12% and on shareholders' equity about 16%, and this is what they reported in their 1975 annual report. Critics further point out that Imperial spent $74 million on exploration in 1975, the same amount they spent in 1972 when their profits were only about 60% of the 1975 profits.

The CBC has refused to run other advocacy advertising, for example the 1976-77 "Lets Free Enterprise" campaign of the Insurance Bureau of Canada, which was carried on the CTV network and by independent stations.

It has been drawn to the Commission's attention by those who lack the resources to present views contrary to those of corporations that such advertising is unfair, and that an opportunity to reply in a form and manner comparable with that of the original message should be available. It seems to us that advocacy advertising is becoming more common and that rules to govern its use are needed.

It is the issue of the right to reply to advocacy advertising, to counter-advertise, that we wish to emphasize here. The issue of what advertising a medium should accept is a complex one but unrelated to corporate concentration. The decisions reflect a weighing of factors by the media involved, and we have no reason to believe that they are being made in a biased or irresponsible way.

A concern does arise when a controversial message is run, and when members of the public or organizations with another view are denied access to the media to reply, not because of lack of funds, or because all available time has been purchased by other advertisers, but because media do not wish to offend larger advertisers by permitting counter-advertising. This last appears to be the case in Canada with broadcast media, but not with print media. Most, and perhaps all, radio and television stations in Canada currently refuse to sell or supply broadcast time for counter-advertising under any circumstances, primarily, we have been told, because of concern about the possible commercial repercussions from their regular advertisers.

Since the Canadian Radio-Television and Telecommunications Commission (CRTC) is studying the question, we make only general recommendations here. It seems to us necessary to guarantee the rights of those with opposing points of view to purchase broadcast time for the airing of their views. To allow the unopposed selling of economic or political philosophy in the guise of product advertising by dominant firms is patently unfair, and an abuse directly related to the financial "clout" of the advertiser.

However, it is difficult at times to separate advocacy advertising from general non-product advertising, or to decide where it stands with reference to the important principle of freedom of expression. An acceptable approach might be to emulate the fairness doctrine found in the United States. We think that when a paid message representing one side of a significant social, political or economic issue is broadcast, and where there is some issue of truth or interpretation involved, then opposing parties should have the right to reply.

This right should be one of access to the media. Media should not be able to refuse to sell substantially equal time if they have broadcast the initial message. The right of reply need not involve free time, which was during one period an important source of friction in the United States. We recommend that at this time the doctrine apply only to broadcast media, as we are not aware of any cases in which groups have been systematically prohibited from placing counter-advertising in the press. Each broadcaster should indicate in an annual report to the CRTC how much time has been requested, on what issues, and the nature of its response not only as an element in the licence renewal process, but also as a basis on which to evaluate the need for revisions in the application of the principle.

General Product Advertising

Some economists say that heavy advertising expenditures by dominant firms increase product (or seller) differentiation in an industry and thus raise barriers to entry. The alternative view is that heavy advertising is a competitive activity, which aids a new firm entering an industry and thus reduces barriers to entry. Those who argue that heavy advertising is not a barrier to entry, but rather the most successful means of new entry, cite behavior that is said to support this view. For example, new products are observed to be advertised

more intensively than are old products. Commonly smaller firms in an industry advertise more intensively than does the firm with the largest market share.

A more obvious criticism of product advertising arises where oligopolists selling essentially homogeneous products try to differentiate them with offsetting advertising in the pursuit of market share. While advertising is an important source of product and purchase information for consumers, it is neither an objective nor a balanced source. We see a real need to improve the information available about alternative prices and sources of products. Publications such as *Consumer Reports*, organizations such as the Consumers' Association of Canada and innovations such as transmission of comparative supermarket prices by cable television are commendable efforts in this direction. However, the need is still largely unfilled, and further initiatives are needed to provide diversity in the product-price-service mix available to consumers, and lessen dependence on advertising as a source of information.

General product advertising has also come under attack from critics for its tastelessness, exploitation of children, perpetuation of stereotypes and fostering of unrealistic expectations. Much criticism has surrounded lifestyle advertising and the possibility that it may inaccurately reflect or even change the values of society. A review of one week of television advertising in North America led the distinguished analyst Erich Fromm to conclude that the major message implied in what he had seen was that "... we must all strive to have more, rather than to be more."

The other side of the advertising issue is that product advertising provides the main support of newspapers, magazines and private broadcasting, for which no socially or politically acceptable alternative has yet been found. Privately supported media are essential to the kind of society Canadians seem to want. While these can apparently survive some selective restraint upon certain types of advertising, general restraints could be very damaging and might threaten the country's traditional multiplicity of news and information sources. Restraints might also hinder the advertising of new products and services and thus raise the barriers to entry protecting existing products and firms. Thus while high-level product advertising by major firms has serious implications, particularly when a "life style" is being promoted or implied, we do not see any easy or fair way to restrain it.

Corporate Influence on Public Opinion

In studying conglomerate groups of companies, the Commission has heard a particular concern with regard to the influencing of public opinion. This arises when the control of newspapers or broadcasting stations is in the hands of companies or individuals who own other industrial or commercial enterprises. In these cases there is said to be a potential interest on the part of those who control the media to influence the opinions expressed or the selection of news to be published. We shall discuss three examples of this danger, each with special circumstances.

Particular Cases

The first relates to Power Corporation of Canada, Limited, and more particularly to Paul Desmarais and the companies through which he controls Power Corporation and the newspapers *La Presse* and *Montréal Matin* (Montreal), *Le Nouvelliste* (Trois-Rivières), *La Voix de L'Est* (Granby) and *La Tribune* (Sherbrooke). In addition, as we mentioned in Chapter 7, he has some financial connections with companies and individuals controlling other newspapers and broadcasting stations in Causapscal, Carleton, Shawinigan, Kingston, Peterborough and elsewhere. The most important connection, however, is that with *La Presse*. Control of that newspaper was transferred to him under special legislation of Quebec in 1967.

Desmarais' control of newspapers has been the subject of some controversy in Quebec and special scrutiny by a committee of the Quebec Assembly. He testified to this Commission about his role in regard to *La Presse* and the measures taken to safeguard the independence of the publisher and the journalists. The Commission is aware of the views on this situation in Quebec expressed by Claude Ryan, publisher and editor of *Le Devoir*, who testified as an expert witness in court on a quite separate case and before a Senate Committee. We have also commissioned a special study of *La Presse*, which we are publishing separately. The study suggests little cause for concern, except that potential editorial bias is created by any kind of concentrated ownership.

The second case relating to newspapers is the control of the five English-language daily newspapers in New Brunswick by K. C. Irving and the Irving family interests, who also control a large number of industrial and commercial companies in that province. Certain Irving companies were charged under the Combines Investigation Act with creating and operating a monopoly, throughout New Brunswick, of the business of producing and selling English-language daily newspapers and were found guilty by Mr. Justice Robichaud of the Queen's Bench Division of the Supreme Court of New Brunswick. This verdict was subsequently reversed by the Court of Appeal for New Brunswick and the reversal was upheld by the Supreme Court of Canada.

Many facts of the case and the potential conflicts of interest were brought out in detail in the trial. Although the judge found that the accused had established a monopoly, he stated his belief that Irving and his family did not interfere with the editorial or news policies of the papers and either retained the previous publishers or appointed successors who were qualified and not obviously biased. As in the *La Presse* case, however, the potential for abuse is present.

The third case relates to broadcasting and concerns the control by Argus Corporation Limited of Standard Broadcasting Corporation Limited, in which Argus acquired a major interest in 1946. As we pointed out in Chapter 7, Standard owns a major Toronto private radio station, CFRB. In 1960 it acquired a major English-language radio station, CJAD, in Montreal, and shortly thereafter established FM radio stations in Toronto and Montreal, with the approval of the Board of Broadcast Governors. By way of background it might be mentioned that persons associated with Argus had made an unsuc-

cessful attempt to acquire control of the Toronto *Globe and Mail* newspaper in 1955. A separate attempt was made in 1956 to acquire control of the Toronto *Star*, but it too was unsuccessful.

Attempts by Argus, through Standard Broadcasting, to acquire a television licence in Toronto were withdrawn when approvals were delayed by the CRTC, and an attempted purchase of two radio stations in Hamilton was denied by the CRTC, in accordance with its policy of discouraging the concentration of media ownership. However in 1974 the CRTC approved the acquisition of control by Standard Broadcasting of Bushnell Communications Limited, which controlled television station CJOH in Ottawa and two relay stations in Cornwall and Desoronto, as well as a cable television system in Ottawa and neighboring areas. The CRTC eventually forced the divestiture by Bushnell of the cable television systems, in accordance with its regular policies, though this move was strenuously opposed by the minority shareholders. The CRTC decision exhibited no concern over Argus Corporation's expanding control of important broadcasting stations in spite of its substantial other industrial and commercial holdings.

CRTC Policy

The CRTC states that it has followed an active policy of preventing what it regards as undue concentration of ownership and control of the mass media. It has stated that "the ownership and control of broadcasting undertakings should be separate from the ownership and control of newspapers except in special circumstances". It is also opposed in principle to the ownership and control of cable television systems by those controlling television broadcasting stations. Within the broadcasting field itself, the CRTC has endeavored to promote local ownership and participation, to prevent control by the same interests of more than one station in a network and generally to discourage dominance in an area by multiple station ownership by one company or group of related companies. In carrying out these policies it has encountered some difficulties arising from the need, in accordance with government policy under the Broadcasting Act, to transfer ownership and control from foreign-controlled corporations, since it has been necessary to find buyers qualified to provide satisfactory standards of service.

The CRTC announced in a statement of policy in August 1968 that among the points to be considered in approving ownership of broadcasting outlets was the "extent of ownership of other commercial undertakings which might influence the performance of broadcasting stations". There have been very few cases where this point seems to have been given much if any weight in decisions. The clearest case seems to have been the denial of a proposal by the Campeau Corporation in 1974 to acquire control of Bushnell Communications with its television station in Ottawa. In this case the CRTC "also took note of the concerns expressed by the intervenors regarding the possible conflicts of interest that might arise between the objectives of a company engaged in the development and management of real estate and the responsibilities imposed on broadcasters by the Broadcasting Act" and went on to say, "In the opinion of

the CRTC the representatives of Campeau failed to respond adequately to these concerns." In this case the possible conflicts of interest were specific and local. For this reason they were given second place to the CRTC's view that the Campeau company had not given adequate consideration to, or made specific plans and provisions for, carrying out the obligations and responsibilities inherent in the operation of the various broadcasting undertakings they were proposing to acquire.

We have not explored extensively the concentration of corporate power represented by ownership of chains of newspapers, although we did carry out some research. The subject was thoroughly examined in a 1970 *Report* of the Special Senate Committee on Mass Media (the Davey *Report*), which concluded that the case for (or against) newspaper chains was finely balanced. The Committee went on to recommend a Press Ownership Review Board to approve or disapprove mergers or acquisitions of newspapers and periodicals and suggested that all transactions that increase the concentration of ownership in the mass media should be regarded as contrary to the public interest unless shown to be otherwise.

The *Report* concluded that of the 116 daily newspapers in Canada in 1970, 77 were controlled or partially owned by chains. Our research indicated that in 1976 there were 115 daily newspapers in Canada of which 80 were owned or controlled by chains. The trend to chain ownership of major city daily newspapers in Canada seems to be virtually over, largely because of the economic unattractiveness of many of the relatively few remaining independent papers. The long-term trend to chain ownership of small city daily and weekly newspapers will almost certainly continue, largely because of the economies of scale in chain operation and the easier access to financing of acquisitions by existing chains.

The trends in newspaper ownership must be viewed against a background of some of the trends in the industry. The number of cities with two or more separately owned daily newspapers in Canada has decreased steadily since the 1920s.

Another characteristic of many Canadian newspapers, particularly large city dailies, is that they are profitable enterprises. The Davey *Report* concluded that for the pre-1970 period, the "daily-newspaper and broadcasting industries make profits that are, on the average, *very* generous". At the same time, the *Report* commented that these profits were apparently not transformed into improved performance. The *Report* was especially critical of this lack of quality.

The most important challenge to the daily newspaper industry is the technological one from cable television and its ability to deliver many forms of advertising and news to a household faster and more cheaply than a newspaper can. One possibility is that within the next decade cable will replace newspapers in many major cities as the principal carrier of classified advertising, which accounts for about 30% of all daily newspaper revenue. If this happens,

it is estimated that a third to a half of all daily newspapers in those cities might become unprofitable. This technological challenge at least partially explains why the principal merger and expansion trend by large city daily newspapers in Canada today is an attempt to expand in a quasi-conglomerate way into non-print communication.

The CRTC cases indicate that it is carrying out a coherent policy under the Broadcasting Act to restrain the concentration of corporate power within the media field, subject to the need to find owners with the capital and inclination to provide an adequate quality of broadcasting service. The CRTC appears to have been satisfied that conflicts of interest on the part of controlling owners who also owned substantial equities in commerce or industry were not serious enough to exclude them from control of broadcasting outlets. We have no knowledge of any behavior on the part of such owners that would justify a general exclusion. It is the trend of one medium expanding into other media areas and of ownership of media interests by industrial or commercial interests that seem to us the most significant to the public interest at this time and the areas where greatest concern should be focused.

Although we do not support the idea of a Press Ownership Review Board, consideration should be given to permitting the CRTC, where appropriate, not only to constrain print media from controlling broadcast or electronic media, as it now does, but also to prevent broadcast media from acquiring or controlling major print media, which the CRTC currently can do only by indirect means if at all.

Chapter 15

Business Size and Working Conditions

In this chapter we look at five major issues related to employment and discuss the relation between them and corporate concentration. We believe most Canadians would agree that these are the most important problems today in the world of work, except of course for unemployment. However, the relation between size or concentration and rates of unemployment has already been extensively studied in Canada and elsewhere without conclusive results. While there is general agreement on the existence and importance of the problems we shall be discussing, there is much less agreement on their causes and possible solutions. Where competing theories exist, there is frequently insufficient systematic information to support recommendations on one side or the other.

The first issue considered is that of equal opportunity in employment. What is the nature and extent of discrimination in seeking employment or in achieving promotion within an organization? It has been argued that in Canada there is a lack of equal opportunity for women, Francophones, native people and those with particular ethnic, racial or religious backgrounds. Such individuals are thought to have a more difficult time finding work, to obtain less desirable work when they do, to be paid less for the same work, to have less chance of being promoted and to be the first to be laid off. We look at some of the evidence in this area and in particular whether the largest enterprises seem any more of less prone to discriminate than other private and public sector employers.

The second issue is that of level of earnings and other benefits. Is there any difference related to size of firm in the compensation and fringe benefits offered to employees?

The third issue is that of employment-related health and safety. In recent years Canadians have become increasingly aware of many threats to health inherent in certain types of employment. Are larger employers more or less likely to identify and correct unsafe and toxic conditions? Do they lag behind or lead other employers and interest groups in dealing with health?

The fourth issue is alienation from work. Obtaining and keeping employment, earning a fair wage and achieving some financial security have traditionally been what most people ask and expect from employment. It is perhaps a mark of the progress of industrial societies that these are no longer sufficient. Rather than being only a means to the end of obtaining money and security to enjoy life away from the job, many workers also expect the job itself to produce satisfaction and non-monetary rewards. At the same time, many social critics maintain that work in modern societies is intrinsically alienating; that workers feel no sense of pride, involvement or commitment, but rather feel that they are objects to be used according to the impersonal demands of the market and of technology. We attempt to evaluate the evidence available on this difficult question.

The fifth issue is that of power and influence in the work environment. For some critics, the issues we have identified so far are less important than the process by which they are decided. They argue that, however satisfactory the conditions of work, if they can be changed unilaterally by the employer, then the system is inherently unfair to workers. Such critics emphasize the need for countervailing power, which has traditionally meant labor unions and government intervention. We consider briefly several of the complex questions raised in this context. Does big business dominate unions, as several of those testifying before us have charged; is the reverse true or is there a reasonable balance of power? We look at several issues made more important by the fact that in 1975 and 1976 Canada had the greatest proportion of time lost through strikes in the industrialized Western world. Are larger companies more prone to strikes than smaller ones? Are strikes longer or shorter in duration in larger companies? Does our record of labor discontent appear to be related to the degree of corporate concentration?

To assist us in understanding the relation between size and human resource policies, the Commission had four studies undertaken on topics of particular interest. The studies, by John W. Gartrell, Victor V. Murray and David E. Dimick, Terrence H. White, and The Niagara Institute, are described below and are being published. In addition to these we also commissioned a brief from Donald P. Warwick and John G. Craig. The brief, which was presented at our public hearings, undertook an identification of the most important social issues associated with corporate concentration, an explanation of the most commonly presented themes and hypotheses related to these issues in the Canadian literature and an analysis of the quality of research and data currently available testing these themes and hypotheses.

Distribution of Employment

In our research we attempted to identify the proportion of employees in enterprises of different sizes or areas of high economic concentration. If size or concentration (however defined) had some bearing on work-related issues, how much of the labor force would be affected?

While this seems an obvious question, it is difficult to obtain relevant data. Statistics Canada breaks down labor force statistics only by industry and

occupational classifications and not by employer size or concentration measures. The best available figure is for the 1973 distribution of employees by establishment (or plant) size. While there is certainly a relation between size of plant and size of enterprise or degree of control of an industry by a given firm, it is by no means exact. Hence the table that follows (Table 15.1) is at best only suggestive of the proportion of employees working in the largest firms.

In 1973, about 17% of employees in manufacturing industries in Canada worked in establishments with more than 1,000 employees, while about 46% were in establishments with fewer than 200 employees (Table 15.1). Since the 1950s, there has been a slight trend for the proportion of employees in the smallest and largest establishments to diminish slightly and in the middle-size establishments to increase slightly. Although we do not have firm-level data, it is probably accurate to say that only 15% or fewer Canadian employees in manufacturing industries work for private sector firms employing more than 5,000 people.

Table 15.1

Distribution of Employees in Manufacturing Industries, by Establishment Size, Canada, 1949-73
(Percentages)

Size of Establishment	Percentage Distribution of Employees						
	1949	1955	1961	1964	1968	1970	1973
1–49* employees	23.0	22.2	21.2	19.6	18.2	17.8	16.6
50–99	11.3	11.1	12.4	11.7	11.5	11.6	11.2
100–199	13.3	12.6	13.9	14.0	14.4	15.2	15.4
200–499	18.2	17.6	19.1	19.4	19.9	19.9	21.9
500–999	33.4	12.9	12.4	12.7	12.0	12.4	13.0
1,000 or more		22.5	17.1	18.5	19.5	18.4	17.3
Head office sales offices, and auxiliary units	0.8	1.2	4.0	4.1	4.5	4.7	4.3

Source: Statistics Canada, Cat. 31. 210.
Note: * – Bias may exist in 1949 and 1955 data for this size group because of the inclusion of working owners and partners.

It is tempting to conclude from the figures that whatever the largest employers do vis-à-vis their employees is not highly relevant, that it is what the smaller, private firms and organizations in the public sector do that matters. However, large private sector employers lead in influencing employee relations practices in their specific industries and in the country as a whole. With their usually large plants in several locations, private sector employers often exert a major influence on the quality of life in particular communities and regions.

Equal Opportunity in Employment

Regarding the world of work two values are widely shared. One is that ability to do a job should be the only criterion considered in hiring, compensat-

ing and promoting an employee. The converse is that it is wrong to withhold a job or promotion or to pay lower wages because of a person's race, sex, ethnic group, religion or other characteristics that in themselves have nothing to do with the ability to work satisfactorily. (In many collective agreements there are clauses that stipulate that seniority will be used to determine promotions. Here seniority is used as a surrogate for ability; unions argue that the most senior worker is usually the most able.)

In spite of these values it is widely documented that discrimination in employment has been and is still widespread in our society. Specific references may be found in the brief by Warwick and Craig. It is not the function of this *Report* to document these statistics and studies. We merely assert here that it can be statistically documented that historically the following has occurred:

> Women in general have been paid less for the same work, and have been less likely to be selected for upper-level managerial jobs. This is substantiated by the statistics in *Women in the Labour Force (1976)*, published by the federal Department of Labour. Royal Commission research by Murray and Dimick found only 7 women among 483 members of the top three levels of management in the 20 large and middle-sized Canadian companies that they studied.
>
> Francophones in Anglophone-controlled companies in Quebec have been under-represented in upper levels of management and in the more skilled and technical occupations.
>
> Recent immigrants, especially those not from the United Kingdom or northern European countries, have a lower probability of obtaining secure steady employment, suffer wage discrimination and are less likely to rise to upper management. The same holds true for native peoples. Though doubtless not as common now as it was, there is evidence of continuing discrimination against Jews and members of other minority religious groups.
>
> People who are physically or mentally handicapped find their chances of finding employment lower, even when the job sought is unrelated to their condition.

The low representation of certain groups in the work force is often argued in the literature to be due not to overt discrimination against specific groups but to the cultural backgrounds and expectations of members of such groups, to their educational backgrounds and to their lack of exposure to a range of life experiences and activities, with differences in background combining with the employer's commitment to hiring and promotion on the basis of training and job experience. The limited evidence we have seen suggests that most "discrimination" is probably of this nature.

Our own research and reading of the literature found no persuasive evidence that very large employers are more or less likely to discriminate than others. Walter Haessel and John Palmer have studied the relation of discrimination to concentration in the United States. They contend that the more a firm approaches monopolistic control of the markets in which it competes, the

more it will discriminate against disadvantaged people in its employment practices. Their argument was that all employers will discriminate if they have the chance, but that the more a firm gets into a dominant position the more it can afford to do so. Haessel and Palmer present evidence in support of their model from U.S. census data, where they find a negative relationship between four-firm concentration ratios for various industries and percentages of women and black Americans in selected occupations. They recognize that the correlation found between industry concentration and discrimination could have occurred for reasons other than the posited combination of power and the sexual or racial prejudice of employers. For example, Haessel and Palmer do not consider the variable of technology and the possibility that more concentrated industries are technology-intensive. The dominant technology of an industry strongly influences the skills and knowledge required by employers. Insofar as women or black Americans may not have acquired requisite job skills because of discriminatory social values outside the workplace, they will not be qualified to work in that industry.

If one accepts the contention that members of disadvantaged groups do not have equal opportunity in employment because their preparation for some jobs is inadequate, then the primary responsibility for improving equality of opportunity clearly lies with institutions like education and government, with the communications media to encourage the disadvantaged to break their stereotyped work patterns and to create concomitant supportive attitudes in the general population and of course with the minority individual himself. Large corporations, however, even if not a disproportionate cause of employment discrimination, have a special opportunity to assist in correcting such situations. Because they employ large numbers of people, the effectiveness and visibility of large corporations' employment practices are likely to be greater than are those of smaller companies. In those industries where they are leaders in business practice, large corporations' personnel policies are also likely to be followed.

The role of larger businesses was illustrated in several of the research studies prepared for the Commission. Murray and Dimick undertook a study of similarities and differences in personnel practices between ten very large companies with 6,000 or more employees, and ten smaller firms with 450 to 5,500 employees, with larger and smaller firms paired in industries ranging from mining to manufacturing to retailing. Interviews were conducted with 150 personnel managers, line managers and union stewards. Simultaneously, The Niagara Institute undertook a study on broad issues of attitudes and actions in the realm of corporate social responsibility. The Institute used a mail survey sent to 1,083 corporations with at least $10 million in annual sales, from which 284 usable responses were obtained. Questions were asked about a number of issues related to employee relations, as well as issues related to the larger society. Responses were analyzed by number of employees and annual gross revenues of employers.

The Murray-Dimick and Niagara Institute studies, and several corporate briefs submitted to us, indicated that efforts are being made to increase the number of women in management, to increase the use of French in Anglo-

phone-controlled businesses in Quebec and the number of Francophone employees in management, and in some cases to provide opportunities for handicapped people. However, only one company studied by Murray and Dimick (a large chartered bank) had instituted a special training program for young people from backgrounds of chronic poverty and unemployment. An attempt by that bank to expand the program by getting the participation of other banks and financial institutions failed.

In summary, existing material on equal employment opportunity suggests that discrimination is widespread but may be based primarily on differing cultural and educational backgrounds and expectations. There is no evidence that large employers are more or less likely to discriminate than smaller ones. Efforts are being made by some large corporations to rectify some kinds of discrimination but such efforts do not have a high priority in the spectrum of corporate activities.

Earnings and Other Benefits

The level of earnings and other benefits received from employment is a basic concern for most employed Canadians. The most recent information on this subject comes from Statistics Canada's survey of employer labor costs for 1976 (Table 15.2). It makes available for the first time an all-industry tabulation based on a survey of 6,975 reporting plants or establishments. Again we have the problem of the nonavailability of data by size of enterprise; so the results may only in a general sense be attributed to large employers.

In general, enterprises with over 200 employees pay more per capita in total compensation, particularly in vacation and holiday pay, pension contributions, and private life and health insurance than employees in any other size categories. The biggest differences are between large and middle-sized establishments on the one hand and small establishments on the other. (Units of 19 and fewer employees in this survey should not be seen as representative of the smallest businesses, as this subgroup contains a large proportion of units which are themselves part of larger employment units.)

These general findings are supported by breakdowns by job classification, which also indicate higher total compensation packages in larger establishments than in smaller. In virtually all the 30 job classifications measured, workers in establishments employing fewer than 100 people earned less than those in establishments of 100-499, who in turn earned less than those in establishments of 500 or over, in each case for similar work. Examples from 5 of the 30 industries measured are given in Table 15.3.

The findings are supported at the firm level in the study of personnel policies in large and medium-sized firms undertaken by Murray and Dimick. They examined the relationship between firm size and wages paid in eight common occupational categories between ten pairs of larger and smaller firms in different industries. They found wages paid by the large firms to be slightly higher in six of the seven comparable occupations and a tendency for larger firms to have formal policies of paying above-average compensation.

Table 15.2

Employee Compensation, All Industries,* by Size of Establishment, Canada, 1977

	Overall Average	Number of Employees in Establishment: 5000 and Over	2500 to 4999	1500 to 2499	1000 to 1499	500 to 999	200 to 499	100 to 199	50 to 99	20 to 49	19 and Under
Pay for time worked											
Basic pay for regular work	$10,845.00	$11,451.00	$11,782.00	$12,086.00	$11,671.00	$11,186.00	$10,410.00	$10,369.00	$ 9,945.00	$ 9,698.00	$ 9,770.00
Commissions, incentive bonuses	257.02	75.58	29.46	119.65	140.05	201.34	294.60	293.44	484.32	528.54	626.26
Overtime pay	412.11	433.99	450.07	646.60	414.32	560.42	460.12	349.44	303.32	192.99	164.14
Shift premium pay	40.13	48.09	58.91	72.52	38.51	58.17	48.92	24.88	18.90	11.64	2.93
Other premium pay	37.96	65.27	55.38	65.26	36.18	38.03	43.72	28.00	8.95	12.61	16.60
Sub total**	11,592.22	12,073.93	12,375.82	12,990.02	12,300.06	12,043.96	11,257.36	11,064.76	10,760.49	10,443.78	10,579.92
Paid absence											
Paid holidays	488.02	550.79	563.18	584.96	560.21	513.44	462.20	446.90	411.72	382.10	361.48
Vacation pay	712.52	894.32	812.96	838.76	847.31	741.63	667.28	598.29	552.94	537.27	539.30
Sick leave pay	136.65	258.79	177.90	203.04	180.90	144.30	97.85	75.69	64.64	55.28	60.57
Personal or other leave	22.77	50.38	25.92	33.84	14.01	21.25	18.74	13.48	10.94	9.70	11.72
Sub total**	1.359.96	1,754.28	1,579.96	1,660.60	1,602.43	1,420.62	1,246.27	1,134.36	1,022.24	984.35	973.07
Miscellaneous direct payments	245.10	161.46	195.58	300.94	190.23	336.69	251.92	256.11	268.52	262.82	231.55
Gross Payroll **	13,197.28	13,989.67	14,151.36	14,951.56	14,092.72	13,801.27	12,755.55	12,455.23	12,051.25	11,690.95	11,784.55
Employer contributions to employee welfare and benefit plans											
Workmen's Compensation	159.42	75.58	119.00	201.84	157.56	196.87	180.09	184.57	175.03	162.93	175.86
Unemployment Insurance	174.60	178.63	190.87	189.75	176.23	184.57	171.77	169.01	165.09	160.02	159.25
Canada Pension Plan and Quebec Pension Plan	130.14	127.11	134.31	135.36	131.88	135.35	131.17	128.58	127.30	123.16	123.10
Private Pension Plan	472.84	1,045.48	695.14	802.51	436.50	465.34	361.23	200.12	172.05	139.65	180.75
Quebec Hospital Insurance Board	39.04	35.50	20.03	54.39	61.16	49.22	38.52	36.29	32.82	32.00	30.29
Private life and health insurance	148.58	158.02	167.30	224.74	150.56	177.86	153.03	126.50	112.38	104.73	100.63
Supplementary unemployment benefits and other	24.94	13.74	22.38	71.31	28.01	32.44	24.98	22.81	16.90	16.49	19.54
Sub total**	1,149.56	1,634.06	1,349.03	1,679.90	1,141.90	1,241.65	1,060.79	867.88	801.57	738.98	789.42
Total Compensation **	14,346.84	15,623.73	15,500.39	16,631.46	15,234.62	15,042.92	13,816.34	13,323.11	12,870.82	12,429.93	12,573.97
Number of reporting establishments	6,975	51	63	108	132	318	826	1,000	999	1,774	1,644
Employment (Thousands of employees)	5,658.0	907.6	375.6	314.1	489.2	719.6	876.6	705.5	595.7	538.0	136.2
Percentage	100.0	16.0	6.6	5.6	8.6	12.7	15.5	12.5	10.5	9.5	2.4

Source: Compiled by K.J. Harwood, Labour Division, Statistics Canada, 1977.

Notes: * – including non-commercial sector.
** – Columns do not add because of rounding.

Table 15.3

Hourly Wage Rates by Establishment Size, Selected Industries, Canada, October 1, 1975

Industry/Occupation	Hourly Wage Rates in Establishments of 500 Employees	100-499 Employees	1-99 Employees
Industrial chemicals-Operator, Class A (male)	$6.95	$6.25	$5.57
Industrial chemicals-Welder, maintenance	7.01	6.79	6.77
Petroleum refineries-Burner operator (male)	6.62	6.49	n.a.
Petroleum refineries-Truck driver, light and heavy (male)	5.84	5.76	n.a.
Iron and steel-laborer non-production (male)	5.51	4.33	4.33
Bag manufacturing-Bag machine operator (female)	4.39	4.47	3.44
Bag manufacturing-Box maker, paperboard (male)	6.12	4.85	4.43
Sawmills-Lumber sorter (male)	n.a.	5.50	5.05

Source: Royal Commission on Corporate Concentration (RCCC) research.
Note: n.a. = not available.

There is little research relating wage rates to the degree of product market concentration. Comparisons of selected concentration ratios and average annual earnings for comparable industry definitions compiled by our research staff reveal a weak but positive relationship between degree of industry concentration and average annual wage in 1970. However, this may be explained by capital intensity as an intervening variable. Thus, it may be that the higher the capital intensity the higher the wage rate.

J. C. H. Jones and L. Laudadio of the University of Victoria, using Canadian data for 1965 and 1969 in studying of wage differentials and market imperfections, indicated that the presence of unions causes a variation in wage rates. They argued that it is a combination of the presence of unions and high concentration which best explains the level of wage rates. They hypothesized that union power and market power will increase the wage rates higher than average wage rates (the value of marginal product of labour) for the industry or occupation. Commission staff attempted to test this hypothesis, but existing data in Canada on unionization is reported in such a way that unambiguous conclusions are impossible. Thus in looking at the relation of size to earnings and other benefits, all we can safely conclude is that the largest businesses do appear to have higher total compensation packages than do smaller or medium-sized businesses, with the causes and the relationship to industry concentration uncertain.

Employees' Health and Safety

Acceptable levels of work-related risk, along with societal values regarding employers' responsibilities for maintaining employees' health, are constantly

being redefined. The traditional attitude of the 19th and early 20th centuries was that of "employee beware". While the concept that an employer must take responsibility for his employees' safety began to gain support in Canada with the introduction of workmen's compensation legislation about 1910, awareness of threats to health from many chemicals, gases and other materials and work procedures not previously suspect dates only from about 1960. For example, until recently the feeling seemed to be that materials could be used until proven dangerous. There now seems growing support for the idea that materials should not be used until they have been first tested and proven safe. We do not intend here to document or discuss at length the range of threats to employee health and safety, but rather to consider the question of the influence of size or concentration on the incidence of such threats.

Unfortunately the data available on health and safety are very sparse. The recent Report of the Ontario Royal Commission on the Health and Safety of Workers in Mines (1976) provides some information on mine size and the frequency of fatal accidents. The fewest fatalities, 0.312 per million man-hours, occur in mines with more than 1,000 employees underground. Mines with 200 to 1,000 employees were next (0.411 per million man-hours) with the smallest mines having the highest rate of fatalities (0.944 per million man-hours).

A 1974 U.S. survey of over 800 companies by the Conference Board estimated the proportion of employees exposed to health hazards as perceived by responding companies. As indicated in Table 15.4, the highest proportion of employees judged to be exposed to health risks occurred in the next-to-largest size category (10,000-49,999 employees). The highest proportion of employees judged not to be exposed to risk occurs in the smallest size category. No explanation is offered as to why these categories should relate as they do to perceived health hazards. Additional U.S. data from the American Health Association for 1973 examines the relationship among size, type of industry and incidence of injury and illness and indicates that the largest and smallest firms are "safest" in most industries, while the highest incidence of injury and illness occurs in the middle-sized categories, especially the 100-249 employee group.

Table 15.4

Proportion of Employees Judged To Be Exposed To Health Hazards, United States, 1972

Number of Employees in Responding Companies	None	1-24% Employees Exposed	25% or More Employees Exposed
under 1,000	65%	25%	10%
1,000–2,499	45	42	13
2,500–4,999	45	47	8
5,000–9,999	49	34	17
10,000–49,999	34	33	23
50,000 or more	40	38	16

Source: Conference Board, Industry Roles in Health Care (New York, 1974).

Note: Read as "65% of the responding companies with fewer than 1,000 employees judged that no employees were exposed to health hazards."

As with employment discrimination, about all that can be concluded from such fragmentary data is that the largest firms are no different from other employers in matters of health and safety. There is no *a priori* reason to think that large size itself creates hazard. Findings such as those in the American Health Association study may arise because of a sampling bias in which firms in the comparatively safe sectors of trade and services are more heavily represented among the smallest employers.

Nevertheless, Canada's largest corporations can lead in creating safer, healthier work environments. Certainly smaller businesses are unlikely to assume the cost of more stringent health and safety standards if their larger competitors do not or will not. Some large firms have led in cooperation with unions, governments and independent agencies in carrying out research and implementing remedies for health hazards. For instance, the Saskatchewan government and business enterprises in that province have created joint employee-management safety committees, and the federal government has proposed an industrial safety and health centre to undertake research into health hazards and to assist in developing standards and educational programs.

Bureaucracy and Alienation

A frequent criticism in the sociological literature is that modern technological society is characterized by work that is increasingly specialized, impersonal and separated from people's total lives; that it occurs in large bureaucracies, which allow little expression of individuality and inhibit relationships with others based on anything but task-oriented demands. The net effect of these conditions is thought to create a society in which the majority of people feel no sense of deep commitment, community, or power; in short, an alienated society.

Critics in the Marxist tradition see the roots of alienation in the capitalist system, with its characteristic values of private property, materialism and emphasis on individual competition in all areas of life. Critics in the tradition of the 19th-century French sociologist Emile Durkheim see the root of our modern ills in the emergence of mass society and the development of highly specialized jobs, which break down the close-knit, supportive communities of preindustrial society. Finally there is a school of thought stemming from the work of the early German sociologist Max Weber, which sees size and the growth of bureaucracy rather than capitalism or industrialization as the more general cause of alienation.

It is not our intention to enter into the continuing discussion of the validity of the different schools of social criticism. We did look at the available evidence on the proposition that organizational size is linked to "bureaucracy" and that the two together give rise to the phenomenon of alienation. The results of research into the effects of organizational size have been rather mixed, chiefly because of the difficulty of defining and measuring size. The most common definition is number of employees, although asset size is also sometimes used. Few sociological studies consider measures of economic concentration. There is also the question of what is "big". Some studies look at size

categories ranging from 25 or fewer to 500 or more employees. Others involve categories up to 5,000 employees, but seldom above. The biggest variation in research lies in the definition of the unit studied; is the critical aspect of size the enterprise, the plant or workplace or the administrative unit or group within which the employee works?

Size and Bureaucracy

It is commonly argued that as an organization increases in size, it becomes more bureaucratic in the sense that it develops more levels of hierarchy, more activities are governed by formal rules and regulations and there are more paperwork, committees and specialization. Some believe this evolution creates the red tape, buck-passing, featherbedding and carelessness that the average person thinks of when he talks about bureaucrats and bureaucracy. The corollary of this belief is that if big organizations could somehow be made smaller these disadvantages would vanish.

Richard Hall of the University of Minnesota has worked extensively on the effects of size on organizational structure and effectiveness. In a 1976 review of the literature on this subject he concluded that "there is a slight tendency for larger organizations to be both more complex and more formalized but only on a few variables does this relationship prove to be strong. On others there is little, if any, relationship". Some of the studies he cites even argue a relationship in which large organizations as they grow beyond a certain point start to show structural characteristics more resembling smaller firms, with the greatest amount of bureaucratization thus found in middle-sized organizations. However, much of the reported research is based on plant rather than firm size or does not include examination of very large firms.

It is clear that insofar as size affects organization structure and performance, it does so primarily through interaction with other variables such as technology or the managerial style of the organization's leaders. For example, the degree of decentralization of authority has been found to vary independently of size. Thus a small organization run with strong centralized control may be in certain respects more bureaucratic than a large one run with a high degree of delegated authority. If solutions to the problems of bureaucracy are required, they would appear to lie largely in finding ways to bring about decentralization of authority, greater clarification of results to be achieved and improved ways of deciding how such results will be measured. More research remains to be done on this subject, particularly in regard to the very largest public and private organizations (e.g., those with 10,000 or more employees).

Size and Employee Alienation

To improve our understanding of the nature of alienation from work and its possible relation to corporate concentration, we commissioned a study of this topic by John W. Gartrell. His study focuses on a reanalysis of the results of two of the largest and most recent empirical studies of the subject, the *Canadian Work Values* study (1975) carried out by the federal Department of

Manpower and Immigration in 1974, and *The 1972-73 Quality of Employment Survey* (1973) carried out for the U.S. Department of Labor and the National Institute for Occupational Safety and Health by the Survey Research Center of the University of Michigan. Both the U.S. and the Canadian studies were based on questionnaires related to job satisfaction. Gartrell singles out specific items that, in his opinion, relate to four different dimensions of alienation; from these he argues that it is possible to make statements about alienation in general.

The study from the Department of Manpower and Immigration concluded that most Canadians had a strong motivation to work and indicated overall satisfaction with their jobs. Work was seen to play a "principal role in the attainment of important life goals"; nearly 90% of the more than 1,000 respondents said their jobs provided some degree of satisfaction. The degree of satisfaction varied depending on how it was measured. While 87% said that "all in all" they were "very" or "somewhat" satisfied with their jobs, 39% would have second thoughts or would definitely not take the same job if they could choose again; 41% would have doubts about advising a good friend to take their jobs; 39% would not stay in their present job if they were free to go into any type of job they wanted; and 53% felt their jobs were not very much like the sort of job they wanted when they first started.

It was found that interesting work, having enough information, having enough authority, and opportunity to develop abilities, were rated on average to be the most important characteristics of an ideal job in a rank ordering of 34 characteristics of work. However, in their current employment, promotional opportunities, challenge and growth were the elements of work with which respondents were the least satisfied, suggesting that some of what is most desired in work is not often found.

Gartrell concludes that while there is some direct relationship between size and alienation in each of the two data sets, it is a weak one. The size of the immediate work group was "relatively unrelated" to alienation (less so than the size of the organization). Many characteristics were more strongly related to alienation but in an inverse direction: the lower the age, education, income or job complexity, the higher the level of alienation.

In another study conducted for the Commission, Terrence H. White undertook an examination of the relationships among organizational size, job satisfaction and labor-management relations in a sample of 552 hourly rated production workers in 11 plants ranging in size from 100 to 1,400 employees. His questionnaire sought employees' attitudes toward their work, pay, opportunity for promotion, supervision and fellow workers as well as their perception of the quality of labor relations at the plant level. He also reviewed the literature relating strike data to organizational size, and reanalyzed data on this question gathered for the *Report* of the Royal Commission Inquiry into Labour Disputes (1968).

White found that in the sample of 11 plants, there was a direct relationship between size of plant and all the satisfaction variables measures. On the other hand, when analyzed statistically with other variables such as the

respondents' work autonomy, opportunity for promotion, supervisory style and personal characteristics, size explained only one to three per cent of the variance in job satisfaction. Many other variables, particularly opportunity for promotion and opportunity to use one's skills, accounted for much more. Thus White reaches virtually the same conclusion as Gartrell that in the studies carried out to date size alone is relatively unimportant as an explanatory variable with regard to employees' work attitudes.

G. K. Ingham of the University of Leicester, in his *Size of Industrial Organization and Worker Behaviour* (1970), comments on other studies attempting to relate size and employee attitudes and actions at work. He acknowledges the considerable paucity of research in this area but like Gartrell and White he concludes that size alone is not a critical factor.

It is clear that much additional research and study into the factors that influence work experience would have to be done to reach well-supported conclusions on these issues. Recently, the federal Department of Labour announced plans to create a quality of working life centre and a Canadian Council on Quality of Working Life to support and conduct research into this field. Canada's largest firms have an opportunity to support and contribute to such an endeavor. Although there is no evidence that large enterprises result in increased employee alienation and dissatisfaction as a result of their size, large firms are the ones that have the resources and that can take the lead in studying and experimenting with new forms of work environments.

Power and Influence

We turn now to the issue of who has power or influence in shaping working conditions. The power relationship most relevant here is that between business management and organized labor.

Organization of Labor

Does the growth of a business in relative or absolute size tend to be accompanied by a tendency for its employees to join labor unions? We found a fairly weak relationship between 4-firm concentration ratios in 1970 and the percentage of non-office employees under contract in Canada (Table 15.5) while that between the percentage of employees in plants of more than 200 employees and the degree of unionization was stronger (Table 15.6).

One explanation frequently offered for the direct relationship between size and unionization is that the larger the enterprise, the greater the degree of work-related personal dissatisfaction, and hence the greater the attraction of unionization. However, this explanation is not supported by the findings on the relationship between size and work-related satisfaction, discussed in the previous section on alienation. Also, a large proportion of union members in Canada work for organizations smaller than 200 employees (as does most of the total labor force).

Another explanation is simply that employees in large organizations are more efficiently reached by union organizers and can develop the necessary

Table 15.5

Four-Firm (Value Added) Concentration and Degree of Unionization, Canadian Manufacturing Industries, 1970

Industry	4-Firm Concentration Ratio	Percentage of Non-Office Employees under Contract
Women's clothing	6.4	51
Children's clothing	10.2	27
Men's clothing	13.6	59
Sawmills and planing mills	17.8	69
Pulp and newsprint	36.3	98
Wire and wire products	37.5	78
Small electrical appliances	49.0	75
Iron and steel mills	78.6	73
Smelting and refining	82.4	98
Petroleum refineries	84.1	89
Motor vehicles	94.0	100
Tobacco products	97.0	97

Sources: Statistics Canada, *Industrial Organization and Concentration in the Manufacturing, Mining and Logging Industries*, Cat. 31-402 (1970); RCCC research.

Notes: The correlation coefficient between industrial concentration and unionization over all manufacturing sectors was .52.
The industries represented are those for which both 4-firm concentration ratios and unionization figures were available.

Table 15.6

Plant Size and Degree of Unionization, Canadian Manufacturing Industries, 1970

Industry	Percentage of Employees in Plants of More than 200 Employees	Percentage of Non-office Employees under Collective Bargaining Agreements
Children's clothing	11	27
Men's clothing	47	59
Dairies	25	61
Petroleum refineries	38	89
Pulp and newsprint	89	98
Iron and steel mills	91	73
Smelting and refining	80	98
Motor vehicles	86	100
Household radio and TV	90	91
Electrical industrial equipment	59	84

Source: RCCC research.

Notes: The correlation coefficient between the percentage of workers under collective bargaining agreements and the percentage of employees in plants with 200 employees or more was .71.
The industries represented are those for which both plant size data and unionization figures are available.

collective strength to confront management and undertake proceedings for recognition without fear of retaliation. This also seems overly simplistic; it may be that the observed relationship between size and unionization is explained by intervening variables like technology, or by more complex interrelationships not yet examined.

Another important question is whether there is disproportionate power on one side or the other of existing collective bargaining relationships. This is an issue on which there is much heated opinion but very little systematic theory or data. Several business firms testifying before the Commission, notably the Steel Company of Canada, Limited, professed to be highly constrained by the power of their labor unions. Stelco stated its belief (disputed by the United Steelworkers of America) that many large international unions develop their contract demands at the national level or even at U.S. headquarters, put the resources of the whole union into backing these demands and restrict local unions from any modification of such demands no matter what the economic circumstances facing the particular company or plant. While this certainly occurs in some instances, we have found very little research into the extent or impact of the practice.

Unions argue that multinational and conglomerate enterprises have an unfair advantage in resisting union demands, in that they can threaten to or actually shift production from one location to another to influence the bargaining process or to avoid union and government demands. It is also argued that conglomerates, multinationals and other large corporations have sufficient diversity in their sources of income that they can take a strike in one area but carry on operations financed by their earnings in other operations. The brief from Power Corporation of Canada, Limited, cited its ability to withstand strikes as one of the advantages of conglomerate diversification. It appears to us that systematic research on the extent or impact of such practices is only beginning to take place and that as yet few firm conclusions are available.

One possible offset to the actual or apparent power differences between large and small employers and large and small unions is the trend toward bargaining by associations, in which industry-wide contracts within provinces are negotiated by associations of employers and unions of various sizes. This trend is particularly marked in British Columbia, where bargaining by associations already takes place in the forest, metal fabricating and food retailing industries. While some critics believe that the concentration of power represented by employer and union associations is too great, others see it as an improvement over the fractionated system where unions can engage in whipsawing tactics and single large employers can dominate an industry. It is argued that multi-employer bargaining promotes maturity in the process in that it encourages the employment of full-time negotiators and provides them with the time and resources to do more research and carry on discussions on a day-to-day basis rather than only at contract time.

We did not think it within our terms of reference to try to research claims of the adequacy or inadequacy of labor relations law. Our concern was with the relation of these laws to corporate concentration. In that context, we could see

no particular advantages or disadvantages that apply primarily to large versus smaller units in labor relations. No general case can be made that either the employer or the union has undue power in collective bargaining where large employers in the private sector are concerned.

In many industries, the managers and owners of smaller businesses see collective bargaining between big business and big labor as similar to that which takes place in the public sector and equally damaging. In an oligopolistic industry dominated by a few employers, collective bargaining takes place but the pressure to settle at the lowest possible level is reduced because both employer and union know that the employer may ultimately be able to pass increased costs on to consumers. Smaller competing businesses are confronted by the same unions making similar if not identical demands. In this situation (of large unions in an oligopolistic industry), it is sometimes argued that while there is some bargaining and occasional strikes, in the end both parties gain at the cost both of inflation and of pressure on smaller firms.

Industrial Conflict

One indicator of whether one side or the other in a collective bargaining arrangement has undue power is the nature of industrial conflict. Where business has dominant power, few strikes will tend to occur because the union realizes it cannot win. If strikes do occur out of sheer frustration they will be of short duration, because the union cannot hold out.

We were particularly concerned to ascertain if the incidence or length of strikes was influenced by corporate concentration. Some evidence was provided by the study by Terrence White. Reviewing four previous reports of research in Britain and the United States, White concludes that even in a single dimension of industrial conflict, such as the frequency of strikes, there is no clear pattern. Some research indicates a direct relationship with size; other studies suggest an inverse relationship. White himself reanalyzed the data from the Royal Commission Inquiry into Labour Disputes on 800 out of 1,786 strikes in Ontario between 1958 and 1967. These data show a clear direct relationship between size of establishment and frequency of strikes, with the frequency particularly marked for plants of 1,000 employees or more. With regard to duration of strikes the relationship is the reverse: the larger the plant, the shorter the strike, again with the result particularly marked in plants of 1,000 or more employees. These conclusions are substantially supported in a related study of the incidence of strikes and their duration in British Columbia and Ontario in 1975.

In approaching the question of why a relation between size and strikes might exist White concludes that:

> Negotiating behaviour is a very, very complex process and in view of our earlier findings on the relative unimportance of size as an explanatory variable, explanations of strike patterns as related to bargaining unit size and alienation are unlikely to prove enduring when more systematic analyses are performed. Without reference to multivariable, longitudinal analyses there are no data-based explanations that we may relate to with any degree of confidence.

Others have been less hesitant about advancing explanations for such findings, suggesting that greater strike incidence in large plants reflects the "growing impersonality of the labor-management relationship" while the greater duration of the strikes in smaller plants is a reflection of the common-sense observation that "family quarrels are often the most long-lasting".

While there may be some validity to this latter position, we tend to concur with White that much more research on the matter is needed before such a conclusion could be supported. Size enters the picture as only one of several factors that can influence power positions. Its general importance and specific role remains to be established.

Chapter 16

Business and Society

The Social Consequences of Corporate Concentration

As our terms of reference make clear, questions about the social implications of corporate concentration contributed to the concerns that led to the creation of this Commission. The submissions to us, our hearings, and commentary in the press leave little doubt that issues such as the accountability of corporations, fears of undue corporate power, and a general unease about institutional bigness concern many Canadians, sometimes more than the economic aspects of concentration and competition do.

We found the social area the most difficult part of our mandate. Seldom is there the kind of evidence that a Royal Commission would like as a basis for recommendations. There are formidable obstacles to social research, in part because of the complex and amorphous nature of the issues, in part because of the limited amount of existing behavioral research in Canada. A complicating factor is the wide variety of meanings attached to the term "corporate concentration" in behaviorally oriented writing. Many people argue that the greater the degree of economic concentration and the greater the size of a single corporation, the greater the social, economic and political risks to the country. However, seldom do they specify the precise form of concentration under discussion: within an industry, a province, a town or city, relative to the size of other employers in an area or something else.

Social issues also go beyond the business sector. Several submissions to this Commission expressed fear about the growing concentration of government power, particularly in the form of regulatory and investigative agencies. Other submissions discussed the power of trade unions. These concerns suggest that the social consequences of size of power might be more profitably treated in the broader context of a study of institutional concentration of all kinds.

Shortly after our appointment we prepared a list of the possible social consequences of corporate concentration, the available evidence for each, and the alternative remedies available in areas where further protection of the public interest might be warranted. In undertaking this task we reviewed the sociological and related literature on corporate concentration in Canada and

interviewed and received recommendations from a several sociologists and behavioral scientists. We commissioned an expert brief from Donald P. Warwick and John G. Craig, two sociologists who listed the social themes that appear most frequently in the Canadian literature and to evaluate the available evidence about the relation of these concerns to corporate concentration. Warwick and Craig produced a series of hypotheses as to possible relations between concentration and particular social consequences and rated the overall evidence and plausibility of each hypothesis. To this list we added our own thoughts, and those raised in briefs, and prepared discussion questions on social issues, which we put to some witnesses at our hearings. In addition, we undertook research projects on topics that we thought might produce data soon enough to be useful in our *Report*.

In their brief, Warwick and Craig looked at social consequences under 12 major themes: equality of opportunity, political decision-making, the media, regional disparity, responsiveness to local communities, innovation, corporate accountability, potential social crises, alienation of workers, citizen participation, social and philanthropic institutions and Canadian foreign policy. Of the 37 general hypotheses relating these themes to corporate concentration, they categorized the evidence underlying 10 as "solid" (for at least part of the hypothesis), 6 as "persuasive but not empirical", 5 as "inferential", 7 as "impressionistic or anecdotal", 5 as "weak or fragmentary", 3 as "difficult to assess", and 1 as "no evidence". Many of these topics appeared to us simply too elusive and difficult to be studied in the time available. For example, Warwick and Craig suggested a hypothesis that "The development of large, Canadian-based multinational corporations will undercut the ability of the government to implement foreign policies which may conflict with corporate goals." While there is considerable documentation of individual cases where multinational firms operate independently of the foreign policies of their home governments and appear to engage in activities directly opposed to those policies, the concern stems largely from U.S. experience, and particularly from the actions of the International Telephone and Telegraph Corporation in Chile. In Canada, the evidence is even more sketchy and anecdotal. In an article in the *Canadian Review of Sociology and Anthropology* (1974) Craig suggested that during the 1960s Canada's foreign policy called for condemnation of apartheid in South Africa, and for foreign aid to increase the standard of living in the Caribbean region; but during this period the sugar industry in Canada switched its procurement of raw sugar from the Caribbean countries to South Africa. However, there has been no systematic study of the problem, no indication that the individual cases took place without the knowledge of the Canadian government and no publicly available information about other considerations that may have been seen by government as offsetting the implied "harms". In addition, it is often difficult to say what the foreign or any other "policy" of the Canadian or any government is, and even more difficult to test particular conduct or action against it. A government "policy" is often no more than the expression of a hope or sentiment, and a particular policy or an aspect of it frequently conflicts with another. It will seldom be possible to

draw useful conclusions about corporate social responsibility by weighing a corporation's actions against government policy.

The four preceding chapters have discussed most of what we considered the manageable topics from our list of social consequences. For example, many writers have examined the degree to which boards or managers exercise control over corporate decisions and the degree to which boards of directors operate corporations without significant challenge. Chapter 12, "Corporate Ownership, Control and Management", reviewed the legal and actual roles of shareholders, directors, officers and managers. We looked at the principal types of shareholders in public companies and their different interests and objectives, and we discussed the idea that boards of directors and executive committees should be composed largely of people drawn from outside the company, the need for a nominating committee composed entirely of "outside" directors, and the view that persons should not sit on the boards of more than a few publicly held companies.

In terms of disclosure, Warwick, Craig and others have advanced the general proposition that the larger the corporation, the more difficult it is for an investigator unfamiliar with the corporate structure to dig out relevant information. They argue both that there should be less secrecy of information within the corporation, especially one with many subsidiaries, and that there should be more disclosure of corporate information to government and the public at large. Chapter 13, "Disclosure of Corporate Information", discussed the current disclosure and reporting obligations of large Canadian corporations to investors, shareholders and governments. We considered the need for sectoral disclosure and the costs involved, and discussed the handling of business information by goverment.

Virtually every study of elites and influence in Canada has argued that "The greater the degree of corporate concentration in an industry, or the larger the size of a single corporation, the greater the influence of the corporation on governmental decision-making." The evidence of this to date (considering the importance of the topic) has been sparse and ambiguous. There have also been a number of hypotheses involving corporate concentration and the media. For example, Warwick and Craig suggested that the existing pattern of media concentration, interlocking ownerships and dependence on advertising may produce a "climate of thought which either positively promotes or at least does not challenge the privileged position of the upper class in Canada". Chapter 14, "Corporate Influence", discussed corporate involvement in government decision-making, the issues of access to public authorities and the influence arising from it, corporate contributions to political parties and charitable organizations, concerns about bribery and corruption, the role of advertising, and particularly of advocacy advertising, and corporate influence on public opinion through ownership of print or broadcast media.

Many discussions of the social implications of corporate concentration propose some variant of a hypothesis that Warwick and Craig stated as follows: "By promoting greater technological refinements, mechanization, and industri-

alization, corporate concentration leads to an increasing alienation of the work force". Another hypothesis is that "corporation concentration, along with the growth of other large institutions, increases a sense of powerlessness by producing a greater dependence of employees on centralized decision-making". In Chapter 15, "Business Size and Working Conditions", we looked at issues related to employment, including alienation and power and influence in the work environment.

These four chapters cover many of the social consequences of corporate concentration which fall within our mandate. In looking at other possible social consequences raised in the briefs or hearings, we found that the relationships involved are often so complex that it has not yet been possible to determine, compile or analyse systematically the relevant data with which to test them.

We therefore decided that we should search for principles against which the validity of the basic idea of corporate social responsibility could be evaluated. Any such principles that we could find or formulate would also serve as standards against which to judge examples of particular activities that might illustrate the existence or lack, and the boundaries, of corporate social responsibility and the conclusions to which we or others might come. Our ambition in this chapter, therefore, is not to make definitive and certainly not authoritative pronouncements on social responsibility but rather to contribute to the development of an approach that might usefully assist and guide further study and action.

It soon became apparent that the social "implications" described to us are seldom consequences of corporate concentration as such. Usually, there is at most only a tenuous connection between a social problem and the size of a corporation or the concentration of the industry in which it operates. Rather, most of the social consequences we have heard about are outgrowths of an industrial society. While the economic activity of that society is largely conducted through corporations, many of them in concentrated industries, the consequences about which so much concern was expressed flow more from the fact and nature of industrial activity than from the characteristics of the firms that conduct it.

We concluded, therefore, that we had to consider the social implications not of corporate concentration but of an industrial economy. That conclusion led us, inevitably, into the whole debate over corporate social responsibility. We read much of the literature that has been produced on the subject. As might be expected, much of what we heard in our hearings is discussed in these writings. We think we can make a better contribution to the discussion of social responsibility in Canada if we draw on this literature as well as on the evidence that was produced for us.

The Meaning and Origins of "Corporate Social Responsibility"

The notion of corporate social responsibility springs from the premise that business exists to serve not only the economic needs of its shareholders, customers and employees, but also the wider economic and social needs of the

society in which it operates. The public now expects more than an adequate supply of goods and services, and demands that business meet these additional expectations. Thus the corporation is seen as having a responsibility, over and above its economic one, to concern itself with and to devise or help to devise solutions to the social problems (many of which it has helped to create) that exist in the society of which it is a part.

The kinds of issues encompassed within the idea of corporate social responsibility can be grouped into three broad categories. First are the things that are intrinsically bound up with a firm's regular business activity: equal opportunity for employment and promotion, occupational health and safety and the quality of working life in general. The second set of issues is slightly outside regular business operations; in economic terminology they are described as "externalities", and include pollution, product safety and reliability and the social effect of plant locations, closings and layoffs. The third category is more clearly external to the firm, and comprises social problems of the larger society, which flow only indirectly, if at all, from business operations, but which business is or arguably should be interested in alleviating. Examples of things in this third class are urban decay, poverty in general and regional disparities.

Such a classification of social problems is a useful and even a necessary step towards their analysis and resolution. However, some of the proponents of corporate social responsibility group these quite different types of social problems together as issues that they feel business should address. We think that this kind of undifferentiated approach is more apt to confuse than to clarify.

It seems obvious to us that the kind of response that might reasonably be expected from corporations will not be the same for every social problem. Indeed, the proper response to some of them may be no response at all. We found that the classification outlined above helped our understanding and we use it in the discussion that follows.

A demand for something more than the technological and economic benefits that the business system has traditionally supplied reflects, implicitly, a belief that material progress measured solely by the output of goods and services is not enough. With some, it goes further, to a disenchantment with material goods themselves and the industrial system that produces them. Our impression is that the latter group is very much a minority; few seem to be willing to forsake the material benefits of a technological and industrial society in favor of the "simple life". Most advocates of corporate social responsibility do not eschew the products of the business system. On the contrary, they want, if not an absolute increase in the existing benefits, a more equitable distribution of them, and they want the social costs of that production to be reduced. Thus, the advocates of social responsibility do not want business to produce social benefits in place of material ones, but in addition to them, in part by reducing the social costs of the economic system as it presently operates.

It is probably no accident that the movement for corporate social responsibility developed its momentum principally during the 1960s and early 1970s, a

period characterized by an unprecedented level of material affluence in most of the western world. If concern for the non-material aspects of life arises after a certain level of material comforts are enjoyed by the majority of the population, the demand for increased corporate social responsibility may tend to lessen if economic abundance is reduced, or even if it ceases to increase. it is possible, therefore, that pressure for changes in the social environment in which business operates, and which influences and is influenced by it, will wax and wane with the fortunes of the economy. In addition, pressures for different kinds of results within the broad rubric of social responsibility will interact with and influence one another, particularly as people come to see that the attainment of one desirable goal may be at the cost of another one no less desirable. In short, the ideas embraced within the notion of corporate social responsibility will be as fluid as society itself: they cannot be captured and dealt with once and for all.

However, social responsibility did not become an issue solely because society concluded that the economy had reached the point at which "social" goals had become affordable. In large part, the absolute amount of industrial production that occurred in the 1960s and 1970s made visible some of the social costs that had always been there. In addition, the discovery and invention of new materials and processes were seen, often long after the event, to carry with them many new hazards, not only to the users but to the makers of the products.

Finally, the idea of corporate social responsibility flowered during a time when many of society's other institutions were also being subjected to critical examination. Governments at all levels, organized religion, the education system and the professions, for example, have been attacked from within and without in recent years. Like business, these institutions are also being forced to justify themselves.

The Critics

Fundamentally, there are two criticisms of the idea of corporate social responsibility, and both deserve to be taken seriously. One flatly denies the legitimacy of the idea of social responsibility and says that corporations have no business, let alone an obligation, to concern themselves with anything other than business. The corporation is an economic institution, the argument goes, and it operates in a competitive market economy. Altruism and social statesmanship are held by these critics to be incompatible with competitive economics. The only responsibility of business is to manage efficiently, and within the law, the resources that come under its control. It does this by responding to the signals from the market place, not by making its own value judgments as to what is or is not good for society. Indeed, business is irresponsible if it does not concentrate its energies on doing the one thing for which it is equipped and needed, the pursuit of profit. As Ben W. Lewis put it in "Economics by Admonition" (*American Economic Review*, 1959):

> Economic decisions must be right as society measures right rather than good as benevolent individuals construe goodness. An economy is a mechanism designed to

> pick up and discharge the wishes of society in the management of its resources; it is not an instrument for the rendering of gracious music by kindly disposed improvisers.

The argument certainly has a cold-blooded ring to it. It implies strongly that, if business is not exactly an immoral pastime, the market system and the people in it are at best amoral. In a sense this is true; in an "efficient market" the prize will go to the seller who offers the best combination of price, quality and service to a buyer who is presumed to be interested in nothing else. The impersonal nature of the modern marketplace also tends to suppress non-economic considerations, and the more distance there is between the producer and the consumer of a product, the more impersonal the relationship becomes. When the actors in the market, or some of them, are anonymous corporate organizations, and when the products on sale are complex assemblies of components produced by thousands of unknown hands, it is impossible for a buyer to bring moral considerations to bear on his choice, even if he wants to do so. On the other hand, it could be argued in reply that the nature of modern markets demonstrates the need for some concept of social responsibility.

The second argument is a political one. It says that businessmen are not competent to undertake the obligations of social responsibility and, worse, that it would be positively dangerous if they were allowed to do so. The proponents of this view argue that businessmen have no particular knowledge that would allow them to define social objectives in an acceptable way and, indeed, that their outlook may well be too narrow. The proper job of corporate management is to maximize profits for its shareholders. It is quite another thing to allow such a group to apply that view to non-economic matters and it is positively dangerous to allow such a powerful and influential group as corporation management, however benevolent its proclaimed intentions, to intrude where it does not belong. The critics say that social development is a task for legitimate public institutions, functioning in the open and formally accountable to society as a whole. The corporate conscience, they argue, is a self-interested conscience, not to be relied upon to achieve the common good.

Moreover, the argument goes, because corporate social responsibility is such an elusive concept, there are not and cannot be standards by which to evaluate and control it. It is ironic, these critics say, that those who have worried so much about the problem of controlling private economic power desire business to be the new dispenser of social goods. Social responsibility, they say, is a rationalization for freedom from effective social control of the corporate sector. They point out that the exercise of power by a narrowly selected and self-appointed minority, operating without clearly defined, democratically selected and legally enforceable standards is the essence of authoritarianism.

The corollary of this, the argument continues, is that the present and generally effective standard for judging managerial performance—profitability—will be diluted and eventually destroyed. Corporate social responsibility will sabotage the market mechanism and distort the allocation of resources.

The "balance of interests" idea clouds the whole process and replaces standards with sentiments. The destruction of standards penalizes excellence and benefits the second-rate.

Finally, the argument concludes, business cannot have any significant social involvement until it frees itself from the domination of shareholders and the market. There can be no responsibility without authority. If business is to assume wider obligations it will necessarily have to equip itself with correspondingly wider powers. The inevitable next step will be for business to demand an equal voice with government in determining the direction of public policy.

The Commission's Assessment

Our reflections on the things we heard and read about corporate social responsibility led us to several very general conclusions, which it will be helpful to express at this point because the somewhat more specific recommendations we make later are influenced by them.

First, it is beyond argument that society expects business to be humane as well as efficient. Business will and should continue to be, first and foremost, an economic activity, but it is not true to say that the business corporation is an economic organization *only*. The corporation will have to temper its commercial judgments with a consideration of the social impact of those judgments. While this has always been true (because there has never been a time when business was totally immune from the society surrounding it), the relative importance of social consequences is greater now than it was in the past.

Second, and at the same time, the importance of costs to a business corporation will not recede. This point is not made as an excuse or as a device to deprecate the importance of social responsibility. It will not serve the cause of social responsibility, however, to pretend that a business corporation has an inexhaustible store of resources, or that it can command whatever it needs to discharge any responsibility that may be imposed on it. On the contrary, a business corporation must obtain its resources in a competitive marketplace, and it will not be able to do so unless it can meet the tests of that market. The capital and other markets make *economic* judgments, not social ones. As long as this is so (and the broad direction of public policy is to intensify market competition), the ability of a corporation to incur costs that will not be recovered in sales and profits will be restrained.

This is not to say that social responsibility necessarily translates into increased costs and foregone profits. There are a number of examples of corporations who undertook what they considered to be entirely socially motivated programs to find that they brought important economic benefits in their train. For instance, efforts to improve product and work-place safety have brought about reduced insurance costs and fewer working days lost through sickness and injury. Reviews of hiring practices to comply with legislative and other pressures to reduce discrimination have led to improvements in the overall personnel function.

It is all too easy to extrapolate from such happy examples a general conclusion that every reduction or elimination of a social problem improves the health, harmony, efficiency and general well-being of society, and that there is therefore no conflict between economics and social responsibility. While this proposition may be true in an overall sense, it is useless as a guide to specific decisions and actions.

The disappointing truth is that the economy does not operate as a harmonious and integrated whole, and the costs and benefits of social responsibility do not necessarily go hand in hand. The costs of leaving social problems unresolved are largely endured outside the production system, and the benefits from their resolution will also be enjoyed, for the most part, outside that system. A business corporation operates within a narrower and sometimes ruthless economic framework. Appeals to the market for resources with which to carry out a social responsibility are likely to receive a chilly response, however generally beneficient the undertaking might be. Even where the corporation might reasonably expect to benefit itself from a social expenditure, that benefit, no less than the benefits to society at large, may be long deferred.

No one should be surprised, therefore, if business managers concentrate their attention on the matter of costs when social responsibility is mentioned. Social responsibility usually increases the costs of goods and services, at least in the short run, so that, however unconsciously, the market will determine how much social responsibility there will be. A business manager's conscience and actions will always be confined by that knowledge, and so, indeed, must a politician's.

This will be a disagreeable finding only to those advocates of corporate social responsibility who place an absolute value on their cause. But resources are not unlimited; the necessity to make choices means that some wants will always be unsatisfied, some desires unfulfilled. The business managers, concern with the monetary and other costs of social responsibility may well be excessive at times, but that attitude can bring a healthy and necessary measure of discipline into the choices that society will make.

There is one more point, which applies with particular force in the Canadian economy. The choices we make in Canada among economic and social values will not always be the same as those that others will make. Our choices reflect themselves in the prices of the goods and services we sell. As we have already discovered, Canada has no ability to sell products in international markets irrespective of cost. Since, in comparison with most other industrial countries, Canada's economy depends disproportionately on international trade, it follows that Canadian producers are even more constrained by market forces than are those in other countries. At the same time, Canadians demand as high a level of material and non-material benefits from their economy as any other in the world, and probably higher than those most other people expect. To an important extent, the Canadian economy will be only as responsive to social demands as others outside this country will allow it to be.

EXPECTATIONS AND RESPONSES

We move now to a discussion, in slightly more specific terms, of what society may legitimately expect from corporations in terms of social responsibility, and how we think corporations should respond. Society's values are continuously changing, and thus the burden of relieving (or of not relieving) various harmful or otherwise undesirable effects for which corporations may in part be responsible will be in constant flux among corporations and the society in which they operate. It is not that long ago that a vista of smoking factory chimneys signalled prosperity: "Where there's muck there's money." The same scene today attracts condemnation. Other examples of this kind of change in public attitude are given by R. W. Ackerman and R. A. Bauer in *Corporate Social Responsiveness: The Modern Dilemna* [sic] (1976):

> Well within the memory of the older of the two authors, women were criticized for "taking a job that a man needs." Disposable containers were desirable until quite recently. Cheap and profligate (we can afford it!) use of energy was eulogized. Plastics were a triumph of our civilization rather than nonbiodegradable solid waste. In the market place, the doctrine of let the buyer beware has been replaced by the doctrine of let the seller beware. Employers were only recently forbidden by law to keep records of the race of their employees. Now it is required in order to develop affirmative action plans. One could go on, but we believe the point is made.

This phenomenon suggests to us first, that, whatever obligations business managers may have to respond to social change, they should not be expected always to be at the forefront of change. Although a business corporation may innovate in economic matters, in the social field it is probably better suited to meet challenges than to foresee and lead social change. Our conclusion in this respect is also, in part, a recognition of the force behind one of the critical arguments we summarized earlier in this chapter.

Second, society should be careful about the *kinds* of social obligations it asks business to asume, and business should be equally cautious in accepting them. In particular, we suggest that social problems within the third category we described earlier, that is those that lie essentially outside business activity, should normally not be treated as things to which corporations can respond (except perhaps through traditional philanthrophy). Put another way, business should properly be concerned only with things that are direct consequences of economic activity; it should not undertake external "good works". The line between the two will not be easy to draw, but a recognition that there is a line should help to develop attainable objectives.

That the warning is apposite is shown by the experience of corporations in the United States. According to what we have read, many of the more innovative and ambitious social action programs, such as the establishment of businesses in the ghettos and other schemes of urban redevelopment, were generally unsuccessful. Of course, we do not know all the details of those programs, and the reasons for their apparent failure are no doubt many and varied. Nevertheless, it would be folly to ignore the findings of those who have studied and commented upon them.

Most of these attempts originated in the late 1960s, at a time when social criticism of all kinds was at a peak. There was a popular argument that the skills of business people could be deployed in almost any field of activity and to the solution of almost any problem. Not a few business leaders joined the chorus. While to some the projects were probably little more than public relations exercises with nothing substantive behind them, many no doubt believed sincerely that they could supply the talent and energy that was lacking in government and elsewhere.

At all events, disillusion resulted when business so often failed to solve problems outside its experience and ability. In addition, the widespread assumption that the problems of economic growth and universal affluence had been mastered was shattered in the 1970s, and with it many of the ambitious programs of social reform to which business was expected to commit itself.

We ventured the opinion earlier that business should follow but not necessarily lead in social change. It is equally important that it not respond to every demand or follow every trend; there may indeed be times when it should actively resist. In our judgment, business should resist both the pressure and the temptation to be drawn into assuming responsibility for matters connected only tenuously, if at all, with its prime economic function.

This process of analysis will be assisted, and arid doctrinal debate avoided, if social responsibility is not approached in the abstract. Rather, specific instances of things alleged to be consequences of corporate activity should be analyzed carefully. The examination should try to determine, first, whether the phenomenon in question is truly a consequence of corporate activity, or whether it is more properly a consequence or by-product of some broader aspect of life in which a corporation is only coincidentally involved. Most things will probably not fall neatly into one category or another, but if a rational distinction is not made between primary and secondary causes the prescription chosen is likely to be ineffective. For example, there may be a sufficiently close connection between industrial pollution and a corporation's activity to support a conclusion that the corporation has a responsibility to reduce the pollution. In contrast, it would probably not be correct to conclude that a corporation manufacturing automobiles is responsible for traffic congestion, even though there might be no congestion if that corporation and others like it had not produced automobiles.

Even when a consequence with some undesirable attributes has been identified, however, and even if it is possible to say that corporate activity is the cause, there is a difficult question of how bad that thing is. Absolute judgments will rarely be possible. Invariably, the ill will be found on analysis to be part of the cost of something else. No one can be in favor of hazardous products, for example, but there is probably nothing that cannot be dangerous if it is improperly used. Equally, there will be few industrial processes that are absolutely free from danger to those engaged in them. If the products in question are generally desired (and they would not be produced if there was no one willing to buy them), then there will necessarily be some danger to those who produce and use them, and perhaps to others as well.

Although the corporation producing the products may be said to have a responsibility to reduce the dangers, that responsibility cannot be taken to the point where the corporation could guarantee them to be absolutely safe. Even the degree of safety that could be demanded would be a question of judgment as to how the costs of the danger, and the cost of remedying it, will be shared among those concerned. Judgments like this have always been made, but often in no particularly systematic way, by the corporation, its employers, its customers and the wider society, possibly but not necessarily through government. The idea of social responsibility implies that judgments like this should be made with more understanding, but it is not only corpations that should sharpen their perceptions.

Our conclusion that corporations should not be expected to concern themselves actively with matters basically outside the area of impact of their own operations is consistent also with the record of corporate success in social responsibility. According to those who have analyzed U.S. experience, the best and most lasting results are obtained when social objectives can be integrated into the corporation's usual commercial activities. For one thing, social demands are less dependent upon the consciences and less susceptible to the motivations of individual managers when they become part of the regular operations of the firm. Once social responsibilities become routine, they cease to be regarded as external. They are discharged as a matter of course, not as occasional and *ad hoc* responses to passing pressures.

This kind of operational integration is most likely to occur when corporate managers see that there is really no valid distinction between the economic and the social issues with which the manager is asked to concern himself. They are different aspects of the same activity. The motivation behind a decision to do a particular thing may well be exclusively economic or exclusively social, but the reason becomes irrelevant once the activity is under way. After that the *consequences* of the activity acquire the dominating importance, and those consequences will be both economic and social.

While it is true that the business corporation may find it easier to ignore the social consequences of its decisions (because the machinery for enforcing social demands is more diverse and less immediate in its effect than the marketplace), this is largely a problem of identification and timing. We stress the point that social responsibility should be seen in terms of the consequences or effects of business decisions. For one thing this perspective is the one most likely to appear relevant and legitimate to corporate management. Corporations are not being asked to undertake novel, ill-defined and apparently irrelevant sideshows. Instead, they are merely asked to consider *fully* the effects of what they are already doing, and to treat the social effects of their decisions as seriously as they do the economic ones.

Another advantage of this realistically confined approach to social responsibility is that it blends with the kinds of organizational skills that one might expect to find in a modern, well-managed corporation. Alert corporate managers are accustomed to scanning the environment for changing consumer values; scanning it for other emerging social demands is really not much different.

Equally, the implementation of a new social policy is an organizational problem not unlike those that must be solved when any new policy is adopted.

Conclusions

Society and corporations themselves have agreed that corporations have a social responsibility. The task before the scholars and the corporate executives alike is to give meaning to that ambiguous phrase. In the opening section of this chapter we declared that we did not intend to provide a series of prescriptions showing how business corporations in Canada should meet their social responsibilities. Instead, we have attempted to discover and describe what social responsibility is and to develop a framework for its analysis, development and application.

We have spoken about the corporate responsibility to develop techniques to recognize and respond to social issues, but we have offered no specific guidance as to how a corporation might best do this. The deficiencies in our own knowledge and understanding make that impossible. More than that, we do not think any social commentator can provide specific answers to problems that will arise differently in each corporation, and with which each must deal in its own way. Even if it were possible to provide categorical advice to a particular corporation at a defined time, the constantly changing mix and balance of social values would soon render the advice useless.

There are, however, two particular kinds or techniques of corporate response on which we will essay a comment or two. Finally, we will offer a few thoughts on the place of law in corporate social responsibility.

Codes of Behavior

Suggestions have been made from time to time that statements of good corporate social behavior should be formulated, perhaps by corporations themselves, or perhaps by the government. The intent behind these suggestions is at first sight perfectly reasonable. They would supply corporations with a measure of guidance and they would also provide a bench mark against which the public could monitor corporate performance. The idea of a kind of behavioral or ethical code also recognizes that not all social responsibility can be expressed in law, that, for a variety of reasons, the law can lay down only a minimum standard, which corporations should be encouraged to surpass.

We can see little reason to encourage the idea that codes of behavior will contribute positively to corporate social responsibility. Our pessimism derives partly from how we see the nature of social responsibility and partly from the limitations inherent in behavioral codes generally.

For the reasons we have tried to explain above, the most we should realistically expect corporate social responsibility to mean is that corporations will consider the social as well as the economic consequences of their decisions. If they do this, the decisions they make will result in a balance of economic and

social benefits and costs. A code of behavior in general terms is of little use as a guide to specific decisions.

To be useful, a statement would have to go much further and spell out exactly how and to what extent this or that social consequence would influence every conceivable business decision. This kind of prediction and prescription is impossible. A corporation cannot predict in advance how it will weigh different economic factors against one other, let alone how it would treat the host of social consequences that might also be involved in the decision. It should be remembered that a business decision is never a contest between economic benefits and costs on the one hand and social ones on the other. The economic factors, especially the short-run and long-term ones, will often pull in different directions, and the social consequences will be even more difficult to identify and evaluate.

We illustrate this with two striking examples of the kind of difficult conflicts that can occur. In one case, a company made determined efforts to hire people belonging to minority groups, believing that they had been the victims of previous discriminatory personnel policies. When economic conditions required some reduction in the work force, the seniority principle (particularly since it was embodied in a collective agreement) operated to undo much of what had been achieved. In another case involving a layoff of staff, the trade union criticized the corporation for imposing on its employees the consequences of economic restraint while it continued to support charitable organizations with donations.

These examples illustrate how social consequences may be less at war with economic ones than with each other, and how impossible it would be to lay down a "right" answer in advance in a code of behavior. They also illustrate how a corporation's decisions may be confined or even determined by the view that someone else, such as a trade union, takes of *its* economic and social responsibilities.

Further, a code of social responsibility cannot be a useful monitoring or enforcement tool unless it can be expressed with the kind of precision that is required in a law. A code of ethics differs from a law only in its source and in the kind of sanctions that are available to enforce it. It cannot differ in the clarity of the things it defines or the conduct it commands and proscribes. If it does, it suffers from all the disabilities of a law containing the same flaws.

Codes of ethics and good practice are useful in professional organizations because they apply to a relatively small group of people who have undergone a uniform course of training in a comparatively narrow and fairly well-defined discipline. The kinds of professional situations dealt with in those codes arise naturally out of the activity the practitioners commonly pursue. There is usually little scope for argument about the relative values of the things that professional codes encourage or prohibit, because those values are shared by most of the members of the profession and, indeed, are the reason the profession exists. This internal cohesion permits, in turn, formal disciplinary machinery to enforce professional standards.

However, professional codes tend to break down around the edges of the professions' normal and settled activity. They are weak, for example, in dealing with questions of competence when the activity in respect of which a practitioner's competence is at issue is not a routine one. Also, it is often difficult to determine how far a professional code of ethics should reach; to what extent the non-professional side of a person's life should be governed by the ethical standards of the profession to which he belongs.

These considerations compel us to doubt the utility of any kind of code of ethical behavior for business or corporations and, in particular, to discourage the idea that they can contribute in any important way to social responsibility.

Social Reporting

The idea that business corporations have social as well as economic responsibilities has been accompanied, quite naturally, by the belief that corporations should provide information about the social impact of their business decisions to those who are affected by them. Social information is to social performance as financial information is to economic performance.

The analogy is useful but it should not be taken too far. Although, as we showed in an earlier chapter, the boundaries of financial reporting are still being debated, there is nevertheless fairly wide agreement on what financial information is, and the techniques for its dissemination have been refined over many years. Things are far different with social reporting. Corporations are not able to determine the range of their impact on society or the depth of that impact on the different groups within it. In addition, corporations and all the other elements in society are constantly changing and readjusting to one another. In this unending process of action and reaction there can never be agreement about the effect that one element of society has on another. All this makes it exceedingly difficult to decide what information will be useful in evaluating a corporation's social performance. Moreover, the social impact of what a corporation does not do may be at least as important as what it does. We do not think it will ever be possible to devise systems to measure the social impact of business decisions that even approximate financial accounting systems.

Although it would be unwise to encourage unrealistic expectations for corporate social reporting, the subject is still in its infancy and there should be continuous progress in this area, as there has been in financial disclosure. Work on social reporting is going forward, and the study that is being given to it will gradually develop techniques and standards for both the discovery of social information and its disclosure. An increasing number of corporations comment in their annual reports on things that seem to them to be of general concern. It is easy to criticize these reports for the one-sided and self-serving statements that many of them contain, but many corporations are making conscientious and useful efforts to respond to the need for information about their activities. As more corporate managers come to realize the significance of social information in economic decision-making, and as they recognize the effect of those

decisions on the lives of individuals, so they will come to accept and meet the legitimate demands for information that the public needs to make proper judgments about private enterprise. We are satisfied that this is happening.

SOCIAL ACCOUNTING

There is one particular development within the concept of social reporting—social accounting—upon which we will comment in more specific terms. This school of social reporting takes as its point of departure the undisputed fact that the social consequences of a firm's decisions create costs that fall largely outside the corporation and its systems of measurement. These costs are external to the firm. The task of social responsibility is therefore one of accounting; how to "internalize" those real costs that now go unrecorded and thus unnoticed. The argument implies that the measurement of a firm's social responsibility is the amount of increased costs (and, in consequence, foregone profits) that would be identified by such a system of accounting. The idea is attractive because it promises the comfort of certainty in an area that is infuriatingly vague.

We think, however, that the notion of social responsibility through better accounting, though superficially appealing, is fundamentally misconceived. For one thing, a conscious application of some amount of corporate profits to the relief of social ills would do little, if only because there are not enough corporate profits in aggregate to make any difference. Another drawback to the accounting approach is that it implies that all benefits are worth their costs or, conversely, that all benefits cost what they are worth. The art of accounting, even when it is employed in the traditional sense, subsumes a great many assumptions, estimates and predictions, and one of its faults is that it creates an illusion of objectivity and precision. The quantification of value judgments inherent in the idea of social accounting would increase this effect and send both accounting and corporate social responsibility down a false trail.

Concentrating attention on those actions that a firm might undertake out of foregone profits distracts attention from the social impact of what the firm does in its main line of business. Furthermore, social responsibility through special programs, which is what the idea of foregone profits implies, will never be more than a small part of a firm's activities. It is the overall effect of the firm's operations that is important.

Social accounting gives special credits for consciously incurred social costs. This is only possible, of course, when special social projects are undertaken, but even here the idea breaks down. One critic gave an example of a bank that developed a program for lending to "minority entrepreneurs". Once the loan managers had learned how to manage these special loans and the program was running smoothly, it was transferred into the bank's regular operations. After that time it would have been difficult and pointless to assign overhead costs to those special loans because they were no longer special. In short, at the point when the program was successfully institutionalized into the regular operations of the bank, social accounting would cease to recognize the social responsibility of the program.

Social accounting will often have such bizarre effects. It is easy enough to identify the cost of pollution control and equipment, for example, but how can the cost of pollution control be determined when a process that does not pollute is installed? Suppose also that a process is more efficient as well as pollution-free or less dangerous to the employees using it. Should there be some kind of a charge to regular operations to offset a social responsibility credit? If so, how could it be rationally determined?

The fact is that there is usually no practical way of isolating and quantifying social costs, and no sound basis for matching those costs against anticipated future benefits. Social accounting can mean nothing unless this is done. The danger of social accounting is that firms will be led into making unsupportable estimates and tortured assumptions to provide the material for social accounting statements. Reality would be distorted and made meaningless by technique.

SOCIAL AUDIT

We conclude this discussion with a brief word on the "social audit". The notion of a social audit was perhaps a natural by-product of the idea of social accounting, and therefore suffers from the limitations inherent in an attempt to assign objective criteria to subjective phenomena. More generally, an audit implies an appraisal or assessment of performance against defined standards, to enable or assist the judgment of conduct and results. The concept of an audit may be useful in helping a corporation to evaluate the adequacy of the means by which people at various levels in the corporation identify and respond to social issues. It may also be employed to test the effectiveness of the responses a corporation makes to the social issues it has attempted to deal with. As such, the social audit is a management tool, valuable in assessing the attainment by management of objectives set by management. This is not, however, the context in which the word audit is normally used. In the customary sense, an audit of a corporation assesses results against externally established standards. As we explained above, objective standards for corporate social responsibility are a long way in the future and, until then, the social audit should be understood for what it is. Analogies with the usual financial audit will mislead and disappoint.

The Place of the Law

In Canada and elsewhere the law has already addressed most of the things commonly thought to fall within corporate social responsibility. Pollution, working conditions, product safety, racial and other kinds of discrimination, advertising and many other social as well as economic manifestations of industrial and commercial activity have been regulated by legislation. Before that, some were even subject, however peripherally, to common law. To the extent that the law invades or takes over an area of social responsibility,

conscience is replaced with obligation and discretion is displaced by coercion. Indeed, the debate over corporate social responsibility is in large measure a discussion of whether and how far corporate conduct should go beyond the requirements of the law. Much of the criticism of corporations for failing to fulfill their social responsibilities could equally be taken, therefore, as a criticism of governments that have failed in their responsibilities to enact and enforce effective laws.

A decision to enact a law is, of course, a political one, which is presumed to reflect a significant body of public opinion demanding the action that the law set forth. Public opinion is filtered through the political and bureaucratic branches of government before it is responded to, however, and it may be distorted in the process by their biases and internal needs. For these and other reasons, including counter pressures from those who may expect to bear the burdens of the law, and a possibly incomplete understanding of the problem and the implications of a legal response to it, the law in its operation sometimes falls short of what those promoting it expect to see.

As a general rule, though, it is safe to say that the law will impose social responsibility when government becomes convinced that a substantial part of the public believes that the subject of the legislation is too important to be left to the whims of corporate conscience, or when the results of legislative inaction are judged to be intolerable. With some kinds of social problems there may be little or no action without law, and little scope for advance beyond it. The law, in short, will occupy the whole field. This is most likely to be true when the costs that corporations will incur are competitively significant. The outstanding example of this is probably pollution control. In some industries, the processes of pollution control are so costly that one firm, however much it may wish to install them, cannot do so and remain in business unless its competitors also take the same decision. In these circumstances, nothing significant will happen until the law compels all the competing firms in the industry to assume the additional costs of the (legislated) social responsibility.

Legislation can augment a firm's ability to enforce compliance with social obligations by focusing responsibility on particular individuals within the firm. Many corporate functions are widely decentralized, for example, and beyond the observation and control of senior management. Thus, the state licenses many people, such as airline pilots and taxi cab drivers, in an attempt to ensure technical competence and honest dealing. In cases like this, legislative or regulatory sanctions can be applied directly against the individual whose performance is inadequate, whether or not his employer chooses or is able to take remedial or disciplinary action. Some government inspection services (e.g., of the seaworthiness of ships' lifeboats) exist as much because of management's inability to ensure compliance with desired standards of social responsibility as because of its unwillingness to do so.

Action by the state to enforce social responsibility through law can create further problems because legal action can have secondary social and economic consequences, just as voluntary corporate action can. This is one reason why a legal solution to a social problem frequently seems not to go far enough. For example, a truly effective pollution law, even if it falls evenly on all the domestic producers it is directed at, may make the domestic industry uncompetitive vis-à-vis foreign suppliers. The government may be content with a second-best law, or may elect for lax enforcement of a good law, so as not to destroy the industry and those whose livelihood depends upon it. Again, because there are economies of scale in pollution control as in other industrial processes, and also because the firms in an industry may have varying abilities to adapt their plants to it, the full enforcement of an ideal pollution law may lead to the closure of some businesses and thus an increase in industrial concentration. The demands on governments are considerably more numerous and diverse than they are on even the largest corporations, and governments have many more social responsibilities to balance and discharge. For these reasons, there are real limits to what we should expect from the law.

It is obvious that we cannot promulgate any rules or principles to say when the law should act in an area of corporate social responsibility. That point will be determined by the political process. About all that can be said with certainty is that the law will act too soon in the judgment of some and too late for others.

We want to close with some observations on the application of law to corporate organizations, because we believe that this is a question that has been neglected too long by legal scholars and social activists alike. It is apparent that the traditional legal weapons are often inadequate to deal with corporate social conduct or misconduct, and that as social responsibility is legislated the law will also have to fashion new enforcement techniques.

We take no credit for the ideas that follow. Rather, they are developed in a book by Christopher D. Stone, *Where the Law Ends: The Social Control of Corporate Behavior* (1975). Stone explains the basic but frequently overlooked fact of organizations: that they tend to develop a life of their own distinct from those they comprise. Also individuals in an organization tend to develop a loyalty to the organization, which can both undermine and override their personal moral judgments. Conduct that would be reprehensible in an individual can, in the context of an organization, take on a different coloration and be justified as serving the greater good. Conscience, in a world of giant corporations, is a less reliable check on conduct than it would be in a world of individuals and small organizations, and, correspondingly, there is a larger burden on the law to implement social control.

Second, the traditional legal sanction of imprisonment cannot be applied to organizations as such, and the threat of a fine, even if it is significant to the corporation's profits (which it rarely is) will, for a variety of reasons that Stone describes, often not provoke an alteration in the conduct of the people in the organization. Moreover there are numerous reasons why legislatures and courts will shrink from imposing financial penalties that might really hurt a corpora-

tion. Most obviously, a corporate wrong is always a misdeed by one or more individuals, and a punishment severe enough to be felt by the corporation may have damaging consequences for all sorts of innocent people to whom the corporation's health and survival is vital.

Equally difficult problems surround any attempt by the law to strike at responsible individuals within the corporation. First, there are all the difficulties in proving the necessary guilty intent or even negligence on the part of individuals engaged in large organizations and taking part in complex industrial processes. It is often the case that no one person in a corporation possesses all the knowledge that would have allowed him to prevent a result that, once it has occurred, is clearly harmful. Many of the horror stories about dangerous products can be traced to this lack. Second, few individuals would be able to bear the financial penalties in fines or damages that might be appropriate in comparison with the harm caused by their conduct. Stone adds the important point that, even where a blameworthy individual within a corporation can be singled out and dealt with adequately, this may not necessarily change the conduct of the corporation, because it is in the nature of organizations to make particular individuals dispensable.

All this is by way of prelude to Stone's argument for an additional and different kind of legal trust:

> ...to steer corporations we cannot continue to rely as heavily as we do on threats posed to the organization as a whole, allowing the corporation to adjust to the law's threats as "it" sees fit, according to "its" calculus of profits and losses; nor even to trust to threats aimed at key individuals in order to induce them to institute the changes they see fit. It isn't that these strategies should be abandoned. But what we shall have to do, increasingly, is augment them with a new approach. The society shall have to locate certain specific and critical organizational variables, and, where feasible, reach into the corporation to arrange them as it itself deems appropriate. In other words, if we can first clarify what ideal internal configurations of authority and information flow would best ameliorate the problem of, say, corporate pollution... the society might then consider programs aimed at mandating such ideal internal configurations directly. Thus, what I have in mind is a legal system that, in dealing with corporations, moves toward an increasingly direct focus on the *processes of corporate decision-making*, at least as a supplement to the traditional strategies that largely await upon the corporate *acts*. Instead of treating the corporation's inner processes as a "black box," to be influenced only indirectly through threats laid about its environment like traps, we need more straightforward "intrusions" into the corporation's decision structure and processes than society has yet undertaken.

Stone then goes on to develop a number of ideas for legal reform, which we will not attempt to describe here. We do not agree with all of them, for example, his variants of the "public director" idea, which we touched on in Chapter 12. The thread running through all his suggestions, however, is the need to give the law more of a preventive cast, as opposed to a merely punitive or remedial one. This is a particularly necessary reorientation in areas such as pollution and product and work-place safety, where the need is to gather and

evaluate information systematically during the stages of a product's development. He also advances some ideas based on a parole analogy for demonstrated corporate misconduct, and different techniques of supervision and inspection in especially dangerous industries.

There is much in Stone's book that will be unsettling and even frightening to corporate managers. Nevertheless, he has had more practical things to say about corporate social responsibility than anyone else we came across. We close this chapter with the hope that our brief exposition of some of his ideas will stimulate study and debate by lawmakers and others interested in social responsibility.

Chapter 17

The Regulated Sector and the Regulatory Process

Introduction

An examination of corporate concentration in Canada cannot ignore the special features of the regulated sector of the economy. For one thing, the regulated sector in Canada is large relative to the total economy compared, for example, with the United States, where it comprises approximately 17% of the gross national product (GNP). Second, regulation often has the effect of increasing concentration in an industry, even when that is not necessarily intended. Even when it does not increase concentration, regulation may have in its price-setting function, the same anticompetitive effects as a monopoly or an oligopoly. In this chapter we have focussed more on the nature and effects of regulatory processes than on the regulated corporations themselves.

Some definitional preliminaries are in order at this point. We make a distinction between direct regulation and qualitative regulation. The latter embraces a vast array of qualitative standards, which extend across all industries and, indeed, all of society. Health, sanitation and product-safety regulations, hours-of-work laws and zoning by-laws are a few examples out of thousands that affect almost everybody. Regulation of this kind may affect economic and other activity profoundly, but it does not have its roots in the particular structure within which a country's economic activity is organized.

In this chapter we will discuss what we call direct regulation, that is that framework of laws and agencies, including Crown corporations, that bear directly on pricing and resource allocation. Direct regulation in this sense takes two forms. First, there are those industries that are subject to regulatory boards that concern themselves primarily with prices, profits and adequacy of service. For example, railways, electricity, gas and telephone utilities, banks, pipelines, trucking, airlines, taxicabs, broadcasting, securities and insurance are all subject to controls of this general kind. Even in these industries, however, the focus of the regulation varies. The prices, profits and levels of service of railways and telephone companies are subject to close scrutiny but, in the insurance, banking and securities industries, the regulatory authorities are interested in financial soundness and integrity and do not control prices and profits, at least not directly. In broadcasting, the chief concern of the regulators seems to be the adequacy of service and, in some senses, programming. A second form of direct regulation is self-regulation. The professions and much of

agriculture operate under legislative umbrellas that give these groups broad powers to control quality, supply and prices. Direct regulation of either kind can take place at the local, provincial or federal level.

For our purposes we are not interested in the particular aspects of a regulated industry's activities which attract the most attention from the regulatory authority, nor with the governmental level at which the regulation takes place. Rather we are concerned with what is common to all regulated industries (though the emphasis given to it by the regulators varies from one to another): that entry to the industries is often restricted and prices and output are controlled. As a result regulated industries are often sheltered from competition. Controls on entry into an industry tend to increase concentration in that industry, and thus make direct regulation relevant to us.

In addition to increasing concentration as such, and even when concentration does not increase, direct regulation can have many of the same effects as any other restrictive practice. Direct regulation, indeed, is a sanctioned restrictive practice. Restrictions on entry to a regulated industry can entrench existing producers and inhibit the efficient allocation of resources. Regulation can also impose significant costs in technical and administrative time devoted to complying with the regulatory process, "X-inefficiency" (i.e. management slack) allowed by reduced competition, economically unjustified price discrimination, sluggish application of new technology and unresponsiveness to the needs and demands of consumers. Thus regulation may tolerate and even create what would otherwise be condemned.

Despite its importance to the Canadian economy, direct regulation has received little critical scrutiny. It is difficult to analyze and assess in a Canadian context the costs and benefits, the structural consequences and the possible alternatives to the various instruments by which governments control economic activity through direct regulation. Nevertheless, the research commissioned and the submissions and testimony received by the Commission have led us to some conclusions, the chief one of which is that a more stringent examination should be made of the regulatory process in Canada. The importance of economic regulation to the Canadian economy and to individual Canadians is too great to permit the lack of critical study and assessment of the effectiveness and efficiency of economic regulation to continue. Governments and academics should act to fill this information gap so that an intelligent debate can begin on the role of economic regulation in Canada. In this chapter, we have restricted ourselves to the questions implicit in our mandate: whether the public interest is adequately safeguarded against the potential misuse of power in a regulated environment, the accountability of direct regulatory agencies to the legislative process and the role of consumers in the regulatory mechanism.

Why Regulation?

Government may decide for many reasons to intervene in the market and regulate industries. For example, certain industries have economic characteris-

tics that qualify them as "natural monopolies": a single supplier will have lower unit costs than would a group of competing suppliers, either because of economies of scale or because of high fixed costs of capital installations.

In other instances the market for one reason or another may not allocate to the industry the amount of resources desired by society. The size of the project or its risk of technological failure may be too high to attract private investment (e.g., in energy development). The free market may lead to unacceptable price fluctuations (e.g., in agricultural products). Some industries are thought to be so important to the country that their adequate and proper functioning must be ensured by government; communications and transport are examples of this.

These traditional economic reasons sometimes merge with social or political goals such as subsidizing service to particular groups (urban transit), regional development (rail and air transport), regional planning (electric power), preservation of the family farm (marketing boards), use and upgrading of natural resources (energy boards), and the maintenance of cultural and political integrity (communications). Often the non-economic reasons may well be more important than the economic ones.

Regulation and regulated industries cannot be analyzed from a purely economic standpoint because many of the regulators' decisions are not based on economics, and are not particularly intended to achieve efficiency either in the use of existing resources or in the allocation of resources to an industry. Usually regulation involves social and political questions at least as much as economic ones. Regulation often is put in place, therefore, when the free market system fails to achieve the allocation of resources desired by the public. The lack of a single or dominant criterion by which to evaluate many regulated industries leads to serious problems of accountability and control.

However, while direct regulation may protect the public from discriminatory pricing, monopolistic profits or economic inefficiencies, it may also inflict these on the public. In the next section of this chapter we outline some of the criticisms that are made of direct regulation.

Before turning to those criticisms, however, a word should be said about the particular significance of regulation in Canada. In one form or another the state has probably always played a comparatively larger economic role in Canada than it has in other countries in similar stages of development. Canada has a large territory and one, moreover, that is exceedingly difficult and expensive to develop. The population is very small relative to the size of the territory it occupies. In Canada the intervention of government may well be necessary to marshal the economic resources needed to develop and unify the country. For example this was true for the building of the Canadian Pacific Railway and has continued to be true for transport of all kinds. Canadians live beside a neighbor who is economically and culturally vigorous and powerful. The natural north-south pull of economic and cultural forces has been resisted with a complex network of tariffs, subsidies and other forms of economic

control, which have made the Canadian economy a highly artifical one. Moreoever, the importance of foreign investment and foreign trade in the Canadian economy, and the tendency in some other countries for governments to take a prominent part in economic activity, all require a higher level of state intervention in the Canadian economy than might otherwise be necessary. A high level of state intervention may well be the *sine qua non* of Canadian nationhood.

We think it is important to emphasize this point here because most of the criticisms of government regulation discussed in the next section have emerged in the United States. Although detailed studies of those criticisms would no doubt show they are qualitatively applicable in Canada too, the degree to which they are valid in this country is apt to be less than may be true in the United States. The thread running through these criticisms is that regulation tends toward economic inefficiency. However, so long as Canada continues to exist in defiance of economics, economics must often take second place to considerations that are not measurable in terms of economic efficiency.

Criticism of Direct Regulation

The expansion of direct regulation as an instrument of government policy has made the costs and benefits of regulation both more obvious and more important. The steady increase of state intervention in the private sector of the economy has generated, particularly in the United States, a corresponding interest in deregulation. The advocates of deregulation say that regulation is too often ineffectual, inflexible and expensive relative to the benefits derived from it. They argue for outright deregulation of some industries and, at the least, for freer entry and more competition in regulated industries. The following points are commonly made in support of this general proposition:

1. Direct regulation as an instrument to prevent the earning of monopoly profits may be self-defeating or futile. The regulated company may frustrate the regulators by reducing the quality of service, or profits may be concealed through "creative" accounting for valuations and expenses.
2. If regulated firms are permitted rates of return exceeding their cost of capital, they have an incentive to overinvest in plant and equipment. On the other hand, if their returns are held down they may be unable to provide adequate levels of service.
3. Restrictive regulation may leave regulated firms with little incentive to innovate. As a consequence, technological change and rate of growth in productivity may be slower in regulated industries than it would otherwise be.
4. Many regulatory efforts focus on profits because inefficiency and costs are much more difficult to regulate. But a small inefficiency induced by regulation may offset what is gained by controlling profits. This X-inefficiency may become a pervasive problem in the regulated industry, since management has little incentive to increase its efficiency and often has a considerable incentive not to do so. Regulation in Canada has seldom

involved a close examination of costs, other than depreciation. Thus, a regulatory agency will frequently focus on whether a 9.8% or 10.1% rate of return on investment is appropriate, and not on costs in general: "... most consumers would rather pay $1 for a long distance call, 20 cents of which represented a monopoly profit ... than $1.10, all of which was cost."

5. Pricing may be more concerned with the winning of political support than with economic efficiency.
6. The regulatory process may discourage innovative pricing and reduce price flexibility.
7. Direct regulation may create problems later if the government decides to deregulate an industry. This problem arises when the restrictions imposed by the regulatory agency on entry into the industry create a substantial market value in the licence to do business.
8. Economic regulation presents two cross-subsidization possibilities. The first is the subsidization of some customers by the overcharging of others. The second involves the regulated company that engages in both regulated and non-regulated activities, but uses some of the same resources in the provision of both kinds of activity and incurs joint costs. The possibility exists for unfair competition against the competitors in the unregulated sector.
9. It is frequently alleged that firms in some regulated industries have become so large that effective cost analysis is impracticable and effective regulation is not possible.
10. The costs of administering regulatory programs may exceed the benefits. The regulatory process is not a free good, and it may be extremely expensive.
11. The regulatory boards often complain that they are chronically under-financed because they lack a political constituency.
12. There may be a natural human tendency for regulators at some point to abjure their regulatory role and to adopt a role of "promoting the health of the industry".
13. Concern exists that regulatory commissions may be "captured" as a result of bureaucratic symbiosis and the tendency for individuals on staffs of regulating agencies to move on to employment with the regulated firms. Individuals may accept employment with commissions in just such anticipation. This has been a chronic problem in the United States.
14. There is a tendency for a regulatory board, once created, to become immortal. Conditions at some point in the past may have justified the establishment of a regulatory board; however, new technologies or economic or institutional changes may have eliminated the need for continued regulation.
15. While private interests can foresee and calculate the impact of regulatory policies, individual consumers typically do not do so collectively. Producers might be expected to incur lobbying, legal and related expenses to obtain

price increases, but consumers are not as likely to organize since the impact of an increase in the price of the regulated commodity or service is often small for each individual consumer. As a consequence, producers may appear at a hearing represented by a large and expert staff while consumers go under-represented or not represented at all.

16. Concern has been expressed over the lack of political accountability of regulatory commissions that make essentially political decisions establishing priorities in the use of resources. The lack of political accountability is a source of concern under a parliamentary system.

In recent years many economists and legal scholars have looked with increasing skepticism at the traditional arguments for direct regulation. Some suggest that direct regulation has not usually been introduced to prevent the use of monopoly power and to protect the public interest but, rather, has been introduced to entrench the market positions of those firms already established in the industry and to protect them from competition by new firms. This observation emerges from re-examination of the decisions of many regulatory agencies and the histories of the interest groups that supported their establishment and that have opposed the dismantling of the agencies.

Many observers of the regulated sector have noted that often regulated firms have demonstrated a preference for regulation rather than for competition, once they have become used to the regulatory process. The Director of Research and Investigation under the Combines Investigation Act, in his appearance before this Commission, reflected the attitudes of many economists and political scientists when he said: "Other scholars point out that however much business may resist the direct regulation initially, firms frequently learn very quickly to prefer the comfort of a regulated environment, to the cold winds and rough blows of competition." Michael Trebilcock, a Canadian commentator on regulatory law, in his brief to the Commission observed that: "It has been demonstrated time and again that both theoretically and empirically these regimes are a direct response to industry pressure for reduced competition, in effect for legalized cartelization."

Conclusions

It is not possible to do anything more with so general a list of observations than to say that they appear to raise valid points that deserve serious investigation. They justify, it seems to us, a critical study of at least some of the major instruments of state intervention. Further generalizations about the regulated sector as a whole would not be useful, although some valuable principles about the aims and techniques of regulation may emerge from a study of particular cases.

We were not able to do the kind of study that we think the subject deserves, but we were given many examples of things that suggest to us that much of the regulatory apparatus in Canada has developed without coherent principles and has continued without any fundamental re-examination of the

objectives it seeks to achieve. There is also widespread discontent with the practices of many regulatory bodies.

While there is therefore good reason to think that regulation in Canada could be improved, the evidence does not permit us to make specific recommendations. In particular, we are not able to endorse the conclusions of many in the United States who say, for example, that steps should be taken to deregulate many industries. Firm judgments like this may be more satisfying and even more popular than our conclusion, but we think they would be premature in Canada. Again, it is wrong to suggest, as does one of the criticisms listed above, that concern on the part of the regulators for the health of an industry is necessarily in conflict with the regulatory role. Regulation is rarely a simple question of policing against wrongdoing. In varying degrees, regulators are concerned with the best possible operation of the industry within their jurisdiction, and they are therefore drawn into a role that goes beyond the control of abuses. It is hard to imagine, for example, that the importance of capital markets to the national well-being is not very much in the minds of those who regulate the banks and other financial institutions. The continued health of these organizations should be a proper concern of the regulators and, indeed, it is the reason there is regulation.

Furthermore, criticism of direct regulation is becoming more vocal at a time when the economy is less than robust. If, in the past, unwarranted hopes have been placed in the efficacy of schemes of economic regulation, the current spate of economic difficulties may be generating an excessive disenchantment with government intervention.

We can illustrate, and perhaps justify, our caution by reference to one aspect of regulation, which seems to have attracted more attention in Canada than any other. In recent years there has been much discussion about the level of public participation in the proceedings of regulatory tribunals, and several of our witnesses also spoke about it. The argument for public participation in regulatory decision-making is that regulatory proceedings cannot lead to decisions that are truly in the public interest unless all significant interests are well represented. If some important groups are chronically under-represented, material considerations could be excluded from the deliberations of the regulatory boards. The under-representation of consumer and environmental interests is a particular concern. Since in many cases of regulatory control the consumer interest makes up a large portion of the public interest that regulation is intended to serve, the lack of representation or under-representation of this group in the regulatory process is a serious problem.

J. S. Grafstein of the Canadian Transport Commission has commented that:

> the regulatory policy has not cast its net wide enough to examine the effects of transport policies of carriers' activities on the consumer. In massive rate hearings . . . "the public interest intervenors" rarely have the resources of regulated corporations. This imbalance would change if an independent office . . . a "Consumer Advocate"—were built into the regulatory process.

William Stanbury has noted that:

> . . . Stigler is not alone when he remarks, "I know of no historical example of a viable, continuing, broad-based consumer political lobby". This is despite the fact that the aggregate gains or losses to consumers resulting from the actions of regulatory agencies often greatly exceed the direct benefits or losses to the regulated firms . . .
>
> Any voluntary scheme will fail if each individual rationally pursues his own self interest. As Leone points out . . . "despite public acceptance of the 'product' of public interest advocacy, few are willing to pay the costs of 'production'. He concludes that "the resource constraint ultimately will end the current round of public interest advocacy".
>
> The staffs of the regulatory commission have not lived up to their mandate; the commissioners have become "judges" in cases where the "defendant" (consumer) is unrepresented; and consumers themselves cannot voluntarily organize to represent their interests. Is it surprising that one hears a call for an institutionalized consumer advocate financed by government?

The chronic under-representation of consumer groups at regulatory hearings is largely the consequence of two interlocking factors: (1) In a democratic society, a highly concerned minority, whose members are willing to switch their political support over an issue, wields power disproportionate to its size. Consumer protection, however, is such a diffuse issue that most voters are not willing to switch their vote over some general need for increased consumer representation before regulatory boards. Hence, there is little incentive for government to provide either access or money to such an effort. (2) Consumer protection in any form is a "public good" once it has been put in place; repeated use will not diminish it and exclusion from its benefits is not possible (or desired). Hence there is a "free rider" problem. There is little incentive for the individual consumer to finance any consumer intervention at a regulatory hearing since he will benefit equally whether he has contributed or not.

The general problem of organization of interests is exacerbated by practical problems encountered in the regulatory process. In addressing this problem, a report of the Canadian Consumer Council draws attention to the following:

1. there are problems of public notice;
2. the failure of many boards to be required explicitly within their legislative mandates to consider the consumer interest frequently results in no consideration;
3. the standing of public interest groups to initiate judicial review of a board's decisions varies widely and is frequently unrecognized in law;
4. consumer groups lack information and expertise;
5. the heterogeneity of the consumer interests, rooted in differences in geography, occupation and age, can cause conflicts in objectives;
6. information on the criteria used by regulatory boards may not be accessible: in some instances, decisions are published without reasons and transcripts are not made available.

The problems associated with the unrepresentativeness of regulatory proceedings result chiefly from the length and cost of regulatory hearings. The

complex nature of many regulatory matters, such as rates, demands expertise in understanding the issues as well as time to participate in usually lengthy hearings and money to prepare submissions and provide alternative expert witnesses. This often results in limited participation by groups other than the regulated. If regulators are to fulfill their mandates to protect and represent the public interest, then representation and participation by interests other than the regulated must be encouraged and facilitated. Wider public participation will provide regulators a broader range of facts and perspectives relevant to their responsibilities. Moreover, given the significance of the decisions of regulatory bodies for Canadians, care must be taken, on grounds of equity, to ensure that those affected are represented in the regulatory process. The competition of viewpoints that could result from wider representation of interests before regulatory agencies can be salutary for both the results of the regulatory process and, equally important, public confidence in that process.

Our difficulty with this line of argument is not that the points made are not valid, but that it begs the broader and more fundamental question of how the machinery of economic regulation is to be made accountable and responsive to the public it is intended to serve. We think the arguments for public participation put too much emphasis on the adjudicative processes of regulatory tribunals. They are attempts to make the process fair and they assume that better substantive decisions will flow from (and will justify the cost of) more broadly based hearings. There is an unarticulated analogy with proceedings in the courts of law, which, whatever their other failings, usually ensure that all affected parties are represented. The analogy overlooks the fact that courts are usually called upon to resolve narrowly defined *disputes*, within the framework of existing law. Regulatory tribunals, in contrast, are primarily concerned with *making* law, and they resolve disputes only incidentally and as a kind of by-product of that larger function.

The more important question is therefore how to design the lawmaking process that is necessarily delegated to regulatory boards by Parliament and the legislatures, so that the views of the public are made known to the regulators. It is not obvious to us, for example, that the litigation process, however representative it is made, is always or even usually the best route to good regulation. The danger of the bias that the consumer advocacy movement gives to the regulatory process is that the lawmaking functions of regulatory boards may be distracted by factors that are important to the contestants but only marginally relevant to the formulation of policy. Economic regulation is fundamentally a problem of government. It is not an industrial problem, nor is it basically a means of resolving controversies between opposing interest groups. It is for this reason that we are unwilling to endorse unreservedly those who plead for a more comprehensive system of support for consumer and environmental representation before regulatory tribunals.

Changes in Canada's apparatus of economic regulation would certainly require an examination of many aspects of parliamentary government itself. It is hardly necessary to say that an inquiry of this kind goes well beyond the brief given to us. The scope of such an inquiry can be seen by posing a few of

the many questions that come to mind. For example, is there any acceptable way of reconciling the principle of regulatory independence with political control? Should government be able to overrule, direct or otherwise interfere with the decisions of independent regulatory boards exercising powers given them by Parliament and, if so, on what grounds? To what extent and in what manner should such executive interference be subject to the supervision of Parliament? What should be the proper scope of interest group participation in the regulatory rule-making process, and how can this be both assured and controlled? How often, in what way and in what respects should regulatory boards be accountable to the legislatures that create them? Is Parliament able to examine critically the policies and decisions of regulatory boards (remembering that it is already widely criticized for its inability to monitor regular government activity). Is it realistic to expect legislators to be interested in doing so? The answers to these questions may not be the same in all areas of economic regulation.

We therefore end where we began. Direct regulation often contributes to industrial concentration and the economic inefficiencies that tend to accompany it. At the same time, the various schemes of direct regulation exist because they were thought to be necessary to achieve other economic and social objectives. The problem is that many of these schemes seem to have been put in place, or at any rate continued, without a conscious assessment of their costs and benefits, including an awareness of their consequences for the efficiency of the overall economy, and their implications for democratic government. We can do little more here than point this out, and express the hope that a proper assessment of direct regulation will begin.

Chapter 18

General Conclusions

As we said in Chapter 1, the notion of corporate power has three inter-mixed strands, economic, political and social. Although, for purposes of analysis, we have made a broad distinction between economic power on the one hand and social and political power on the other, in fact these blend together so subtly that it is not possible to make judgments about one or the other separately. The purpose of this chapter is to collect in one place the major conclusions we reached during our analysis.

CONCENTRATION, SCALE AND COMPETITION

We discovered, first of all, that those corporations that can be considered large in Canada are in general small in comparison with large corporations elsewhere in the world. Moreover, over the last 15 or 20 years, many of Canada's largest corporations have declined in size relative to those operating in the same industries in other countries.

We looked at corporate concentration in terms of both aggregate concentration (the proportion of overall economic activity accounted for by the largest firms) and industrial concentration (the proportion of the activity in a particular industry accounted for by the largest firms in that industry). By both measures, concentration is higher in Canada than it is elsewhere. However, aggregate concentration in Canada has probably declined since the beginning of the century, and since about the mid-1960s there has been little change in the levels of either aggregate or industrial concentration.

In several countries, the largest firms in an industry have been encouraged to merge to increase their international competitiveness. If, as seems to be true in many industries, large size is necessary for efficient operations and to compete in international markets, efforts in Canada to reduce corporate concentration by limiting the size of firms will further reduce the competitiveness of Canadian firms in world markets. Equally, if Canadian firms can and do expand to world size, there may well be a significant increase in corporate concentration in Canada.

On the assumption that large Canadian firms, particularly those that sell in international markets, will attempt to expand in response to the pull of what

they will probably see as natural and imperative economic forces, and given that the price of this expansion will probably be further concentration in some sectors of the Canadian economy, an important policy choice is posed. A judgment has to be made as to whether public policy should encourage, discourage or be neutral toward the growth of large corporations. This judgment requires, in turn, a decision about the advantages of corporate size in an industrial economy.

It is a commonplace that many Canadian manufacturers tend to be small, unspecialized and inefficient by international standards. They survive in the small Canadian market behind a variety of tariff and non-tariff barriers to trade and have erected barriers to entry in many industries to protect themselves from further competition. Frequently they are not able to penetrate overseas markets for manufactured products. This oversimplified but basically accurate description of the Canadian economy is the basis for the argument commonly heard that Canadian producers can become more competitive only if they expand to efficient size. We examined the evidence on the relationship between size and efficiency and discovered that we disagreed with the emphasis this research has placed on plant-level economies of scale.

Canadian plants are not, in general, markedly smaller than those in other countries in many industries, and, for the most part, Canadian industry's cost disadvantages are not occasioned by inadequate scale at the plant level. Diversity of production *within* Canadian plants is a far more significant factor. In addition, the small size of *firms* (not plants) often creates diseconomies in finance, marketing, management and, particularly, risk-taking ability and research and development. While we therefore agree with the argument that the efficiency of the Canadian economy should be improved by policies favoring the growth of firms to efficient scale, we emphasize that the desired growth is that of firms and that greater rationalization of product lines must occur within their plants in order to realize economies of large-scale production.

The conclusions developed so far point in the direction of increased corporate concentration in Canada or, at any rate, no reduction in its present high level. That being so, the next question is whether the threat to market competition inherent in corporate concentration, a threat which is at least as real as the advantages from increased efficiency, can be mitigated. We believe that an adequate competition law is an essential instrument of a public policy that wants to preserve the advantages of market competition in an oligopolistic economy.

Accordingly, we agree in principle with the general direction of the proposals for reform of the competition law contained in Bill C-13, presently before Parliament. We think, however, that the Bill's provisions dealing with "joint monopolization" reach too far. Instead, an approach that attacks what is known as "conscious parallelism plus" will be fairer and more effective in countering restrictive market practices.

MERGERS

We also think that the merger provisions in Bill C-13 are misguided. Our research shows that industrial concentration has not increased over the last 15 years, a period that included the merger wave of the mid-1960s. The merger provisions in Bill C-13 are unnecessarily elaborate and expensive, given the small dimensions of the problem with which they are intended to deal. They will introduce an unacceptable degree of risk and uncertainty into Canada's economic environment. We prefer a law that deals sternly but surely with anticompetitive actions (including the building of barriers to entry) that may arise after a merger has been completed, rather than a law that operates on the basis of predictions about future actions.

Our study of conglomerate corporations revealed that their diversification has probably not increased concentration within industries and may even have increased competition. There are some indications that conglomerate diversification has decreased the overall efficiency of the firms involved, as measured by return on assets, and that investors in highly diversified firms have received lower-than-average returns. In theory, diversified firms have a greater ability than other firms to engage in a variety of anticompetitive practices (predatory pricing, cross-product subsidization, tied selling, etc.) but we have found only a few instances in which they have exercised this power. We conclude that the proposed competition law can deal with these problems adequately. Similarly, we see no need for special legislation affecting conglomerate mergers.

The attempted Power-Argus merger was important, not because of its potential effect on competition within industries (which we think would have been minor) but because the prominence of the parties in the economy made their actions significant to the public. Transactions this spectacular will always demand inquiry. We think that conglomerate mergers of this kind should first be analyzed under the competition law, but if (as in Power-Argus) there are no significant competitive implications, or none that could not be dealt with under the competition law, there may still be overriding reasons of public policy that will compel intervention by the state. We do not think it is possible to establish in advance legislative criteria by which unique cases like a Power-Argus merger can be assessed. If the state intervenes to prevent or dissolve a merger like Power-Argus, the decision to do so must be a political one, to be taken by government and Parliament in the light of the circumstances as they see them at the time.

FOREIGN DIRECT INVESTMENT

The kind of conflicting considerations that bear on the corporate concentration problem are highlighted when they are examined in conjunction with the phenomenon of foreign direct investment in Canada. Foreign direct investment is high in Canada, but its level has remained stable over the past several years and may even be declining in size relative to the economy as a whole. The several studies that have been made of foreign direct investment in recent years have illuminated the matter well, and the benefits and costs of this investment

have been debated at length. It is clear that foreign investment has been an important stimulus to the development of the Canadian economy. However, this investment has probably exacerbated such problems as the truncation of research and development and the ability of Canadian firms to export. Although it is difficult to measure the effect of foreign direct investment on corporate concentration in Canada, it may have helped to sustain the level of concentration in some industries by making it more difficult for domestic firms to enter and survive in them and by importing into Canada the oligopolistic structure of industries abroad, particularly those in the United States. On the other hand, foreign investment has probably introduced increased competition and innovation in some industries.

Foreign investment was not our direct concern; we were interested in it only insofar as it relates to corporate concentration. Parliament has taken steps, notably through the Foreign Investment Review Act, to try to achieve the best possible balance of advantages and disadvantages from foreign investment in the future. We have no recommendations for substantive changes in the regulatory machinery that is now in place because we think the present laws are adequate to deal with foreign direct investment.

We are confident that those administering the Foreign Investment Review Act are conscious of the benefits of foreign investment to Canada and give them adequate consideration when reviewing investment proposals governed by that Act. Those who administer the competition law should also bear in mind that the growth of domestic firms, even at the cost of an increase in concentration, will offset, in part, both the proportion of the economy under foreign control and some of the undesirable consequences of foreign investment.

BANKING

We have been able to discover no economies of scale in banking that necessitate the current large size of banks and the oligopolistic structure of the industry. While there is no conclusive evidence that banks are earning monopoly profits, further consolidation among the major banks should not be allowed. The oligopolistic structure of the industry has led to overbranching and some lack of efficiency. We would encourage further entry into the industry and would allow other financial institutions to expand their services into personal loans and loans to small businesses. This extension should include foreign banks, but with the restrictions that they operate under the Bank Act and that they not be permitted to act as agents for their parent corporations abroad in securing underwriting business.

SMALLER BUSINESS

A healthy small and medium-sized business sector can offset the effects of high concentration in some industries, although stimulation or encouragement of small business will not fundamentally transform Canada's industrial structure, and many industries in Canada will continue to be dominated by large, capital-intensive firms. Nevertheless smaller businesses can increase competi-

tion in some industries and have beneficial social effects. They have demonstrated their ability to innovate and to sustain market competition when they are given a reasonable chance to grow.

Unfortunately, there are some major impediments to the development of a vigorous and effective smaller business sector in the Canadian economy. Many of the barriers to entry and impediments to the growth of small firms which are inherent in an economy characterized by large firms and a high level of foreign ownership are largely irremovable. However, some of these obstacles can be overcome by an intelligent use of the competition law.

TAXATION

The other serious problem hampering business generally, and smaller business in particular, is the scarcity of investment capital. This problem exists as a consequence of domestic institutional factors, which are difficult, but not impossible, to change. The problem is important because the prosperity of Canadians cannot be assured unless the proportion of the gross national product that is invested in the private sector is increased. We think this increase can come only from corporate investment. We have concluded that returns from business investment in Canada in recent years have simply been too low to attract the needed investment. The tax structure influences investment profoundly, as we discovered when we looked at the amount of Canadians' savings that flow into tax shelters of different kinds. For the most part these savings are not invested in the private sector, particularly not in equity securities. We do not think that minor adjustments in the tax laws or subsidies will be effective in generating the large amount of investment capital that Canada will require in the coming years. We therefore sought a solution that would be likely to improve the overall Canadian business and investment climate significantly. Ideally, something is required that will have a positive and direct effect on production costs and price competitiveness and that will also stimulate equity investment.

We think that the kind of solution required probably lies in far-reaching tax changes, and we suggested two areas, capital gains taxation and the timing of the taxation of business income, as candidates for critical review and possible reform. We are well aware of the difficulties that tax relief of the kind and magnitude embraced within these suggestions would create. However, the economic problems that have become visible over the past few years are so serious that we believe drastic, uncomfortable and even painful remedies are required. The problem of corporate concentration is small in comparison and cannot be dealt with in any event unless the more serious problems of productivity, inflation and inadequate investment are solved.

CORPORATE CONTROL

Our study of corporate governance and control did not lead us to conclude that major changes were needed in the existing pattern of legislation. However, we do suggest a number of steps that corporations could take to strengthen and

diversify their boards of directors and thus improve public confidence in them. We believe that corporations, especially large corporations, have to overcome a deep-rooted and widespread public suspicion about their motives and an increasing public impatience with their bureaucratic insensitivity. There is no single answer to this problem, and certainly none that can be provided by the state through legislation. Indeed, government is one of the worst offenders.

Large corporations cannot overcome negative public attitudes toward them unless they can show, credibly, that their decisions take into account the social as well as the economic consequences of their actions on society as a whole. This is not a task that can be left to advertising and public relations. One of the most effective steps corporations could take, we think, would be to leaven their boards of directors with more people whose backgrounds are not in corporate business. People like this may provide the corporation with points of view it would not otherwise have and they may inspire more public trust in corporate decisions.

CORPORATE DISCLOSURE

As corporate actions have been seen to have widespread social consequences, so also has the importance of public trust in the integrity of business become important to the corporation. Public suspicions about business are often based on misunderstanding, but business itself must bear some of the blame for this. Once again, there is no easy way to overcome this problem, but fuller and better disclosure of business information is certainly necessary before the public can make more informed judgments about what business does.

Our recommendations on corporate disclosure therefore attempt both to expand the kind of corporate information that is made public and to reduce the cost and burden of supplying it. The latter objective will require a good deal of rationalization of data gathering by all governments and, we think, review and control mechanisms to check and discipline the insatiable appetite that governments have for information.

CORPORATE INFLUENCE

Many Canadians are profoundly concerned with what they think is the considerable power that large corporations have to influence official decisions and public opinion. We found little evidence to support this fear. Recent reforms of the election laws may help to reduce suspicions of improper or disproportionate corporate influence, but, in our judgment, safeguards against improper influence must be found within the processes of government.

Another aspect of the power of corporations is their ability to influence the public through advertising. Deceptive advertising can be dealt with under existing legislation. The Canadian Radio-Television and Telecommunications Commission (CRTC) may be able to produce regulations for advocacy advertising that will help to ensure a balanced presentation of viewpoints on public issues, but we see no way to ensure that corporate advertising does not lead

consumers and others to make unwise choices. Advertising is essential to the operation of a market economy and an important aspect of competition. Exaggeration, bad taste and the other objectionable features of much advertising seem to be inevitable in a competitive market system, although government policies can have some moderating influence. Ultimately, however, the only effective defence against the persuasive arts of advertisers or anyone else is a critical sense in the public mind.

There are latent dangers in concentrated ownership of the mass media. Competition law may be a useful check on this kind of concentration occasionally, but there are no practical legislative or regulatory instruments available or in prospect to deal with this problem comprehensively. The CRTC has the legal power to control the ownership of broadcasting outlets but it is apparent that their decisions are much more heavily influenced by other considerations. We recommend that the CRTC be empowered to prevent the owners of broadcasting stations from also owning newspapers and other print media that circulate in the same market.

WORKING CONDITIONS

Our examination of the relationship between business size and working conditions revealed that there was little if any correlation between the size of the firm and health and safety standards, discrimination, and job satisfaction in the work place. There is some evidence that larger firms pay higher total compensation than small firms do. The available data in this area is extremely fragmentary, however, and much more research will be necessary before confident conclusions can be drawn.

CORPORATE SOCIAL RESPONSIBILITY

Our study of corporate social responsibility led us to several conclusions about the meaning and direction of the idea that corporations should consider and assume some responsibility for the social consequences of their activities. We decided, first, that the social implications of business with which people are concerned are inherent in an industrial system and, in general, have little to do with corporate concentration. We also concluded that there is no longer any serious question about whether business corporations should take into account the social implications of their decisions. Clearly, the public will insist that they do.

Social responsibility is therefore largely a matter of awareness on the part of business that social considerations are factors in business decisions no less legitimate than economic ones. There must, however, be an understanding on the part of the public of the kind of corporate responses that it may reasonably expect and, no less important, of what it should not expect, because action taken by business out of a feeling of social responsibility has costs as well as benefits. Social consequences are limitless in their range and variety, and we have made no attempt to prepare a comprehensive cataloque of them. Moreover, their significance one to the other changes constantly, both because the relative values that people attach to things change and because varying internal

and external political and economic influences impose constraints on the ability of business to deliver particular results. All this makes it impossible for us to pronounce explicitly about either the kinds of social obligations that corporations should recognize or the manner in which they should respond to them.

We were struck by the extent to which public opinion in Canada has shifted during the course of this Commission's work. When we began our work the pressures on business to recognize and discharge social obligations, even at some economic cost, were much more insistent than they are as we complete our *Report*. The decline in business activity during this time and concern about rising unemployment seem to have brought forth a greater realization that corporate social responsibility has an economic price that is paid by those who depend on corporations for their livelihood and those who consume the goods they produce.

Social reporting should gradually extend and deepen understanding of corporate social responsibility, although we doubt that disclosure of social information will ever attain the degree of objectivity that has been realized in financial disclosure. The law, too, has a role to play in defining and enforcing social responsibility but it is often ill-adapted to the task. We think that the kind of interventionist legal techniques that Christopher Stone describes in his book *Where the Law Ends: The Social Control of Corporate Behavior* (see our Chapter 16) are only just over the horizon. Stone suggests that increasingly the law will have to act positively to influence decision-making within corporations to ensure that corporate decisions are made in accordance with the desires of society, rather than in reaction to prohibitions and penalties instituted as a result of social problems caused by corporate decisions. Whether these suggestions are adopted in Canada will depend very much on how business responds, and is seen to respond, to the social consequences of its activities, including its ability to dispel the climate of suspicion and hostility that has surrounded it in recent years.

REGULATED INDUSTRIES

Our penultimate chapter contained a brief discussion of the regulated sector of the economy and the regulatory process. Regulation in Canada has grown piecemeal, in response to particular problems and needs as they appeared. It is now a haphazard collection of laws and machinery by which the state attempts to direct business activity for a variety of ill-coordinated economic and social objectives. The subject of regulation is relevant to our work, not only because many regulated industries tend to be concentrated and insulated from competition but also because regulatory mechanisms are frequently created to accomplish social objectives. The difficult task of reconciling economic and social objectives is seen most clearly in the regulated industries, and is an additional reason why we urge that there be an adequate study of the regulatory process.

A study of economic regulation in Canada must be made against the broader backdrop of Canadian nationhood because we believe that this is the real justification for government intervention in economic affairs. The funda-

mental issue is the proper spheres of public and private economic power in Canada. The answer to this question lies largely outside economic analysis; it has more to do with the kind of country and government Canadians want.

* * *

In summary, the influences that have shaped the Canadian economy have made a high degree of concentration inevitable. If changes occur they are likely to be in the direction of more rather than less concentration, chiefly because of international competitive influences. Public responses to concentration should recognize that profound and far-reaching changes are not practicable. The best mix of benefits and burdens should be sought through vigilance and the selective use of the appropriate instruments of public policy. While we have recommended a number of improvements, we conclude that no radical changes in the laws governing corporate activity are necessary at this time to protect the public interest.

APPENDIX A

Orders in Council

Order in Council
P.C. 1975-879

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 22 April, 1975.

WHEREAS the Committee of the Privy Council have had before them a report from the Prime Minister representing that it is desirable to cause an inquiry to be made into and concerning the concentration of corporate power in Canada.

The Committee, therefore, on the recommendation of the Prime Minister, advise that Robert Broughton Bryce, Esquire, of the City of Ottawa in the Province of Ontario, be appointed a Commissioner under Part I of the Inquiries Act to inquire into, report upon, and make recommendations concerning:

(a) the nature and role of major concentrations of corporate power in Canada;
(b) the economic and social implications for the public interest of such concentrations; and
(c) whether safeguards exist or may be required to protect the public interest in the presence of such concentrations.

The Committee further advise that the Commissioner

1. may exercise all the powers conferred upon him by section 11 of the Inquiries Act and be assisted to the fullest extent by government departments and agencies;
2. may adopt such procedure and methods as he may from time to time deem expedient for the proper conduct of the inquiry and sit at such times and in such places in Canada as he may decide from time to time;
3. may engage the services of such counsel, staff, clerks and technical advisers as he may require at rates of remuneration and reimbursement to be approved by the Treasury Board; and
4. shall report to the Governor in Council with all reasonable despatch, and file with the Privy Council Office the papers and records of the Commission as soon as reasonably may be after the conclusion of the inquiry.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

P. M. Pitfield

CLERK OF THE PRIVY COUNCIL—LE GREFFIER DU CONSEIL PRIVÉ

Order in Council
P.C. 1975-999

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 1 May, 1975.

WHEREAS pursuant to Order in Council P.C. 1975-879 of 22nd April, 1975, Robert Broughton Bryce, Esquire, was appointed a Commissioner under Part I of the Inquiries Act with the duties and powers set out therein.

AND WHEREAS the Committee of the Privy Council have had before them a report from the Acting Prime Minister that it is desirable to appoint two additional Commissioners to act with Mr. Bryce.

Therefore, the Committee of the Privy Council, on the recommendation of the Acting Prime Minister, advise that Pierre Nadeau, Esquire, of Montreal, Quebec, and R. W. V. Dickerson, Esquire, of Vancouver, British Columbia, be appointed Commissioners under Part I of the Inquiries Act with the same duties and powers as set out in Order in Council P.C. 1975-879 of 22nd April, 1975.

The Committee further advise that Robert Broughton Bryce, Esquire, be appointed Chairman of the said Commission and that the Commission be known as the Royal Commission on Corporate Concentration.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME
P. M. Pitfield
CLERK OF THE PRIVY COUNCIL—LE GREFFIER DU CONSEIL PRIVÉ

APPENDIX B

Briefs

Abitibi Paper Company Ltd.
Alberta Federation of Labour
The Alberta Gas Trunk Line Company Limited
Alberta New Democratic Party
Allen, Nelson
Andrewes, Peter J.
Archer, Anthony M.
Argus Corporation Limited
Armstrong, Donald E.
Asper, I. H.
Associated Grocers Limited and Alberta Grocers Wholesale Ltd.
Association of Canadian Venture Capital Companies
Atlantic Provinces Economic Council

Bank of British Columbia
The Bank of Nova Scotia
Bell Canada
Berg, K.
Berman, Joseph
Bertrand, Robert J., Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs
Better Business Bureau of Canada
Blachford, H. L.
Bouvier, P. Émile
Bradfield, Michael
Brascan Limited
Broadbent, J. Edward (M.P.), Leader of the New Democratic Party
Burchill, C. S.

CAE Industries Ltd.
Calgary Chamber of Commerce
Canada Cement Lafarge Ltd.
Canadian Association of Social Workers

The Canadian Bankers' Association
The Canadian Chamber of Commerce
The Canadian Chemical Producers' Association
Canadian Corporate Management Company Limited
The Canadian Council on Social Development
Canadian Export Association
Canadian Fertilizer Institute
Canadian Imperial Bank of Commerce
Canadian Industries Limited
Canadian Institute of Public Real Estate Companies
The Canadian Life Insurance Association
The Canadian Manufacturers' Association
Canadian Pacific Limited
Canadian Pulp and Paper Association
Cantlie, Ronald B.
Capon, Frank
Carniol, Ben
Caves, Richard E.
Centrale des Syndicats Démocratiques
Charlottetown Chamber of Commerce
Chodos, Robert
Christian Labour Association of Canada and CJL Foundation
Christie, R. E.
Committee for an Independent Canada
Communist Party of Canada
Communist Party of Canada, Northwestern Ontario Branch
Community Planning Association of Canada, Newfoundland Division
Conseil du Patronat du Québec
Consolidated-Bathurst Limited
Consumers' Association of Canada
Cooperative Union of Canada
Corporate Research Group
The Council of Canadian Filmmakers
Crow, Stanley
Cubberley, David J., and Keyes, John

Digiacomo, Gordon
Dobie, John C.
Domtar Limited
Downtown Action
Du Pont of Canada Limited
Duff, Huntly

Edmonton, City of
Edmonton Chamber of Commerce
Elliott, G. Clarence
Energy Probe

Famous Players Limited
Formula Growth Limited
Forster, Victor W.

Fournier, Pierre
Franklin, John
Fredericton Chamber of Commerce

Gardner, Philip L.
Genstar Limited
Grandy, J. F.
Great Canadian Oil Sands Limited
The Great-West Life Assurance Company
Green, Jerry
Grovum, O. W.
Gutstein, Donald, and Henderson, William

Hahlo, H. R.
Halifax Board of Trade
Hartle, Douglas G.
Harvie, Donald
Haskell, H. John
Heisey, Alan
Hincks, Alan
Hovsepian, John
Hudson's Bay Oil and Gas Company Limited
Huntington, Ron (M.P.)

Imasco Limited
Imperial Oil Limited
Indal Limited
Independent Gasoline Retailers Group of Manitoba
Investment Dealers Association of Canada
The Investors Group

Jannock Corporation Limited

King, E. W.
Kudelka, John

John Labatt Limited
Laurentide Financial Corporation Ltd.
Leighton, David S. R.
Leshchyshen, Bob
The Life Underwriters Association of Canada
Locke, W. F.
The London Chamber of Commerce
The Loram Group of Companies
Lorimer, James

MacMillan Bloedel Limited
Maher, E. D.
Malcolm, D., Deveaux, E. L., Hambling, S.

Marchant, C. K.
McCain Foods Limited
McLeod, William E.
Medwin, Bernard
Merrill, Wilson E.
Miller, Danny
Mokkelbost, Per B.
The Molson Companies Limited
Moussally, Sergieh F.
Mucha, Kenneth

Narver, John C.
National Association of Independent Building Materials' Distributors
National Association of Tobacco Confectionery Distributors
National Farmers Union, District 1, Region 1 (P.E.I.)
Neave, Edwin H.
New Democratic Party, Office of the Leader, Nova Scotia
Newfoundland and Labrador Federation of Municipalities
Nickerson, Dave
Norcen Energy Resources Limited
Northern Electric Company, Limited

Ontario, Government of
Ontario Anti-Poverty Organization, Thunder Bay Branch
The Ontario Milk Marketing Board
The Ottawa Board of Trade

Parr, Philip C.
Patton, Donald J.
Pelletier, Judy
Placer Development Limited
Pollock, Ian F.
Porter Land Ltd.
Power Corporation of Canada, Limited
Puxley, H. L.

Redpath Industries Limited
Reed Paper Ltd.
Richard, J. G.
Robertson, Struan
Robinson, A.
Robinson, H. Lukin
Rothmans of Pall Mall Canada Limited
The Royal Bank of Canada
Rubin, Ken
Hugh Russel Limited

SNC Enterprises Limited
St. John's Oxfam Committee

Saint-Pierre, Jacques
Sales, Arnaud
Scherer, F. M.
Shell Canada Limited
Sinclair, George
Smith, Dorothy E.
Sopha, Elmer
Steel Company of Canada, Limited
Sudbury Mine, Mill & Smelter Workers' Union, Local 598
Systems Dimensions Limited

Tabusintac Fishermen's Association
Taskforce on the Churches and Corporate Responsibility
Tasso, André J.
Thermex Manufacturing Limited
Thompson, Gordon L.
Thorne, R. R
Thunder Bay Chamber of Commerce
The Toronto-Dominion Bank
The Toronto Society of Financial Analysts
TransCanada Pipelines Limited
Trebilcock, Michael J.
Twaits, William O.

United Church of Canada
United Electrical, Radio and Machine Workers of America
United Steelworkers of America

Wahn, Ian G.
Warnock Hersey International Limited
Warwick, Donald P., and Craig, John G.
George Weston Limited
Winestock, Samuel
The Winnipeg Supply & Fuel Company, Limited
Winter, John R.
Wrigley, Leonard

Yellowknife Chamber of Commerce

APPENDIX C

Witnesses

November 3, 1975, Ottawa

Corporate Research Group
Represented by:
James Lorimer
Robert Chodos
James Laxer
Clayton Ruby

Robert J. Bertrand, Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs
Assisted by:
R. Davidson
Mr. D. DeMelto
W. P. McKeown

New Democratic Party
Represented by:
J. Edward Broadbent
R. Levesque
D. O'Hagen
R. Weese

November 4, 1975, Ottawa

Richard E. Caves
Ken Rubin

Committee for an Independent Canada
Represented by:
David Treleaven

November 13, 1975, Vancouver

Donald Gutstein and William Henderson

Laurentide Financial Corporation Ltd.
Represented by:
Eugene Lindberg and Paul Paine

November 14, 1975, Vancouver

John C. Narver

November 17, 1975, Calgary

The Alberta Gas Trunk Line Company Limited
Represented by:
Robert S. Blair
Robert L. Pierce
Dianne Narvik

Ben Carniol

Associated Grocers Limited and Alberta Grocers Wholesale Ltd.
Represented by:
Wayne D. Smith and R. H. Cherot

November 18, 1975, Calgary

Hudson's Bay Oil and Gas Company Limited
Represented by:
D. C. Jones and L. B. Bannicke

November 20, 1975, Winnipeg

The Investors Group
Represented by:
Robert H. Jones
Donald J. McDonald
Andrew S. Jackson
Phillip E. Newman
D. Carl Bjarnason
Donald E. Rettie

Genstar Limited
Represented by:
James Unsworth
A. A. Franck
A. A. MacNaughton
R. J. Turner

The Winnipeg Supply & Fuel Company, Limited
Represented by:
Neil W. Baker

November 21, 1975, Winnipeg

The Great-West Life Assurance Company
Represented by:
J. W. Burns
H. W. B. Manning
G. W. Dominy
H. E. Harland

I. H. Asper

December 8, 1975, Montreal

Du Pont of Canada Limited
Represented by:
Robert J. Richardson
Franklin S. McCarthy
Henry J. Hemens
Donald A. S. Ivison
Anthony D. Amery

Conseil du Patronat du Québec
Represented by:
Charles Perreault
Roger Ranger
Ghislain DuFour
Michel Vastel
Jean-Claude LeBlanc

Canadian Industries Limited
Represented by:
Eric L. Hamilton
Christopher Hampson
David Braide
Russell Allgood
Pierre Daviault

December 9, 1975, Montreal

The Molson Companies Limited
Represented by:
James T. Black
Davis Lakie
Andrew G. McCaughey
Kenneth A. F. Gates

Frank Capon

December 10, 1975, Montreal

Power Corporation of Canada, Limited
Represented by:
Paul Desmarais
Jean Parisien
Peter Curry

December 11, 1975, Montréal

Canadian Pacific Limited
Represented by:
Ian Sinclair
Paul Nepveu
Don Maxwell

Domtar Limited
Represented by:
A. D. Hamilton
Stewart Kerr
James Smith

December 15, 1975, Toronto

Argus Corporation Limited
Represented by:
John A. McDougald
Donald A. McIntosh
A. Bruce Matthews
Harry H. Edmison

Jerry Green

The Life Underwriters Association of Canada
Represented by:
D. Roughton
R. Kaylar

December 16, 1975, Toronto

Donald P. Warwick and John G. Craig
David J. Cubberley and John Keyes

December 17, 1975, Toronto

James Lorimer
Robert Chodos
Peter Newman

January 12, 1976, Toronto

Hugh Russel Limited
Represented by:
Peter Foster
J. Mark O'Sullivan

Indal Limited
Represented by:
Walter E. Stracey
Dermot G. Coughlan
Murray Maynard
Clayton Wilson
Norman McKnight

United Steelworkers of America
Represented by:
William Mahoney
Peter Warrian
Kenneth Waldie
Paul Brennan
Gordon Milling
Michael Fenwick (for Lynn Williams)
Jean Gérin-Lajoie

Communist Party of Canada
Represented by:
Alfred Dewhurst
William Kashtan
Richard Orlandini

January 13, 1976, Toronto

MacMillan Bloedel Limited
Represented by:
G. B. Currie
D. W. Timmins

Canadian Institute of Public Real Estate Companies
Represented by:
A. E. Diamond
E. A. Goodman
B. Ghert

The Canadian Chamber of Commerce
Represented by:
G. E. Pearson
R. Booth
D. Braide
D. Armstrong
D. Lank

January 14, 1976, Toronto

The Steel Company of Canada, Limited
Represented by:
J. P. Gordon
J. D. Allan
N. J. Brown
R. E. Heneault
J. W. Younger

The Canadian Bankers' Association
Represented by:
Michael A. Harrison
T. S. Dobson
R. M. MacIntosh
J. Allan Boyle
R. D. Fullerton
J. H. Perry

January 16, 1976, Montreal

Consolidated-Bathurst Limited
Represented by:
W. I. M. Turner, Jr.
T. J. Wagg
T. O. Stangeland

Canadian Pulp and Paper Association
Represented by:
Howard Hart
David Wilson
Gordon Minnes

The Royal Bank of Canada
Represented by:
Earle McLaughlin
Thomas Dobson
Donald Wells
Ralph Sultan

January 20, 1976, Toronto

Norcen Energy Resources Limited
Represented by:
E. C. Bovey
C. Spencer Clark
Marilyn Trueblood

Canadian Corporate Management Company Limited
Represented by:
Walter L. Gordon
V. N. Stock
J. A. McKee

Shell Canada Limited
Represented by:
C. W. Daniel
C. F. Williams
D. W. Manzel
T. B. O. McKeag

January 21, 1976, Toronto

Abitibi Paper Company Ltd.
Represented by:
Thomas Bell
Ian McGibbon
James Baillie

The Toronto-Dominion Bank
Represented by:
Allan Lambert
Richard M. Thomson
Alan B. Hockin

April 13, 1976, Montreal

Bell Canada
Represented by:
Jean de Grandpré
Or Tropea
John Farrell

Formula Growth Limited
Represented by:
John W. Dobson
Ian A. Soutar

Pierre Fournier

April 14, 1976, Montreal

Donald E. Armstrong
Assisted by:
Manfred Fr. Kets De Vries
Peter H. Friesen
Danny Miller

Imasco Limited
Represented by:
Paul Paré
Jean-Louis Mercier
George Ross

April 27, 1976, Toronto

Joseph Berman
Assisted by:
Ed Waitzner
Morris Wayman

John Crispo

The Council of Canadian Filmmakers
Represented by:
Sandra Gathercole
John Rocca
Kirwan Cox

April 28, 1976, Toronto

John Labatt Limited
Represented by:
P. N. T. Widdrington
Bruce Brighton
Dean Kitts

Taskforce on the Churches and Corporate Responsibility
Represented by:
Thomas Anthony
Reginald McQuaid
Renate Pratt
Tony Clarke
John Swaigen

April 29, 1976, Toronto

William O. Twaits
C. K. Marchant

May 4, 1976, Toronto

Stanley M. Beck
Canadian Imperial Bank of Commerce
Represented by:
Russel E. Harrison
Donald Fullerton
David A. Lewis

May 5, 1976, Toronto

Michael J. Trebilcock

The Toronto Stock Exchange
Represented by:
J. R. Kimber
Lester Lowe
Hugh J. Cleland

Douglas G. Hartle

May 6, 1976, Toronto

Edwin H. Neave
Assisted by:
James C. Ellert
W. Thomas Hodgson
William G. Leonard
John C. Wiginton

Imperial Oil Limited
Represented by:
J. A. Armstrong
Douglas MacAllan
Donald Eldon

May 12, 1976, Ottawa

The Canadian Chemical Producers' Association
Represented by:
A. J. Foote
Bruce MacDonald
D. I. W. Braide
D. S. Herskowitz
E. L. Weldon
J. H. Childs

Ron Huntington (M.P.)
Assisted by:
Paul Parlé
Elmer McKay (M.P.)

Richard Humphrys

Canadian Transport Commission
Represented by:
Guy Roberge
Anne Carver
Konrad Studnicki-Gizbert
Peter Wallis

May 13, 1976, Ottawa

Frederick M. Scherer

Redpath Industries Limited
Represented by:
Neil M. Shaw
K. Barnes

May 14, 1976, Ottawa

Consumers' Association of Canada
Represented by:
Jim O'Grady
Maryon Brechin
Ruth Lotzker
Ron Cohen
Nola Wade
Cathy Lesiack
Robert Kerton
Robert Olley

James F. Grandy

May 17, 1976, Halifax

Halifax Board of Trade
Represented by:
Galen Duncan
David Henniger

Struan Robertson

New Democratic Party, Office of the Leader, Nova Scotia
Represented by:
Marty Dolan

Mike Marshall

Alan Ruffman

Atlantic Provinces Economic Council
Represented by:
P. E. Gunther and W. A. Jenkins

Michael Bradfield
Donald J. Patton
Shaun Twomey
Judy Pelletier
Howard Crosbie
David Barrett
Judy Wouk
Jim Lotz

United Fishermen's Association of Nova Scotia
Represented by:
Paul Hanson

Dougall MacFarland
Martha MacDonald and Julia McMahon
Susan Mayo
Robert Manuge

May 18, 1976, Charlottetown

Charlottetown Board of Trade
Represented by:
Ed Goss

Grove MacMillian
C. M. McLean
Robert Lippers
Leo Deveau
J. J. Revell

National Farmers Union, District 1, Region 1 (P.E.I.)
Represented by:
Urban Laughlin

Mr. McQuigan
Mary Boyd

May 19, 1976, Fredericton

J. G. Richard
R. R. Thorne
June Parr
Philip Aitken

McCain Foods Limited
Represented by:
Mr. Morris

S. Hambling, E. L. Deveaux, D. Malcolm

Fredericton Chamber of Commerce
Represented by:
Edward Mayer

Roland White
Sidney Pobihushchy

May 20, 1976, St. John's

S. A. Neary

Community Planning Association of Canada, Newfoundland Division
Represented by:
Sean O'Dea

New Democratic Party, Newfoundland
Represented by:
Gerald Panting

Robert Sexty

St. John's Oxfam Committee
Represented by:
J. Williams

Newfoundland and Labrador Federation of Municipalities
Represented by:
William Titford

St. John's Board of Trade
Represented by:
Andrew Crichton

June 2, 1976, Ottawa

Brascan Limited
Represented by:
J. H. Moore
E. C. Freeman-Attwood

Famous Players Limited
Represented by:
George P. Destounis
Robert Grainger
Larry Pilon

June 3, 1976, Ottawa

Association of Canadian Venture Capital Companies
Represented by:
Paul Lowenstein
Gerald Sutton
Michael Pik
Ernest Mercier

Government of Ontario
Represented by:
The Honourable W. Darcy McKeough

June 15, 1976, Sherbrooke

P. Émile Bouvier

Confédération des Syndicats Démocratiques
Represented by:
P.-E. D'Alpé

Gaston Durocher
H. R. Hahlo
David Jones

June 16, 1976, Trois-Rivières

Association des consommateurs du Canada
Represented by:
Pauline Valentine
Michel Richard

Cercle des économistes de la Mauricie
Represented by:
Marcel Therrien

Association des détaillants en alimentation régionaux de la Mauricie
Represented by:
George Charette

Association des consommateurs provinciale
Represented by:
Pauline Boileau

Association des consommateurs
Represented by:
Jeanne Bergeron

June 17, 1976, Quebec

Arnaud Sales
Jacques St-Pierre
Guy Charest
Gilberte Parent

C.E.Q.
Represented by:
Guy Charbonneau

Paul Mackey
Pierre Bédard
Neddley Pruno
Jacqueline Blanchet

June 21, 1976, Windsor

Canadian Human Rights Party
Represented by:
Joseph Crouchman

Windsor and District Labour Council
Represented by:
Edward Baillargeon

Maud Hermann

Windsor Chamber of Commerce
Represented by:
Milton Grant
Stanley Martin
Robert Richardson
Valerie Kaurak

Gordon Thompson
Thomas Roden
Richard Barrett

June 22, 1976, London

Mr. Monroe

June 23, 1976, Sudbury

Elmer Sopha
Fred Hackett

Sudbury Mine, Mill & Smelter Workers' Union, Local 598
Represented by:
Roy Scranton

William McLeod

Sudbury and District Chamber of Commerce
Represented by:
Ronald Meredith

Charles Hews
Mel Young

June 28, 1976, Victoria

Barbara Mitcham

Consumers' Association of Canada
Represented by:
Bobbie Rose

C. S. Burchill
Nelson Allen
Wilson Merrill
Elmer McKeown
Rick Palmer
Herbert J. Bruch
L. Ryan
Catherine Palmer
David Chadwick
Robert Willis
John Postmar

June 29, 1976, Prince George

Peter Roach
Pat Snider
Ron Surgenor

July 8, 1976, Chicoutimi

Camille Girard
Laval Gagnon
Sergieh F. Moussally
Gérard Talbot
F.-R. Thériault

September 7, 1976, Regina

Sharon and Terry Russel
Samuel Winestock
Steven Heeren
Donald Mitchell

September 8, 1976, Edmonton

Edmonton Chamber of Commerce
Represented by:
John Barry
E. R. Baxter

New Democratic Party, Alberta
Represented by:
A. McEachern

The Automotive Retailers Association of Alberta
Represented by:
Perley Vail and Des Achilles

Alberta Federation of Labour
Represented by:
Harry Kostiuk
Warren Carogata

The National Automotive Trades Association
Represented by:
Mr. Dixon

Richard Cook
Dennis Marryat
Denis Goodale
Frank Riddell
David Leadbetter
Raymond Pallard
Joseph Pallard

September 9, 1976, Yellowknife

The Northwest Territories Legislative Assembly
Represented by:
Dave Nickerson, Member for Yellowknife-North

Yellowknife Chamber of Commerce
Represented by:
Grant Hinchey

Consumers' Association of Canada, Yellowknife
Represented by:
Diane Lonegan
Donna Lang

September 13, 1976, Thunder Bay

Ontario Anti-Poverty Organization, Thunder Bay Branch
Represented by:
Simon Hoad

Louis Pelletier

Thunder Bay Chamber of Commerce
Represented by:
Jack Masters

Frederick J. Anderson, Lakehead University

Communist Party of Canada, Northwestern Ontario Branch
Represented by:
Phil Harris

Carl Rose
Paul McRae, M.P.

APPENDIX D

Research Studies

The research we undertook has been grouped under four headings: corporate background reports; corporate case studies; technical reports and economic studies; and social implications studies. The studies in each category published by the Commission are described below. The number attached to each study is for publication and ordering purposes and does not reflect the sequence in which the studies were undertaken or completed.

Corporate Background Reports

The first part of our mandate requires us to "inquire into... the nature and role of major concentrations of corporate power in Canada". One of our first actions was to commission a number of historical studies by financial analysts on the structure, financing and growth of large diversified Canadian enterprises. These studies are based largely on information that has been publicly available at one time or another but that has not previously been drawn together and analyzed in one place. They were prepared with the knowledge and cooperation of the companies involved. The series was coordinated for us by Charles B. Loewen of Loewen, Ondaatje, McCutcheon & Co. Ltd., an investment firm in Toronto.

Argus Corporation Limited, by Harry T. Seymour (RCCC Study No. 1). Background to Argus Corporation Limited, interlocks with other companies, major long-term investments, unrealized initiatives by the company and growth and financial performance.

Brascan Limited, by E. Roy Birkett (RCCC Study No. 2). Background to Brascan Limited, including history of John Labatt Limited, Jonlab Investments Limited and other related companies; comments on methods of buying and selling Canadian companies.

The Cadillac Fairview Corporation Limited, by Ira Gluskin (RCCC Study No. 3). The historical background of the company, its financial performance and rate of return, its share of various markets, operations of different divisions, diversification, and a comparison with other public real estate companies.

Canada Development Corporation, by Michael R. Graham (RCCC Study No. 4). The political origins of CDC, its objectives and operating policies, current perspectives, the motivation for various mergers and acquisitions, including Texasgulf, and the effects of the acquisitions on the companies, the industries, the investors and Canada.

Canadian Pacific Investments Limited, by Terrance K. Salman (RCCC Study No. 5). History of the company, its relationship to Canadian Pacific Limited and its financial performance; major acquisitions of the company; profiles of the 13 main subsidiaries.

Domtar Limited, by Murray Savage (RCCC Study No. 6). History of the company, its acquisitions and divestitures, its relationship with Argus Corporation and external relations.

The Molson Companies Ltd., by Michel G. Perreault (RCCC Study No. 8). The brewing operations of Molson, Molson's acquisition policy, with case studies of four acquisitions, its financial structure and performance and its use of human resources.

Noranda Mines Limited, by Patrick J. Mars (RCCC Study No. 9). History of the company since 1945, its corporate structure, methods employed in acquisitions and takeovers, unsuccessful acquisitions and financial performance.

Power Corporation of Canada, Limited, by C. J. Hodgson, J. E. Douville, Norman Heimlich and Nicholas Majendie (RCCC Study No. 10). Corporate acquisitions and investments, financial performance and ownership structure, including the role of Nordex, Gelco, subsidiaries and affiliates.

Rothmans of Pall Mall Canada Limited and Carling O'Keefe Limited, by Robert G. Shoniker (RCCC Study No. 11). The relationship of Rothmans of Pall Mall with Carling O'Keefe; the histories and acquisitions program of each company; the involvement of Argus Corporation in Canadian Breweries Limited.

George Weston Limited, by D. Tigert (RCCC Study No. 12). The corporate structure and financial history of George Weston Limited and Loblaw Companies Limited, their competitive position in each market and the acquisition program from 1928 to 1975.

Corporate Case Studies

Three of our studies relate to large but not diversified corporations, and their economic and social impacts. One of these firms, Alcan Aluminium, is a major Canadian refining and manufacturing company with almost equal shares of domestic and foreign ownership and with extensive overseas operations. A second, IBM Canada, is the Canadian element of a large multinational company, foreign-owned and in a high-technology industry. A third, MacMillan Bloedel Limited, is a large resource-based company, primarily Canadian-owned and controlled and selling largely in the export market. A fourth study, *The Irving Companies*, looks at an example of regional concentration. The

companies were selected to illustrate the diverse nature, role and implications of such large business units in Canada. The reports were prepared by professional economists.

Alcan Aluminium Limited, by Isaiah A. Litvak and Christopher J. Maule (RCCC Study No. 13). The historical evolution of Alcan, the Canadianization of its operations, its corporate strategy and structure including diversification, integration, and international operations; the corporate impact on Canada.

IBM Canada Ltd., by Marcel Côté, Yvan Allaire and Roger-Émile Miller (RCCC Study No. 14). The history and development of IBM and IBM Canada; the market power of IBM in data processing products, including demand growth, market share, and segmentation; organizational structure and management principles, political power and social responsibility.

The Existence and Exercise of Corporate Power: A Case Study of MacMillan Bloedel Ltd., By R. Schwindt (RCCC Study No. 15). The Pacific Northwest forest products sector, supply and demand, industry structure and conduct, the economics of the company and its component industries, corporate structure and strategy and the economic and social implications of company operation.

The Irving Companies (RCCC Study No. 16). The study on the Irving group of companies discusses the size, scope, strategy and structure of an ownership-linked group of companies that constitute a significant regional concentration of ownership in Canada.

Technical Reports and Economic Studies

A third series of our studies used economic, mathematical and statistical analysis to draw conclusions from available aggregate and sectoral data. The first study undertaken attempted to measure quantitatively the relationship between the size or other dimensions of corporate structure and corporate economic performance. A second analyzed some of the relationships among corporate size, diversification and financing. A third was a statistical analysis of the patterns of ownership and interlocking personnel of corporate complexes, measuring the effects of different definitions of control on industrial concentration ratios. Other studies followed as different issues arose from briefs, hearings and our own deliberations.

Enterprise Structure and Corporate Concentration, by Stephen D. Berkowitz, Yehuda Kotowitz and Leonard Waverman (RCCC Study No. 17). The effects of changing enterprise definitions on concentration ratios, using ownership ties, directorship, officership and executive board ties.

Corporate Dualism and the Canadian Steel Industry, by Isaiah A. Litvak and Christopher J. Maule (RCCC Study No. 19). Competitive aspects of corporate dualism, the specific case of dualism in the Canadian steel industry and the effect of dualism on competition.

Notes on the Economies of Large Firm Size, by D. G. McFetridge and L. J. Weatherley (RCCC Study No. 20). Statistical analysis of the various economic

advantages that may be related to corporate size; economies of scale in marketing, financial activity, the cost of raising capital, efficiency in the disposition of capital, risk-taking, progressiveness, export ability and management functions.

Reciprocal Buying Arrangements: A Problem in Market Power? by W. T. Stanbury (RCCC Study No. 24). Survey of the Canadian and U.S. literature and empirical evidence on reciprocal buying arrangements, including a review of the contested cases in the United States.

Studies in Canadian Industrial Organization, by Richard E. Caves, Michael E. Porter, A. Michael Spence, John T. Scott and André Lemelin (RCCC Study No. 26). A series of studies on comparative market structures, diversification in manufacturing industries, the sources of concentration, market power and the cost of capital, market performance and industrial efficiency. The studies share a common origin in a large, integrated data set of variables on the manufacturing and distribution sectors and for firms in Canada and the United States.

Corporate Concentration and the Canadian Tax System, by Stikeman, Elliott, Tamaki, Mercier & Robb (RCCC Study No. 28). Some of the ways in which the Canadian income tax system may encourage or discourage corporate concentration, including tax concessions, investment tax credit, capital cost allowance, consolidation of returns, designated surplus, dividend stripping and rollover provisions.

Economies of Scale in Manufacturing: A Survey, by Donald J. Lecraw (RCCC Study No. 29). A survey of the economies of scale available to Canadian manufacturers at the product, multiproduct plant, multiplant and firm levels. It summarizes the theoretical literature and describes the evidence on these economies of scale for firms in Canada.

Concentration Levels and Trends in the Canadian Economy, 1965-73, by Christian Marfels (RCCC Study No. 31). Overall and aggregate concentration in the Canadian economy in eight divisions of the economy and in manufacturing, mining and logging industries; a comparison of Canadian concentration levels and trends with those in other countries.

Conglomerate Mergers, by Donald J. Lecraw and Donald N. Thompson (RCCC Study No. 32). Economic aspects of the growth of conglomerate firms in Canada: their structure, acquisition patterns, the efficiency of conglomerate firms and the role of conglomerates in fostering or inhibiting competition.

Mergers and Acquisitions in Canada, by Steven Globerman (RCCC Study No. 34). The theoretical motives for mergers, empirical evidence on mergers and acquisitions in Canada, primary and secondary merger consequences and alternative approaches to merger policy.

Social Implications Studies

Eight of the studies we are publishing relate to the social implications of corporate concentration. Far less Canadian literature exists in the social area than in the economic; readers could certainly think of literally dozens of other

studies that might have been undertaken. The studies listed cover a sampling of areas that we felt to be important, and which served as a general indication of the degree to which there were major unresolved problems in the social area. As an indication of the diversity involved, one of the first studies undertaken was on Canadian requirements for disclosure of corporate information; the second was a study of the concept of social responsibility as it has developed thus far in Canada; the third was a study of recent changes in Canadian laws regarding political contributions and the role of corporations as a source of funding for political parties.

Corporate Disclosure, by John A. Kazanjian (RCCC Study No. 18). An analysis of existing requirements for corporate disclosure under provincial regulation, federal regulation, and U.S. securities regulation; the corporate justification for limiting disclosure and various proposals for expanding corporate disclosure.

Corporate Social Performance in Canada, by R. Terrance Mactaggart (RCCC Study No. 21). The concept of corporate social responsibility as it is perceived and practised by managers of large corporations, its probable evolution and its impact to date on Canadian corporate practice.

Party, Candidate and Election Finance, by Khayyam Z. Paltiel (RCCC Study No. 22). The traditional pattern of Canadian political party finance, federal and provincial election expense legislation, the control of political financing in other jurisdictions.

La Presse, by Yvan Allaire, Roger-Émile Miller and Paul Dell'Aniello (RCCC Study No. 23). The relationship and the forms of power and control that exist between Power Corporation and *La Presse*.

Personnel Administration in Large and Middle-Sized Canadian Businesses, by Victor V. Murray and David E. Dimick (RCCC Study No. 25). Comparison of a number of dimensions of employee relations practices in ten large enterprises, with ten middle-sized enterprises in the same industries in Canada.

Organization Size and Alienation, by John W. Gartrell (RCCC Study No. 27). The relationship between organization size and alienation based on survey results from two large cross-sectional studies, one carried out in Canada and one in the United States.

The Social Characteristics of One-Industry Towns in Canada, by Alex Himelfarb (RCCC Study No. 30). The general consequences of a community's dependence on a single or dominant industry: a review of the literature in Canada.

Organization Size as a Factor Influencing Labour Relations, by T. H. White (RCCC Study No. 33). A literature review and data analysis on the relationship between corporate size and labor relations, using variables of commitment to organization, labor relations climate and job satisfaction.

APPENDIX E

Staff

Senior Officers

Yves Bériault, Assistant Counsel
Serge Bourque, Executive Secretary
Martin H. Freedman, Counsel
Tony P. Going, Executive Assistant to the Chairman
Richard M. Hofer, Assistant Secretary
Donald J. Lecraw, Chief Economist
Donald N. Thompson, Director of Research

Senior Adviser

Robert T. Morgan

Research Consultants

Richard E. Caves
Steven Globerman
D. Craig McKie
Victor V. Murray
Gilbert B. Reschenthaler
William T. Stanbury
Leonard Wrigley

Editors

Louis P. Chabot
Claire Dumais-Sabourin
Elizabeth Ediger
Mary E. Gallant
Ruth E. Hood
J. Henriot Mayer
Jean Pouliot
Moyra Tooke

Staff

Diane Attfield
Paula Barry
Alice Bourdon
Nicole Comtois
Judy Chatfield
Helen Cutts
Norah Curley
Jane Davey
Madeleine deCarufel
Sushama Gera
Barbara Glover
Lise Gougeon
Louise Haines
Robert Haydon
Anne Hindley
Neera Huckvale
John Itty
Anita LaRose
Hélène Lamontagne
Nicole Leclerc
Barbara Michalos
Margaret Oughtred
Lorraine Parent
Sam Patayanikorn
George Pickering
Marianne Potts
Amrik Rakhra
Anne Redpath
Robert Rudd
Martha St. Pierre
Indu Sahni
Marie-Paule Scott
Jeffrey Shaffer
Margaret Twiss