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**DRAFT FINAL REPORT OF THE
TASK FORCE ON BROADCASTING**

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TASK FORCE REPORT
NOTICE TO THE READER

This **Draft Report**, is one of thirteen **internal working documents**. It was produced by a group of departmental officials from various regions, branches and levels. However, these representatives have been chosen on their own merit but not to represent their sector's interest. The mandate of the Task Force was to assess activities currently carried out by DOC and to develop proposals for consideration by Senior Management in its current Strategic Review exercise.

This document reflects the result of discussions and debates which took place over eight weeks, an extremely tight timeframe. It presents recommendations and suggestions for rationalizing and reorganizing Departmental activities. It is a good first attempt at building creative and innovative solutions. The views expressed are those of the majority of participating members except where stated otherwise and **ARE NOT BINDING** senior management.

The contents of this Report are **PROPOSALS** based on internal discussions relying on the information available at the time. The feasibility of the proposals' implementation has not yet been fully considered, **NOR HAVE THEY BEEN APPROVED BY SENIOR MANAGEMENT**. Cost estimates and associated job savings are approximations and would require further study before they could be confirmed. It is recognized that some information contained in this Report has not been fully substantiated or edited. This reflects the complexity of the subject matter as well as the impossible task of obtaining accurate or requested data for developing recommendations within the short time frame. The limited resources available to the Task Forces also presented challenges. There may be convergence or divergence of views with other working documents which will need to be looked at in context.

The Report will serve to stimulate further debate and discussion on important matters relevant to Departmental activities. There will certainly be further review and analysis of some of the recommendations to ensure an accurate portrayal of the issues.

The thirteen reports are available in the language in which they were prepared. They were delivered to the Department of Communications Strategic Review Committee. Executive summaries are available in both official languages.

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RAPPORT DU GROUPE DE TRAVAIL AVERTISSEMENT AU LECTEUR

Ce **RAPPORT DE TRAVAIL PRÉLIMINAIRE** - un de treize - est le fruit du labeur d'un groupe d'employés du ministère provenant de régions, de directions et de niveaux divers. Il faut toutefois noter que ces employés n'ont pas été choisis comme représentants de leur secteur, mais bien sur la foi de leur propre compétence en regard de la tâche à accomplir. Ce groupe avait comme mandat de réévaluer les activités courantes du MDC et d'élaborer, dans le cadre de l'examen stratégique, des propositions devant être soumises à l'attention de la haute gestion.

Ce document est le résultat de huit semaines de discussions et de débats, soit un échéancier extrêmement ambitieux. Il contient des recommandations et des suggestions visant à rationaliser et à réorganiser les activités dont le ministère est responsable. C'est là un premier essai d'examen de solutions qui se veulent imaginatives et innovatrices. Ces vues sont celles de la majorité des participants sauf là où une dissidence a clairement été exprimée. Ces rapports **NE LIENT AUCUNEMENT** la haute gestion.

Les **PROPOSITIONS** contenues dans ce rapport sont le résultat de discussions internes alimentées par l'information alors disponible. Le réalisme de ces propositions n'a pas encore pu être pleinement vérifié. **ELLES N'ONT PAS NON PLUS REÇU L'APPROBATION DE LA HAUTE GESTION.** L'estimation des coûts, tout comme les prévisions d'épargnes ne sont que des approximations qui nécessiteraient, pour pouvoir être certifiées, des analyses plus poussées. Nous sommes pleinement conscients que certains des renseignements contenus dans ce rapport n'ont pu être homologués ou édités. Cet état de fait illustre tant la complexité du sujet traité que l'extrême difficulté, voire l'impossibilité, d'obtenir, en si peu de temps, les données sollicitées ou des données fiables sur lesquelles fonder des recommandations et ce, sans compter le peu de moyens dont disposait le groupe de travail. Il est possible que les points de vue exprimés dans les divers rapports soient conflictuels, d'où la nécessité de prendre en compte le contexte.

Ce rapport servira de point de départ à d'autres débats et à d'autres discussions sur les sujets d'intérêt pour le ministère. Certaines des recommandations contenues dans ce rapport feront, certes, l'objet d'examen plus approfondis et d'analyses plus fouillées afin de s'assurer que les enjeux dont il est question y soient clairement définis.

Tous les rapports sont disponibles dans la langue dans laquelle ils ont été rédigés. Ils ont tous été déposés devant le Comité d'examen stratégique du ministère des Communications. Les résumés sont disponibles dans les deux langues officielles.

REPORT OF THE TASK FORCE ON BROADCASTING

In establishing the Task Force on Broadcasting, the Strategy Committee of DOC recognized that its mandate was to be unlike that of the other Task Forces struck to look at the various aspects of the Strategic Review. From the outset, it was agreed "that DOC's approach to broadcasting is a critical strategic and structural question, rather than an issue for a cost containment exercise". In this context, the Task Force on Broadcasting was mandated to conduct a policy review of each element of broadcasting activity within the Department of Communications and to make recommendations as to where the responsibility for broadcasting should reside within the department. (The complete terms of reference can be found at **Annex 1.**) The Task Force held 9 meetings from March 9 to May 11. This report contains the findings and recommendations of the Task Force.

Members of the Broadcasting Task Force

Sean Berrigan (chair)
Ron Begley
Gaston Blais
André Couture
Patricia Dumas
Dorothy Franklin
Elizabeth Gilhooly
Michael Helm
Lorna Higdon-Norrie
Peter Homulos

Adam Ostry
Georges Richard
Bill Sawchuk
Susan Scotti
Richard Matthews
Jan Skora
Phuong Vu
Kevin Lamarque (Sec)

On behalf of the Members of the Task Force, the Chair would like to thank the staff from the three broadcasting branches who provided cogent and timely background papers and analysis, and greatly assisted the Task Force in its deliberations.

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- Annex 1 - Terms of Reference
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 - b) History of DGBP
- Annex 5 - CRTC's Role in Broadcasting and its Relationship to DOC

Introduction

The work of the Department of Communications is guided by its mission; to help Canadians share their ideas, information, and dreams. This statement reflects the fact that DOC is bound together by its purpose and over the past ten years the department has created a synergy of purpose whereby the total is indeed greater than the sum of its parts.

The responsibilities of the department have two dimensions: to ensure that Canada's communications systems evolve in an orderly fashion at the forefront of global developments while continuing to meet the needs of all Canadians at affordable cost; and to ensure that Canadians have the freedom to choose a wide selection of Canadian cultural products and information services among the broad international choice being carried through our communications systems. In this context, the commonalities within the department lie not so much in what we do but why we do them, and our central challenge is to achieve a balance between the two imperatives.

Broadcasting in all its component parts, is the nexus which links and reflects these two distinct, but converging dimensions. The challenge for broadcasting is that, even in an era of convergence, it must continue to serve these two distinct orientations. The mission of the Canadian broadcast system, articulated in the Broadcasting Act is to provide "through its programming, a public service essential to the maintenance and enhancement of Canadian sovereignty." (Canadian Voices Canadian Choices) The Broadcasting Act declares that the Canadian broadcasting system should: "serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada.; and to encourage the development of Canadian expression..." ("Broadcasting Act", Statutes of Canada, Chapter 12, Sec.3,(d)[i]).

Our broadcasting system brings Canadians together and therefore promotes that shared sense of experience which is fundamental to our national cultural identity. The Government's policy on broadcasting, adopted in 1988, has recognized that broadcasting goes well beyond the traditional over-the-air technologies of "radiocommunication" and will increasingly overlap and converge with telecommunications. Within this broadened scope, broadcasting jurisdiction can be defined not so much by technologies that carry and disseminate signals, however, as by the content of those signals. (op.cit. Relevant section of Broadcasting Act to be appended in **Annex 2.**)

Legislative Responsibilities for Broadcasting

The department's legislative responsibilities for broadcasting are based on three important principles:

- Canada's airwaves (the Spectrum) are owned by the public and should be administered by the federal Government in trust. Radio frequencies, therefore, may not be owned -- usage of them is a privilege. By their nature, radio waves spill across provincial and national borders.
- Broadcasting is a "medium of communication" that is protected under the Charter and, thus, the kind of regulatory or legislative controls placed on it touch one of the fundamental freedoms of all Canadians - that is "freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication."
- Broadcasting has been seen, since its inception, as an activity having important implications in the areas of social policy, cultural and artistic development, technological and industrial development, and national identity.

Broadcasting is governed by the following pieces of legislation:

- Broadcasting Act
- Radiocommunications Act
- CRTC Act
- Department of Communications Act
- Telecommunications Bill, upon Royal Assent and Proclamation

A synopsis of these acts can be found in **Annex 3**.

Historical Overview

The Department of Communications' mandate has encompassed Broadcasting activities in the policy, spectrum management and research fields since its establishment in 1969.

In 1969, among the duties acquired by the Minister of Communications were the licensing responsibilities under the Radio Act, exercised until then by the Minister of Transport. The following two branches which had previously existed in separate departments were brought together with the new Department of Communications:

- the Department of Transport's Telecommunications Policy and Administration Bureau which administered the Radio Act through its technical regulation of radio frequencies and licensing of users; (this would eventually evolve into the three Spectrum Branches DGRR, DGBR and DGEP); and
- the Defence Research Board's telecommunications establishment which included laboratories dealing with communications satellites, radio propagation and other aspects of electronics. This entity formed the basis of what was to become the DOC's Communications Research Centre. (DGBT was to develop within this configuration of research activities.)

On December 27, 1972 the powers, duties and functions of the Secretary of State under Part II of the Broadcasting Act, concerning the CRTC, were transferred by Order-in-Council from the Secretary of State to the Minister of Communications.

Departmental organization charts in March 1973 show the presence of a Planning Sector which included a Social Policy and Programs Branch which eventually evolved into DGBP in April 1979, when it became known as the Broadcasting and Social Policy Branch. This Branch stayed within this sector, (renamed Policy Sector in 1981) until it was transferred to the new ADMAC sector (Cultural Affairs and Broadcasting) in 1985. It remained in that sector until July 1990, when the current ADM Communications Policy structure was adopted.

By February 1981, the Broadcasting Regulations Branch was a distinct entity answering to the ADM Spectrum Management and Government Telecommunications.

Broadcast Technology Research became a separate entity under the ADM Telecommunications and Research in 1987. (A more detailed historical review can be found at Annex 4.)

Review of Broadcasting Activities

Broadcasting as a term has taken on a variety of connotations and evokes different impressions depending on who the audience is. It is used as both a noun and a verb. For someone familiar with the International Telecommunications Union (ITU), broadcasting is simply a form of radiocommunication intended for direct reception by the general public, which in turn is a subset of telecommunications. In the Broadcasting Act proclaimed in 1991, a different and broader definition was used. (see Annex 2) However, neither of these is adequate to describe the range of activities performed by the department in relation to broadcasting. A large portion of what is described as broadcasting activity within the department is to provide support to make it possible "to broadcast". Other activities relate to questions of support and regulation of those "who broadcast", questions of "what is broadcast" and, beyond that, to the quantification and assessment of the impact of "broadcasts" on the viewing and listening public.

These broadcasting activities are carried out primarily in three branches: **Broadcasting Policy (DGBP), Broadcasting Regulations (DGBR), and Broadcast Technologies Research (DGBT)**, each located in separate sectors. Because the Broadcasting Task Force was asked to undertake a strategic policy review, separate from other related task forces, it began its work by examining the functions and relationships of these three branches. In order to do so, the Task Force reviewed broadcasting activities generically by examining the functions that are being undertaken in the department. These functions can be classified under three broad categories:

1. **Broadcast Policy and Planning;**
2. **Broadcast Spectrum Management and Technical Regulation; and**
3. **Broadcast Technologies Research.**

Broadcast Policy and Planning

Industrial Policy and Relations

- Undertakes policy development and relations with all components of the broadcasting industry (other than CBC and TV5) including radio, television and networks, pay and specialty services and cable operators, new technologies such as DAB and HDTV, satellites.

Public Broadcasting

- Responsible for policy and regulatory affairs and funding of CBC and TV5, as well as provincial broadcasters.

Economic, Regulatory and Audience Analysis

- Maintains data base and analysis of industry economic and financial performance, audience ratings and statistics, corporate profiles; and analysis and tracking of CRTC hearings, decisions, Appeals to Governor-in-Council and Policy Directions to the CRTC.

Broadcast Related Spectrum Policy

- Secures spectrum resources within the scope of the Canadian broadcasting objectives and Broadcasting Policy Framework.
- Develops spectrum policy in order to facilitate the release of new allocations for broadcasting and the development of suitable microwave and satellite facilities for program transmissions to broadcasting undertakings.

Access Policy and Social Concerns

- Responsible for access and social policy issues related to Section 3 of the Broadcasting Act (specific functions include violence, sex-role stereotyping, Broadcast Reading Service, Television Northern Canada, closed-captioning for the hearing impaired, and employment equity.)

International Policy and Trends

- Maintains coherent focus for tracking international broadcasting policy and trends required because of TV5, spectrum and technology planning and social concerns.

Programming and Production Support

- Undertakes activities related to ensuring an adequate supply of material for Canadian content requirements (Broadcast Fund, Sound Recording Support, Tax measures [Bill C-58] etc.).

Spectrum Management and Technical Regulation

Regulation

- As an essential part of the spectrum management programme, undertakes the ongoing technical regulation and certification of all AM, FM, TV, Cable and Satellite Broadcasting. This ensures that all broadcasting facilities work in concert as they are intended to work.

Standards and Procedures

- Develops and implements all standards, engineering procedures, allotment plans, and legal authorization documents needed to carry out this responsibility.

International

- Obtains spectrum allocations needed for Canadian broadcasting via ITU in concert with DSRS in the Telecom Policy Branch and International Relations Branch.
- Negotiates formal legal spectrum sharing Agreements with other countries.
- Ensures that timing of Canadian activities relate to international broadcasting events.

Planning/New Technology

- Undertakes the development of spectrum utilization planning, allotment plans and the technical elements and criteria necessary for the orderly introduction and implementation of new technologies such as DAB, HDTV, satellites.

Broadcast Technologies Research

Technologies Assessment and Development

- Undertakes research into advanced television (ranging from improvements to present-day TV to HDTV); advanced radio (ranging from improvements to present-day AM/FM broadcasting to fully digital radio); new broadcast services technologies; and into specific issues such as digital video compression, subjective assessment of video and audio, etc., that impact the planning and provision of future broadcast services.

Broadcast Systems Studies

- Undertakes research into spectrum efficient techniques for broadcasting; interoperability among off-air, cable, satellite and alternate delivery means; universal access methods for discretionary services; as well as development of coverage planning tools to support spectrum management and technical regulation.

Technical Standards

- Undertakes research related to the investigation and formulation of technical standards for broadcast systems, and which contribute directly to the development and establishment of regional and international broadcast spectrum allocations and emission standards.

Technology Support to Industry

- Engaged in activities related to the transfer of technology and "know how" to industry for exploitation to encourage a concerted approach by Canadian industry for the introduction of new broadcast technologies and thereby supporting economic growth and improving the quality and diversity of broadcast services available to the general public.

Service Concepts Development

- Conducts research into the features and requirements of new broadcast services, convergence of broadcasting with telecommunications and computer technology, and other related topics that impact future integrated service offerings and requisite policy development.

Related DOC Activities

In addition to the three branches, DOC undertakes other activities which through their content and influence contribute to the continuing health and innovation of the Canadian broadcasting system. While not linked in an organizational way to the broadcasting functions previously described, the visions expressed by our film makers, actors, sound recording artists and performing artists do have strong thematic linkages to broadcasting, and go to the heart of our need for information and our freedom of expression, as well as our access to our own cultural experience.

Cultural Industries Branch (DGCI)

The Cultural Industries Branch formulates policies, proposes legislation and designs and administers programmes in the fields of film and video, sound recording, publishing and copyright law. Its objective is to support the cultural and economic development of the cultural industries in Canada, as well as enhance the production and distribution of Canadian films, video programmes, sound recordings, books and periodicals and to ensure their availability to Canadians. Furthermore, through the development of copyright policy and legislation, DGCI is mandated to ensure the legal recognition and protection of the economic and moral rights of creators. The ongoing development of copyright legislation ensures that there is orderly market development in the economic relationship between creators and users of content, notably between broadcasters and the works they distribute.

Arts and Policy Planning (DGAP)

The Arts and Policy Planning Branch is mandated to develop an overall policy framework for the arts, develop policies and legislation in support artists, coordinate strategic planning activities for the Arts Sector, and policies related to arts marketing, distribution and consumer development. Finally the Branch develops policies in collaboration with Sector DGs and other departmental sectors, as appropriate on cross-sectoral issues (e.g. fiscal/tax policy, international trade, federal/provincial relations, multiculturalism).

Financial Services, Minister's Portfolio (DFM/DGFM)

The Financial Services, Minister's Portfolio division has a mandate to provide advice and recommendations to the Minister and senior management regarding the financial and administrative matters of the broadcasting-related agencies (principally the CBC, CRTC, Telefilm, the NFB, and to some extent the NAC) within the Communications and Culture Portfolio. This responsibility entails the interpretation of the financial policies of Government and their impact on the ability of these agencies to fulfil their mandates. This activity takes place in close collaboration with the broadcasting, cultural industries and arts policy branches.

Related Portfolio Activities

There are five agencies in the Communications Portfolio that are engaged in activities related to broadcasting: the CRTC, the CBC, Telefilm, the National Film Board and the National Arts Centre.

CRTC and CBC

- The two agencies that are central to Government's broadcasting policy are the CRTC and the CBC. The broadcasting mandate of the CRTC is to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in the Broadcasting Act.
- The mandate of the CBC is to provide national radio and television services, in both official languages, that meet the objectives set out in the Broadcasting Act for the broadcasting system: safeguarding, enriching and strengthening the cultural, political, social, and economic fabric of Canada.

Telefilm

- While the Canadian Film Development Corporation (Telefilm Canada) does not have the legislative mandate to foster and promote the growth and development of the television industry in Canada as it does for the feature film industry, its impact upon broadcast programming production is significant. The Government's film and video policy, released in 1983, confers upon it the responsibility to assist in the development of the television industry through the investment and financing of the development, production, marketing and distribution of Canadian television productions. Through the Broadcast Fund, Telefilm has

become the primary instrument for the development of Canadian television productions. This has increased the supply of Canadian programming available to the broadcasting system.

NFB

- The National Film Board has the mandate to initiate and provide for the production and distribution of films designed to interpret Canada to other Canadians and to other nations. This mandate does not specify a role for the Board in broadcasting activities. However, the NFB has a long history of collaboration with the CBC in the broadcast of its film productions and more recently, the distribution activities of the NFB have focused on joint telecasts with the CBC/SRC, pay television (Vision TV), and foreign broadcasters.

NAC

- The National Arts Centre has a mandate to sponsor and arrange performing arts activities at the Centre, in the National Capital Region, across Canada and abroad as well as the radio and television broadcasts of performances at the Centre. It has also indicated, at the recent CRTC structural hearings that it intends to apply for a licence to operate a national pay-tv performing arts channel.

Complementarity of Portfolio and DOC Activities

The terms of reference of this Task Force call for the examination of possible complementarity of the roles of DOC and the agencies involved in broadcasting. With respect to the CRTC, the Task Force examined the public perception that this regulatory agency has become involved in policy development for the Canadian broadcast system. The Government of Canada has the ability to make policy in the area of broadcasting and sets out the broad policy framework in the Broadcasting Act. The CRTC develops operational policies to implement this policy framework. (A more detailed explanation of the CRTC's relationship to DOC can be found at Annex 5.)

As mentioned previously, the three other broadcasting-related agencies, the CBC, Telefilm and the NFB, are involved in the production, financing and distribution of programming for the Canadian broadcasting system. The CBC, in a manner fitting with its mandate as the national public broadcaster, is preoccupied with the production and distribution of its own programming.

Telefilm Canada is engaged exclusively in the financing of the production and distribution of programming for the Canadian film and broadcasting industry. The NFB is primarily involved in the production of programming that is made available to the broadcasting system. However, the NFB is also involved, to a much lesser extent, in the financing of programming in conjunction with the independent production sector. The Board is also provides technical assistance to producers in this sector.

The Task Force examined the relationship among the portfolio agencies and between them and the department, but did not have sufficient information or time to make meaningful recommendations respecting any efficiencies that could be achieved. That being said, the Task Force noted that the department has begun consideration of a full scale review of the Government's audio-visual policy which will include an examination of the current mandate of several of these agencies. The Task Force also notes the current activities relating to the pursuit of its objectives respecting the electronic highway initiative.

Industry Trends/ Emerging Public Issues

Under its terms of reference, the Broadcasting Task Force was also asked to examine the emerging trends in the broadcasting industry, in related industries as well as associated public policy issues.

The emerging trends include:

- rapid technological change which will make possible, high-powered direct broadcast satellite systems, interactive television, a 500 plus channel plus universe, new digital sound and TV systems;
- alternative delivery mechanisms to cable, satellites, over the air antennas through direct broadcast satellites and the entry of telecom carriers in the delivery of broadcast and non-broadcast services;
- increasing interdependence amongst industries: cable companies providing telecom services and telephone companies distributing video content; ownership concentration and increasing cross-ownership in cable, broadcasting and cultural industries.

The emerging public policy issues relate to:

- Content: - how to stimulate the production of Canadian programming so as to provide quality Canadian alternatives to imported programming;

- Competition - how to facilitate the introduction of competitive delivery mechanisms;
- Access - how to ensure access and affordability of broadcast services;
- Regulation - how to regulate distribution mechanisms in a competitive environment.

In March, the Canadian Radio-television and Telecommunications Commission conducted hearings on the future structure of the broadcasting industry. This hearing provided a focal point for the following questions:

- how to facilitate the introduction of new distribution technology and how to finance the infrastructure investments;
- how to fund Canadian programming and services;
- how to achieve a proper balance between Canadian and foreign services;
- what criteria should apply to the introduction of new services;

While no consensus emerged on the financing issues, most intervenors agreed on the need to introduce new technologies and services, and to enhance the amount of Canadian programming.

This hearing has been characterized as transitional by broadcasters and CRTC commissioners alike. While new rules may be needed when there is a clearer picture of what the digital world will bring, what is considered important in the short term is to take whatever regulatory action necessary to have the industry position itself to compete with US DBS services through the licensing of new services, investments in new technology and enhanced program production.

Considerations

In making its review, the Task Force realized that several themes kept arising throughout discussions. The following considerations guided the Task Force members in making recommendations in accordance with the terms of reference.

- Consideration of dividing the carriage from the content of broadcasting activities is not realistic given the inherent synergy between the methods of delivery and the content that is carried - i.e. the question of what is to be delivered and how it is to be carried. Because of our legislative,

legal and historical circumstances the ability of the Government to ensure that "what" is to be delivered is Canadian (at least in part) is determined by how it is carried. To date, distribution networks have been used to promote Canadian content objectives (as supported by the Broadcasting Act and regulations), and will continue to be a key tool in the survival of a Canadian broadcasting system.

However, as the traditional lines between communication technologies begin to disappear, and as technology opens new vistas for the development and delivery of cultural content, the nature of the relationship between what is carried and how it is carried will change and will raise policy and regulatory challenges. The rate of change of both technology and the demand for content and services will continue to necessitate a coherent and comprehensive policy development capacity.

- There is a need for greater horizontal coordination amongst related broadcast activity areas. While this is currently being done on an "ad hoc" basis, taking into consideration the trends previously cited, many of the issues that those responsible for broadcasting will face in the short and medium term transcend traditional boundaries and there is a need for more horizontal linkages all along the management chain in order to address them.
- While it may be important to bring certain broadcasting related activities closer together, it is equally important that those activities that are related to spectrum management and allocation continue to maintain close relations. Furthermore, these particular activities rely heavily on broadcast research to provide technical information and assessment. Such service is vital for the proper and orderly evolution of spectrum management and, as such, this liaison should be maintained.

Alternative Organizational Models

Much of the discussion during the deliberations of the Broadcasting Task Force focused on improving the effectiveness of broadcasting activities by analyzing different organizational structures for these activities within the Department of Communications. In doing so, the Task Force recognized that it is becoming increasingly more difficult to "draw a line" around previously autonomous and discrete functions in broadcasting. With this in mind, the Task Force discussed three broad structural options; two which formed the basis for an **Integrated Policy Sector Model** and one in the form of a **Integrated Cultural Policy Sector Model**.

Integrated Policy Sector Model

The Integrated Policy Sector model groups all the department's current broadcasting policy responsibilities together, thereby explicitly providing for cross-fertilization among the areas corresponding to the department's two basic policy objectives in an era of convergence. In this regard, the model could integrate arts policy with other policy functions, including telecom, and new media as well as broadcasting and cultural industries within one policy sector.

This model is premised on the idea that in an era of convergence, the issues and concerns affecting communications systems and those affecting cultural products and information services are so increasingly interconnected that independent analysis and treatment is no longer possible or productive. In particular, the policy development within broadcasting is also inextricably linked to arts and cultural industries as essential content services, and these content services are becoming increasingly more interdependent with the communications industries. Equally, close linkages will have to be developed with the spectrum management and broadcast research activity centres in DOC.

Pros

- This model recognizes that convergence is accentuating the links between the two basic policy objectives, and that there is a corresponding need for closer coordination of policies governing "content" and "carriage".
- It facilitates closer links and cross-fertilization among all policy units within a single policy sector, and the development of an integrated policy approach governing the full range of DOC responsibilities.

Cons

- Concentrating all policy responsibilities under one sector filters issues reaching the DM and the Minister in ways that may not always serve the interest of competing priorities.
- In addition, the natural adversarial system, which brings out the best in all organizations through competition and the free and constructive exchange of ideas may suffer under this model. In an era of competition, it could impose a monopoly of ideas and policies in one sector.

- Such a workload may prove too onerous for one senior official. Conversely, some policy areas may not receive adequate attention, given pressures of time.

A. Functional Approach

In outlining the functional approach, we have presumed a "building block" method, whereby the construction of the model is dependent upon certain structures being developed in other task forces (i.e. Task Force on Telecom and New Media, Task Force on Spectrum Management, Task Force on Arts and Culture, Task Force on Research and Development).

This approach is premised on the idea that a new broadcasting structure should be organized around its activities -- what we do and what it is we want to achieve -- rather than around various industries which are themselves rapidly changing. In order to do so, we presuppose that the Spectrum Management program would be established as a single separate unit, which administers the radio frequency spectrum group. In this model DGBR, DGRR, DGEP, some of DSRS (from DGTP) and the regional spectrum organizations, would be combined into one unit and have full operational accountability for managing the spectrum.

Given this, broadcast activities could then be divided into two functional units:

Group 1: Policy, Legislation and Regulation

- This activity area deals with those functions which are ongoing and which result from the specific legislative or regulatory mandate that the department is charged with enacting. The mandate of this group is much more "big P" policy and would provide direction to the operational groups such as the Spectrum Management program. Monitoring the adequacy of departmental legislation and regulation would fall under the mandate of this unit. In short, this activity ensures that the communications infrastructure of the country continues to operate well and efficiently to serve the Canadian public.
- This unit would be responsible for all Broadcasting Policy (excluding Group 2 support programs) including English and French Language Broadcasting Policy and Regulatory Policy. Similar activities in Telecom Policy, would also be included in this unit. In addition, this group should have at least a minimal capacity to assess technological trends and emerging issues.

Group 2: Industry Activity and Social Policy Support

This group would be responsible for those activities that are undertaken by Government to further its defined social and cultural policy objectives. In this regard, it would be responsible for all support programs intended to encourage industry activities, to further specific public policy objectives, as well as the policy analysis to support these activities. Policy development related to the development of Canadian programming and content, and emerging issues such as violence on television, privacy in telecom, etc. would be included in this group. This group would be responsible for continuing activities such as TVNC, TV5, Broadcast Reading Service, etc.

Pros

- It is a fundamentally new and radically changed organization. Dramatic changes in organizational structures cause people to re-evaluate the way functions were carried out in the past and to re-align or re-orient them on an ongoing basis, so as to be more effective in the future.
- It would encourage DOC staff to think in a broader perspective. As we undergo reductions in our resources over the next several years, we will have to ensure that we get the most out of the employees left with us. Broader thinking requires a broader set of skills and could yield more effective output. It would encourage the development of the wider skill set and ideally could result in more motivated employees and greater job satisfaction.
- Breaking from the industry based structure could be considered forward thinking, given the trends towards convergence and blurring of delineation between currently defined industry groups. The communications business is increasing the pace at which it develops new products, programming and services at ever increasing speeds. This is likely to continue to increase in the future. The organization we develop to deliver policies and programs to meet the public's and the Government's needs must similarly be able to cope with this pace. Current industry segmentation in the bureaucracy may not encourage sufficient collaboration and teamwork.
- It can be argued that more horizontal organizations encourage more strategic thinking and action. Setting up organizations in a more horizontal, functionally related way encourages teamwork. Team thinking affects all levels of an organization. We have discussed the benefits of team work in the context of short term working groups.

This organization puts elements of working groups into place on a longer term basis.

- The number of middle management positions and attendant resources could be reduced.

Cons

- This structure takes a quantum leap into the future, without having prepared the necessary groundwork.
 - While industries are converging, they are in a state of transition and may still require different approaches during this period.
 - This approach may be too radical for client groups, departmental employees, and other Government organizations to accept without an appropriate transition period. Inevitable confusion could rein both within and outside the organization as a result of blurred lines of distinction (i.e who serves whom, who is responsible for what activity etc).
 - It will, therefore, require a period of transition, in which staff would be trained in areas of expertise that they do not now possess.
 - In addition, it could mean major dislocation and re-assignment of staff.
- By setting up expertise on an activity basis, the model risks losing the synergy and creative tension inherent in a system which must, by design, draw on the opinions of many who have an interest in an issue/activity, both within and outside the department. It is through this process of exchanging and balancing different views and interests that an integrated and pragmatic policy approach is developed.
- It could be argued that this structure sets up carriage and content along separate vertical lines.

B. Industry Approach

This approach builds on the current configuration of broadcasting policy functions, currently based in ADMCP, which are structured along industry lines. It is premised on the idea that policy development for broadcasting is intricately

related to the policy developments for the larger communications sector. It acknowledges equally the importance for broadcasting policy to recognize the cultural industries as essential content services, which are becoming interdependent with the broadcasting industry, as well as those arts policy activities which deal with the creators of content services. Discussion in the Task Force led members to consider the possibility of placing DGCI, DGBP, DGTP, DGNM, and DGAP within this sector.

The changes needed to modify the department's current structure, in this approach, are not that many. It acknowledges, that while convergence may be occurring, it has not yet been fully realized. Notwithstanding the pressures in this era of constant change, there is still a need for expertise and distinct points of view from a variety of perspectives, particularly because there may be no one "right" way to proceed.

Pros

- Few organizational changes are required;
- This option houses all broadcast related policy activities in one sector;
- It ensures more than one point of view comes to bear on an issue;
- It relies on expertise built up in the department and ensures a synergy and creative tension which, by design, draws on the opinions of many who have an interest in an issue/activity;
- This approach reflects within the organization, and for client groups the close links between DOC's two basic policy objectives of carriage and content.

Cons

- This option provides very little innovation from status quo.
- It may not adequately reflect the changes manifest in an era of convergence;
- These changes could be interpreted by the arts community as a diminution of their stature and of their perceived value as a unique voice of Canadian culture.

2. Integrated Cultural Policy Sector Model

The Integrated Cultural Policy Sector Model is premised on the assumption that the functional and operational links between broadcasting, film and sound recording are more critical to DOC's mandate for cultural policy than its functional and operational links between broadcasting and communications delivery systems. The model recognizes that both links are important but that the former is more critical to DOC's mandate than the latter, both in terms of policy and politics.

This model groups all culturally related activities together, similar to the ADMAC structure which was in place from 1985 to 1990. Under these circumstances, broadcasting activities would be integrated with film/video and sound recording activities in the department, as well as some of the CRTC monitoring functions. These activities would be structurally linked to, but not integrated with other cultural activities such as arts/publishing policies and programmes and heritage policies and programmes. The broadcasting functions that deal with technical regulations or with research would not be included under this structure, although linkages to them must be established.

Pros

- This model reflects the current constellation of cultural activities that are symbiotically inter-dependent and brings together all culturally related activities that are closely aligned (and that will continue to be so).
- It responds to the call for the development and production of quality

Canadian programming to address the increased competition and technological challenges facing the broadcasting industry.

Cons

- This model could be criticized as being too focused on balancing historic alliances rather than building on the changing alliances resulting from convergence.
- It clearly challenges the idea that content and carriage are indivisible.

Recommendations

The Task Force is well aware that there is no perfect organizational structure and that each of the options described earlier involves a series of trade-offs. As the Historical Overview recognized, since 1980, the broadcasting activities within DOC have gone through six iterations, reflecting its evolutionary nature and the necessity to adapt to specific needs and challenges.

The functional approach may indeed be the structure that DOC should aim to reflect in the medium to long term. But, like the broadcasting system itself, this model requires a transition period. It would present some near to medium term difficulties both for those clients whom we serve and for the employees of DOC. To adopt that structure immediately and unilaterally could prove to be too disruptive. Before we could contemplate such a departure from the current organizational structure we believe it is essential that the department first change its thinking, attitudes and culture towards more a horizontally interactive organization, based on the principle of convergence.

RECOMMENDATION 1

- **The Task Force on Broadcasting recommends that from the Deputy Minister down, management style and practices be adopted to foster and enhance greater horizontal interaction throughout the Department of Communications at all levels.**

Peter Senge (The Learning Organization) has stated that "the 20th Century will be seen as a revolution-- from seeing the world as one primarily made up of things to fundamentally made up of relationships". Leinberger and Tucker (The New Individualists) describe companies around the world as being forced into "permanent adhocracy" to deal with the fast moving changes in their markets. Regardless of what organizational structure is ultimately put in place, departmental employees must be empowered to assume a broader view in their thinking (to mirror the convergence of issues) so that questions are not looked at narrowly or from traditional perspectives.

RECOMMENDATION 2

- **The Task Force on Broadcasting recommends that, in the area of broadcasting activities, it is evident that the three major broadcasting branches must work closer together in a collaborative fashion in order to share information and develop an integrated policy approach in developing strategy to address the technological issues facing the broadcasting industries over the next five years. The current functions of the three core branches dealing with broadcasting (DGBP, DGBR, DGBT) were closely scrutinized and the Task Force is of the view that they are distinct activities. These activities, however, are mutually dependent and significantly affect one another. Close communications amongst them is, therefore, essential and this interaction could be accomplished either by integrating these branches or, by establishing a more formal mechanism for consultation and collaboration. A clear consensus among members is that the integration of the three branches is not a viable option.**

RECOMMENDATION 3

- **The Task Force on Broadcasting also recommends that these branches work in closer collaboration with other branches, such as DGCI, DGAP and the regions having responsibilities related to broadcasting, in order to enhance comprehensive policy development.**

RECOMMENDATION 4

- **The Task Force on Broadcasting recommends that the Strategy Committee consider pursuing further examination of the models proposed in this report, in concert with organizational recommendations from other Task Forces.**

This Task Force has recommended three organizational options for consideration: within the Integrated Policy Model, the Functional Approach and the Industry Approach, and the Integrated Cultural Policy Model. It did not feel, however, that it had sufficient time to analyze in depth the merits of the models, nor the benefit of other Task Force recommendations, to determine the feasibility of such a structure.

RECOMMENDATION 5

- The Task Force is of the view that a prior decision on a structural model is necessary before any comprehensive and coherent recommendations can be made with regard to budget reductions and efficiency gains. **The Task Force on Broadcasting recommends that the Steering Committee consider examining the budget activities of broadcasting, once the task forces examining Telecom and New Media, Arts and Culture, Spectrum Management and R&D, have been submitted and once a decision on a structural model has been taken.**

Although the 5, 10 and 25% reductions were not in the Task Force's specific terms of reference, it was charged with looking at "any possible efficiencies that could be gained in the way each of the broadcasting activities are delivered". Task Force members do not feel that, at this point, they have sufficient information on some of the related activities of broadcasting which are the focus of scrutiny by other Task Forces (i.e Arts and Culture, Telecom and New Media, Spectrum Management and R&D).

LIST OF ANNEXES

- Annex 1 Terms of Reference
- Annex 2 Broadcasting Act
- Annex 3 Legislative Responsibilities for Broadcasting
- Annex 4 a) History of Communications & Culture Portfolio
 b) History of DGBP
- Annex 5 CRTC's Role in Broadcasting and its Relationship to DOC

TASK FORCE ON
BROADCASTING

TERMS OF REFERENCE

TASK FORCE ON BROADCASTING

TERMS OF REFERENCE

- A. The Task Force on broadcasting will conduct a policy review of each element of broadcasting activity within DOC including: broadcasting policy, production funding, spectrum licensing and allocation, and research, and will make recommendations as to:
- where the responsibility for each of the broadcasting activities should reside within the department;
 - the relationship between broadcasting, new media, telecommunications and cultural industries, and arts and culture;
 - any possible efficiencies to be gained in the way each of broadcasting activities are delivered;
 - possible complementarity in the roles of DOC and the agencies: CRTC, Telefilm Canada, NFB and CBC;
 - the appropriate division of responsibilities between programme and policy delivery.
- B. The review will be forward looking and will consider, among other elements:
- trends in broadcasting industry;
 - trends in related industries such as film/video production, performing arts;
 - emerging public policy issues.

BROADCASTING ACT

SECTION 3

(s) private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,

(i) contribute significantly to the creation and presentation of Canadian programming, and

(ii) be responsive to the evolving demands of the public; and

(t) distribution undertakings

(i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,

(ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,

(iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

(iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

Further
declaration

(2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.

Application

Binding on Her
Majesty

4. (1) This Act is binding on Her Majesty in right of Canada or a province.

Application
generally

(2) This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board

mesure où leurs ressources financières et autres le leur permettent, contribuer de façon notable à la création et à la présentation d'une programmation canadienne tout en demeurant réceptifs à l'évolution de la demande du public;

t) les entreprises de distribution :

(i) devraient donner priorité à la fourniture des services de programmation canadienne, et ce en particulier par les stations locales canadiennes,

(ii) devraient assurer efficacement, à l'aide des techniques les plus efficaces, la fourniture de la programmation à des tarifs abordables,

(iii) devraient offrir des conditions acceptables relativement à la fourniture, la combinaison et la vente des services de programmation qui leur sont fournis, aux termes d'un contrat, par les entreprises de radiodiffusion,

(iv) peuvent, si le Conseil le juge opportun, créer une programmation — locale ou autre — de nature à favoriser la réalisation des objectifs de la politique canadienne de radiodiffusion, et en particulier à permettre aux minorités linguistiques et culturelles mal desservies d'avoir accès aux services de radiodiffusion.

(2) Il est déclaré en outre que le système canadien de radiodiffusion constitue un système unique et que la meilleure façon d'atteindre les objectifs de la politique canadienne de radiodiffusion consiste à confier la réglementation et la surveillance du système canadien de radiodiffusion à un seul organisme public autonome.

Déclaration

Application

4. (1) La présente loi lie Sa Majesté du chef du Canada ou d'une province.

Obligation de
Sa Majesté

(2) La présente loi s'applique aux entreprises de radiodiffusion exploitées — même en partie — au Canada ou à bord :

Application

- (a) any ship, vessel or aircraft that is
- (i) registered or licensed under an Act of Parliament, or
 - (ii) owned by, or under the direction or control of, Her Majesty in right of Canada or a province;
- (b) any spacecraft that is under the direction or control of
- (i) Her Majesty in right of Canada or a province,
 - (ii) a citizen or resident of Canada, or
 - (iii) a corporation incorporated or resident in Canada; or
- (c) any platform, rig, structure or formation that is affixed or attached to land situated in those submarine areas adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is greater.

- a) d'un navire, bâtiment ou aéronef soit immatriculé ou bénéficiant d'un permis délivré aux termes d'une loi fédérale, soit appartenant à Sa Majesté du chef du Canada ou d'une province, ou relevant de sa compétence ou de son autorité;
- b) d'un véhicule spatial relevant de la compétence ou de l'autorité de Sa Majesté du chef du Canada ou d'une province, ou de celle d'un citoyen canadien, d'un résident du Canada ou d'une personne morale constituée ou résidant au Canada;
- c) d'une plate-forme, installation, construction ou formation fixée à la terre dans une zone sous-marine qui est contiguë au littoral canadien et s'étend sur tout le prolongement naturel du territoire terrestre canadien jusqu'au rebord externe de la marge continentale, ou jusqu'à deux cents milles marins des lignes de base à partir desquelles est mesurée la largeur de la mer territoriale canadienne là où le rebord se trouve à une distance inférieure.

For greater
certainty

(3) For greater certainty, this Act applies in respect of broadcasting undertakings whether or not they are carried on for profit or as part of, or in connection with, any other undertaking or activity.

(3) La présente loi s'applique aux entreprises de radiodiffusion exploitées ou non dans un but lucratif ou dans le cours d'une autre activité.

Idem

Idem

(4) For greater certainty, this Act does not apply to any telecommunications common carrier when acting solely in that capacity.

(4) Il demeure entendu que la présente loi ne s'applique pas aux exploitants de télécommunications n'agissant qu'à ce titre.

Exploitants de
télécommunica-
tions

PART II

OBJECTS AND POWERS OF THE COMMISSION IN RELATION TO BROADCASTING

Objects

5. (1) Subject to this Act and the *Radio-communication Act* and to any directions to the Commission issued by the Governor in Council under this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out

PARTIE II

MISSION ET POUVOIRS DU CONSEIL EN MATIÈRE DE RADIODIFFUSION

Mission

5. (1) Sous réserve des autres dispositions de la présente loi, ainsi que de la *Loi sur la radiocommunication* et des instructions qui lui sont données par le gouverneur en conseil sous le régime de la présente loi, le Conseil réglemente et surveille tous les aspects du système canadien de radiodiffusion en vue de

Mission

Objects

LEGISLATIVE RESPONSIBILITIES
FOR BROADCASTING

DGBP
April 1993

LEGISLATIVE RESPONSIBILITIES FOR BROADCASTING

Before describing how responsibilities in the broadcasting area are divided in legislation it is worth repeating some of the key principles that serve to explain why they ended up where they did.

- 1) Canada's airwaves (the Spectrum) are owned by the public and should be administered by the federal Government in trust. Radio frequencies, therefore, may not be owned - usage of them is a privilege. By their nature radio waves spill across provincial and national borders.
- 2) Broadcasting is a "medium of communication" that is protected under the Charter and, thus, the kind of regulatory or legislative controls placed on broadcasting touch one of the fundamental freedoms of all Canadians - that is "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication".
- 3) Broadcasting has been seen, since its inception, as an activity having important implications in the areas of social policy, cultural and artistic development, technological and industrial development, and national identity.

Against this background, Canadian Governments have moved over the years to create a succession of broadcasting licensing and regulatory bodies - today it is the CRTC which assumes this function.

Canadian Governments have also created and funded a national public broadcaster (the CBC) which operates 7 national broadcasting networks, a number of radio and television stations and a variety of special services like an international shortwave radio service and one to serve the Canadian north. Governments have over the years contributed financially to the creation and operations financing of other services eg. TV5 or TVOntario's La Chaîne Française.

Finally, Canadian Governments have, through a variety of mechanisms, supported the creation of Canadian programming that was destined for use by Canadian broadcasting undertakings. One example of this would be the Broadcast Fund administered by Telefilm Canada.

LEGISLATION

Broadcasting Act

The current Broadcasting Act was proclaimed into force in June 1991 and represented the first time the Department and Minister of Communications had succeeded in having broadcasting policy legislation adopted by Parliament. (The previous Broadcasting Act was introduced by the Secretary of State).

The Act serves to define the relationships among the Minister of Communications and the Governor-in-Council, the CRTC, the CBC and the broadcasting undertakings licensed by the CRTC.

The CRTC is charged with regulating and supervising the Canadian broadcasting system with a view to implementing the broadcasting policy for Canada set out in section 3 of the Act. In doing so it is subject to the regulatory policy set out in section 5 of the Act. Since its creation in 1968, "the CRTC has continued, as it is entitled, to operate independently, holding hearings on issues, deciding on policy, making regulations, and putting these decisions into effect..." but all in the context of the statutory mandate established for it.

However, the Act contains four distinct powers of direction by the Governor-in-Council (s.7 - general power of policy direction, s.26 - directions concerning maximum number of channels or frequencies that can be used in a given area, reservation of channels, classes of applicants to whom licences cannot be issued and s.27 - directions concerning the interpretation of the Canadian - US Free Trade Agreement) and, s.15 - the power to require the CRTC to hold hearings on any matter within its jurisdiction. In addition, the Act contains a limited power for Governor-in-Council review of CRTC decisions that issue, amend or renew a broadcasting licence. Finally, the CRTC cannot issue, amend or renew any licence unless the Minister of Communications certifies that the requirements of the Radiocommunication Act have been satisfied and that the applicant (or licensee) has been or will be issued a broadcasting certificate with respect to the radio apparatus to be used to carry on the undertaking. With respect to the CBC, the CRTC cannot suspend or revoke the licences of the CBC's "core services" without the CBC's approval (s.24(2) and Schedule 1). These CBC "core services" are the 6 radio and television main network licences and the licences of the radio and television stations owned and operated by the CBC.

As noted above, the Broadcasting Act serves to define the CBC's relationship with the CRTC. The Broadcasting Act also as the CBC's enabling statute - it contains the CBC's mandate in s.3 and Part III of the Act sets out the CBC's objects and powers. The new Broadcasting Act sets out for the first time in legislation that "the Corporation is ultimately accountable, through the Minister [of Communications], to Parliament for the conduct of its affairs" and acknowledges the freedom of expression and the journalistic, creative and programming independence that it enjoys.

Radiocommunication Act

The Broadcasting Act, by way of the cross-reference in s.22(1)(b) acknowledges the Minister's, and thus, the department's role in spectrum management.

The Radiocommunication Act (which was extensively updated in 1988) is the legislation which sets out the Minister's powers in this area. This Act provides the authority for the licensing and regulation of "radio apparatus" - a defined term - and the technical certification of broadcasting undertakings in Canada. The purpose of the Act is to ensure the orderly development and efficient operation of radiocommunication in Canada, and the orderly

establishment and modification of "radio stations" - also a defined term which is larger in scope than radio broadcasting stations - and the prevention of harmful interference. These goals are achieved through a variety of means including licensing, technical certification of equipment, establishing of standards, planning for the efficient use of the spectrum and conducting field inspections and measurements.

This spectrum management and technical certification function has, at least in Canada, been separated from the regulatory and supervisory functions exercised by the CRTC.

The CRTC Act

The CRTC Act is the enabling Act for the CRTC. Its specific powers in relation to broadcasting are, however, found in the Broadcasting Act. Likewise its telecommunications powers (which it inherited in the mid-1970's) are to be found elsewhere. The CRTC Act does however specify that the Minister of Communications is the Minister responsible for the CRTC.

Department of Communications Act

The Department of Communications Act, of all the pieces of legislation touching the Minister's and department's mandate, is the most out-of-date. It received Royal Assent in March 1969 and has not been updated as the Minister's or the department's roles and responsibilities have changed in the subsequent 24 years.

It provides only that the powers, duties and functions of the Minister include "all matters over which Parliament has jurisdiction not assigned to any other department board or agency of the Government of Canada relating to (a) telecommunications, and (b) the development and utilization generally of communication undertakings, facilities and services for Canada". The term "communication undertakings" is not defined, but, presumably, was designed to include broadcasting.

In order to carry out his functions, the Minister, and through him, the department, must

- recommend, co-ordinate and promote national policies and programs with respect to communication services for Canada
- promote the establishment, development and efficiency of communication systems and facilities
- assist communication systems and facilities to adjust to changing conditions
- compile and keep up to date detailed information in respect of communication systems and facilities and of trends and developments in Canada and abroad relating to communication matters.

Richard Matthews
DGBP
March 19, 1993

**A SHORT HISTORY
OF THE
COMMUNICATIONS AND CULTURE PORTFOLIO
THE DEPARTMENT OF COMMUNICATIONS
AND ITS BROADCASTING POLICY BRANCH (DGBP)**

Prepared by Ian Ironside (DGBP)
March 29, 1993

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2. Order in Council transferring CRTC from the Secretary of State to the Minister of Communications, December 27, 1972.
3. Order in Council transferring CBC and other cultural agencies from the Secretary of State to the Minister of Communications, July 31, 1980.
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7. DOC Policy Sector Organization Chart, after the creation of DGSP in 1982-83.

A. THE EMERGENCE OF THE DEPARTMENT OF COMMUNICATIONS AND THE COMMUNICATIONS AND CULTURE PORTFOLIO

1. The broadcasting environment in the early years, i.e. until 1958

- Radio broadcasting by privately-owned stations began in Canada in 1919; licensing in those very early years was the responsibility of the Department of Marine under the Radiotelegraph Act of 1913.
- Public ownership of broadcasting undertakings in Canada began with the creation of the Canadian Radio Broadcasting Commission (CRBC) in 1932.
- In view of weaknesses in the structure and powers of the CRBC, it was replaced by the Canadian Broadcasting Corporation (CBC) established by the Canadian Broadcasting Act of 1936.
- Under the Radio Act of 1938, the Minister of Transport was responsible for granting licences for the operation of radio stations.
- From the late 1930's until 1958, the regulatory and public policy environment of Canadian broadcasting can be summarized in broad terms as follows:
 - Technical certification (now performed by the Minister of Communications) was then assigned to the Minister of Transport.
- CBC played two major roles:
 - public broadcaster (retained by the CBC ever since);
 - regulator of the broadcasting system (now performed by the CRTC).

For example, the legislation provided that no private station could operate in Canada as part of a chain or network except with the permission of, and in accordance with the regulations of, the CBC. The CBC's regulation-making powers were wide-ranging, including powers to make regulations:

- "to control the character of any and all programs" broadcast by CBC or private stations;
- "to determine the proportion of time that may be devoted to advertising in any programs" broadcast by CBC or private stations;
and, after 1951:
- "to promote and ensure the greater use of Canadian talent" by CBC and private stations.

- CBC did not issue licences, but could suspend them for up to three months, if a licensee violated the CBC's regulations; the Minister of Transport was responsible for taking any steps necessary to carry out the terms of any such suspension orders issued by the CBC.
- Before the Minister of Transport could deal with any application for a licence to establish a new private station, or to increase the power or technical parameters of an existing station, the matter would have to be referred first to the CBC which would make a recommendation to the Minister of Transport. After 1951, this process included a requirement that the CBC give public notice in the Canada Gazette of the applications which were referred to it. In addition, even before 1951, Governor in Council approval was required before a licence could be issued for a new private station.
- An amendment to the Canadian Broadcasting Act in 1951 delegated to the Governor in Council the power to designate the Minister through whom the CBC would report to Parliament. Until 1951, it had always been the Minister of Transport, as designated in the Canadian Broadcasting Act. It appears that soon after this amendment in 1951, the CBC began to report to Parliament through the Minister of National Revenue.¹ This was a significant development because no single Minister would again become responsible to Parliament for all federal involvement in broadcasting until July 31, 1980, when the CBC was transferred from the portfolio of the Secretary of State to that of the Minister of Communications.

2. 1958: CBC loses its regulatory function to the Board of Broadcast Governors (BBG)

- The Broadcasting Act of 1958 established the Board of Broadcast Governors (BBG) to which was assigned the regulation-making function previously performed by the CBC.
- Like the CBC before 1958, the BBG did not issue licences, but made recommendations for licensing to the Minister of Transport. The 1958 Act added a requirement that the BBG, before making a recommendation to the Minister of Transport concerning an application, hold a public hearing at which the applicant, the CBC and other interested licensees and applicants for licences would be given an opportunity to be heard.
- Under the 1958 legislation, the CBC retained its public broadcaster role.

¹ A search is under way for the Order in Council which designated the Minister of National Revenue as the person through whom the CBC would report to Parliament.

- Both the CBC and the BBG reported to Parliament through the Minister of National Revenue.

3. 1963: CBC and BBG are transferred from the Minister of National Revenue to the Secretary of State

- It appears that early in 1963, the Governor in Council decided to have the CBC and BBG report to Parliament through the Secretary of State instead of through the Minister of National Revenue.²
- On October 1, 1966, the duties, powers and functions of the Secretary of State were altered, pursuant to the Government Organization Act of that year. The responsibilities explicitly given to the Department of the Secretary of State by that Act included "the encouragement of the literary, visual and performing arts, learning and cultural activities" as well as "libraries, archives, historical resources, museums, galleries, theatres, films and broadcasting." (underlining added) The annual report of the Department of the Secretary of State for the fiscal year 1966-67, mentioned that the Under Secretary of State, in addition to other responsibilities, advised the Minister (i.e. the Secretary of State) on matters of policy coordination in the fields of the visual and performing arts, broadcasting, films, publishing, archives, libraries, historical resources and in relation to the programs of the Centennial Commission.

4. 1968: BBG is replaced by Canadian Radio-Television Commission (CRTC)

- A new Broadcasting Act, proclaimed in force on April 1, 1968, replaced the BBG with the Canadian Radio-Television Commission (CRTC), which was given a stronger and more clearly-defined mandate than the BBG had had.
- The CRTC was expected to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing a series of policy objectives set out in the Act of 1968.
- Instead of simply making recommendations to the Minister of Transport for the issuance or amendment of licences, as the BBG (and the CBC before 1958) had done, the CRTC was given the power to issue, renew and amend broadcasting licences.
- The licensing power which the Minister of Transport had held before 1968 under the Radio Act was now reduced, in the case of broadcasting undertakings, to a power to issue a "technical construction and operating certificate" without which the CRTC could not issue, amend or renew the broadcasting licence for the undertaking.

² A search is under way for the Order in Council which designated the Secretary of State for this purpose.

- The Minister of Transport retained the full power to issue licences under the Radio Act in cases not involving the operation of a broadcasting undertaking.
- The CRTC reported to Parliament through the Secretary of State, just as the BBG had done before 1968.
- The CBC continued to report to Parliament through the Secretary of State.

5. **1969: Department of Communications (DOC) is formed**

- As early as July 12, 1968, the Prime Minister at the time mentioned in a public statement that the growing importance of communications and the Government's increasing involvement in it necessitated that one department and Minister be made responsible for all Government activities in the field.
- Following up on this, the Government included provisions to create the new department in the Government Organization Act, 1969 and DOC came into existence, as a consequence, on April 1, 1969. The legislation set out the duties of the Minister and Department of Communications and these were later re-affirmed in the Department of Communications Act c. C-24, R.S.C. 1970. Among the duties acquired by the Minister of Communications were the licensing responsibilities under the Radio Act, exercised until 1969 by the Minister of Transport.
- The following two branches which had previously existed in separate departments were brought together within the new DOC:
 - the Department of Transport's Telecommunications Policy and Administration Bureau which administered the Radio Act through its technical regulation of radio frequencies and licensing of users; and
 - the Defence Research Board's telecommunications establishment which included laboratories dealing with communication satellites, radio propagation and other aspects of electronics. This formed the basis of what became DOC's Communications Research Centre.
- According to the original plan, one Minister was to be both Minister of Communications and Postmaster General. The Department of Communications and the Post Office Department each had their own deputy head, and each reported to the same Minister. However, this arrangement lasted only until 1971, when the position of Postmaster General was separated from that of Minister of Communications.

- The agencies that reported to Parliament through the Minister of Communications starting in 1969 were:
 - the Canadian Overseas Telecommunications Corporation (COTC) (or "Teleglobe" which was privatized in the 1980s); and
 - the segment of the Canadian Transport Commission (CTC) which dealt with the regulation of telecommunication rates.
- The Minister of Communications was also instrumental in the formation of the mixed, public-private domestic satellite corporation which became known as Telesat Canada (and eventually became fully private in 1992).
- During Parliamentary debate on the formation of DOC, The Honourable Eric Kierans, who was to become the first Minister of Communications, mentioned that the Deputy Minister of Communications would chair a policy review committee composed of senior officials of the Post Office, the various agencies and the department, itself.
- During Mr. Kierans' speech (Appendix 1), he also noted that the communications activity in Canadian society, quite aside from its scientific and industrial importance, had profound social, cultural and political implications. He referred to the intention to appoint a Director General of Policy and Plans who would report direct to the Deputy Minister of Communications and assist in the development of a national communications policy to integrate and rationalize all systems of communications -- "whether those of today [i.e. 1969] such as telephones, microwave relays, telex, TWX, telegraph and the Post Office, or those of tomorrow: communication satellites; sophisticated information retrieval systems linking computers which exchange and store information of all kinds; waveguides; lasers, and on up to the 'wired city' of tomorrow."

6. 1972: CRTC is transferred from the Secretary of State to the Minister of Communications

- On December 27, 1972, the powers, duties and functions of the Secretary of State under Part II of the Broadcasting Act (i.e. the Part concerning the CRTC) were transferred, by Order in Council (Appendix 2), from the Secretary of State to the Minister of Communications.
- At this point, the CRTC was still only a regulator of broadcasting, not yet having acquired a mandate in telecommunications.
- Since 1969, the telecommunications segment of the Canadian Transport Commission had reported to Parliament through the Minister of Communications and continued to do so until this segment of the CTC was transferred to the CRTC effective

April 1, 1976, after which the CRTC (broadcasting and telecommunications) continued to report to Parliament through the Minister of Communications.

- Regardless of the transfer of the CRTC to the Minister of Communications in 1972, the Secretary of State continued to retain until 1980 his powers, duties and functions under Part III of the Broadcasting Act (i.e. the Part concerning the CBC).

7. 1976: CRTC acquires responsibility for telecommunications

- Parliament passed the Canadian Radio-television and Telecommunications Commission Act in 1975 and it came into force on April 1, 1976. Under this legislation, the CRTC acquired the responsibility for regulating telecommunications which had been previously exercised by the Canadian Transport Commission. The hyphenation of "Radio-television" in the CRTC's new name enabled it to retain its original acronym.

8. 1980: CBC and other cultural agencies are transferred from the Secretary of State to the Minister of Communications

- On July 31, 1980, the powers, duties and functions of the Secretary of State under Part III of the Broadcasting Act (i.e. the Part concerning the CBC) were transferred, by Order in Council (Appendix 3), from the Secretary of State to the Minister of Communications.
- At the same time, the Secretary of State's responsibilities in relation to the following other cultural agencies were also transferred to the Minister of Communications:
 - Canada Council;
 - Canadian Film Development Corporation (CFDC) (Telefilm Canada);
 - National Arts Centre Corporation;
 - National Film Board (NFB);
 - National Library of Canada;
 - National Museums of Canada (NMC);
 - Public Archives of Canada;
 - Social Sciences and Humanities Research Council.
- Concomitant with the transfer of these agencies to the Minister of Communications' portfolio was the transfer to the Department of Communications of the Department of the Secretary of State's Arts and Culture Branch (except those portions known as the State Protocol, Hospitality and Conference Section and the Special Events Section).

9. 1987: National Programs component of the National Museums of Canada (NMC) is transferred to DOC

- The Government announced in May 1987 its intention to phase out the National Museums of Canada (NMC) and to establish the four national museums as autonomous Crown corporations:
 - National Gallery of Canada;
 - National Museum of Science and Technology;
 - Canadian Museum of Civilization;
 - National Museum of Natural Science.
- As a consequence, the following elements of the National Programs component of the NMC were transferred to the Department of Communications in September 1987:
 - Canadian Conservation Institute (CCI);
 - Canadian Heritage Information Network (CHIN);
 - Museum Assistance Program (MAP);
 - Mobile Exhibits Program (MEP) (later phased out);
 - International Program (IP).

B. STRUCTURAL EVOLUTION OF DOC'S BROADCASTING POLICY BRANCH (DGBP)

1. 1969-1979: The first decade at DOC

- Although DGBP did not come into formal existence as the "Broadcasting and Social Policy Branch" until April 1, 1979, DOC had a strong policy and planning component from its inception, just as the first Minister of Communications had indicated it would, when he spoke in the House of Commons in 1969 about the formation of the department.
- The DOC organization chart dated March 31, 1973, (Appendix 4) shows the presence of a planning sector which included a Social Policy and Programs Branch which eventually evolved into DGBP in 1979.
- By 1976, the planning sector of the department had become the policy sector shown on the appended organization chart for that year (Appendix 5).
- From the beginning, the Social Policy and Programs Branch played a key role in DOC, bringing a non-technical, social perspective to the advice that the Minister received from the rest of the department which tended to be dominated by specialists in technology.

2. April 1, 1979: DGBP's "date of birth"

- "Social Policy and Programs Branch" was renamed "Broadcasting and Social Policy Branch (DGBP)" and organized into four Divisions:
 - Broadcasting Policy (DBP);
 - Extension of Services Policy (DES);
 - New Services Policy (DCP); and
 - Regulatory Affairs (DRA).

3. 1980: DGBP acquires function of advising the Minister on CBC

- Shortly after the transfer of the Arts and Culture Sector from the Department of the Secretary of State to DOC, the function of advising the Minister on CBC matters was transferred from that Sector to DGBP.
- The DOC organization chart dated February 1, 1981, (Appendix 6) illustrates how in the early years after the transfer of Arts and Culture to the department, this new Sector remained generally unchanged and separate from the rest of DOC.

4. 1982-83: DOC's Strategy and Plans Branch (DGSP) is created

- DOC's Strategy and Plans Branch (DGSP) was established and located within the Policy Sector which still contained DGBP and the Telecommunications Policy Branch (DGTP).
- The Policy Sector's Economics Branch was disbanded and its functions were spread among other branches.
- DGBP, whose mandate had included co-ordination of legislative change related to both broadcasting and telecommunications, lost the telecommunications part of this mandate, which, it is believed, was transferred to DGTP. Overall co-ordination of legislative change for all of DOC became one of the responsibilities of the new Strategy and Plans Branch (DGSP).
- The organization chart labelled Appendix 7 shows the structure of the Policy Sector which resulted from these changes made during 1982 and 1983.

5. 1985: DGBP moves from Policy Sector to Cultural Affairs and Broadcasting Sector

- DGBP was transferred to the Arts and Culture Sector of DOC which was renamed "Cultural Affairs and Broadcasting" (although it retained the ADMAC acronym).
- DGTP was transferred to the Telecommunications and Technology Sector.

- The remainder of the Policy Sector became known as "SADM" (and later ADMPPM) and has been relatively unchanged since 1985.

6. April 1, 1986: DGBP acquires Film, Video, Sound Recording and Publishing

- DGBP, which had joined ADMAC Sector in 1985, underwent a major re-organization:
 - DGBP acquired responsibility for:
 - Film, Video and Sound Recording (DFSP & CAVCO).
 - Publishing (DPS).
- DGBP lost responsibility for DES and social issues which were transferred to another Branch of ADMAC, in a new Division known as "DPI".
- The remainder of the old DGBP (consisting essentially of the DBP and DRA Divisions that had existed since 1979) was renamed as the Broadcasting Policy Division (DBP) of the new DGBP. The new DBP had about 16 PYs.
- The full name of the new DGBP was changed to "Broadcasting and Cultural Industries Branch".

7. 1987: DBP is split into two units

- To cope with the demands of preparing for the June 1988 tabling of the new Broadcasting Bill and the related policy statement Canadian Voices: Canadian Choices, DBP was split into two units.
- One unit remained on the 2nd floor of Journal Tower North with about 12PYs and handled the ongoing day-to-day operations of DBP.
- The other unit, located on the 6th floor, was designated "DBP-WG". It was, in fact, a working group or task force internal to DOC dedicated to developing the June 1988 broadcasting policy statement and the provisions of the new Broadcasting Bill. DBP-WG had a half-dozen or so PYs and was staffed largely by people who had already worked in DBP before the split.
- About the same time as the split was made in DBP in 1987, the ADMAC Sector Correspondence Unit (SCU) was formed, which relieved ADMAC policy analysts and program officers from having to spend such a large part of their time preparing replies to routine correspondence.

8. **February 1989: "DBP" and "DBP-WG" merge and DGCI separates from DGBP**

- Following the sudden death of Chris Burke in June 1988, it was decided that the Director General position that he had held as DGBP carried too many responsibilities for one person. Therefore, the Broadcasting and Cultural Industries Branch that had existed since 1986 was split into DGCI (Cultural Industries) and DGBP (Broadcasting Policy).
- The new DGBP of 1989 was essentially a re-unification of DBP and DBP-WG both of which have been located on the 2nd floor of Journal Tower North ever since. In addition, the extension of service and social issues which had been handled by DPI since 1986 were returned to DGBP. The new DGBP of 1989 was organized into the following three Divisions:
 - DBP-F (French-language Broadcasting)
 - DBP-E (English-language Broadcasting)
 - DAR (Regulatory Policy and Extension of Services)

9. **July 1990: ADMAC is disbanded and ADMCP is created**

- The responsibilities related to museums (which were added to DOC in 1987) led eventually to another major Departmental re-organization of DOC in July 1990 which saw the end of ADMAC Sector as it had been known.
- ADMCP was formed, bringing together in the same sector all branches dealing with communications policy (DGBP, DGCI, DGTP and DGNM) and including the Sector Management group (DMT) retaining SCU to handle the Sector's correspondence.
- The parts of ADMAC which had handled arts, heritage and museums policy were grouped into another new sector of DOC known as ADMAH, which had its own Sector Management and Sector Correspondence group.

**CRTC'S ROLE IN BROADCASTING
AND ITS RELATIONSHIP TO
THE DEPARTMENT OF COMMUNICATIONS**

DGBP
April 1993

THE CRTC'S ROLE IN BROADCASTING AND ITS RELATIONSHIP TO THE DEPARTMENT OF COMMUNICATIONS (DOC)

CRTC'S ROLE IN BROADCASTING

The role of the Canadian Radio-television and Telecommunications Commission (CRTC) in broadcasting is to regulate and supervise the Canadian broadcasting system with a view to implementing the objectives for the system which are set out in section 3 of the Broadcasting Act. In so doing, the CRTC must have regard to the regulatory policy objectives contained in section 5 of the Act.

The CRTC performs its role by:

- issuing, amending and renewing broadcasting licences for the operation of undertakings offering:
 - over-the-air radio service;
 - over-the-air television service;
 - cable television service;
 - specialty television service;
 - pay television service;
 - pay-per-view service.
- imposing "conditions of licence" requiring the particular licensee to meet certain requirements, e.g. to make a certain level of expenditure on Canadian programming.
- making regulations which apply to all broadcasting licensees of a particular class, e.g. all AM radio stations, all television stations, all cable systems of a certain size.
- issuing guidelines and policy statements.
- issuing mandatory orders.
- suspending or revoking broadcasting licences.
- holding public hearings to consider such matters as:
 - applications for broadcasting licences;
 - policy issues, e.g. religious broadcasting, structure of television services;
 - the making of a proposed mandatory order;
 - the proposed suspension or revocation of a broadcasting licence.

CRTC'S RELATIONSHIP TO THE DEPARTMENT OF COMMUNICATIONS (DOC)

1. Overview

In the Broadcasting Act, Parliament established the CRTC as an independent public authority to carry out the policy objectives assigned to it by Parliament in sections 3 and 5 of the Broadcasting Act. The CRTC interprets and applies these objectives when it issues licences, makes regulations and performs its other activities, outlined above. While the CRTC reports to Parliament through the Minister of Communication, it operates at arm's length from him and the Government.

In spite of this arm's length relationship, CRTC staff have had a close working relationship of long standing with the staff at DOC who perform the technical certification functions pursuant to the Minister of Communications' responsibilities under the Radiocommunication Act. The working relationship established for this purpose nevertheless is carried on in a way that respects the CRTC's arm's-length relationship and independence in exercising its functions as regulator under the Broadcasting Act.

DOC requires an engineering or technical brief from anyone who applies to the CRTC for a broadcasting licence. This brief enables DOC to make an assessment whether the technical parameters of the broadcasting undertaking (whether radio, television or cable television) comply with the equipment and other technical standards established by DOC.

In order that DOC does not waste its resources by examining briefs related to licence applications that the CRTC will not consider, the CRTC has an established practice of informing DOC when it has received licence applications that the CRTC deems complete and ready to schedule for public hearing or public comment. DOC then proceeds with its assessment of the engineering or technical briefs related to such applications, and afterwards informs the CRTC whether DOC considers that the proposed undertaking is technically acceptable. Until the CRTC receives word from DOC that proposed undertakings are technically acceptable, it will not normally proceed with a public hearing or call for written comments on the application.

Once the CRTC approves a broadcasting licence application, the DOC will issue a technical certificate to the licensee.

The CRTC also depends on the technical staff in DOC's extensive network of Regional and District Offices across Canada to make inspections of the technical operation of broadcasting undertakings. Such inspections may arise in response to complaints about technical interference or poor reception either off-air or via cable. DOC regional and district staff, in addition, may be called upon to investigate whether the theoretical Grade A and Grade B contours of a transmitter's service area correspond to the quality of the signal that is actually received on location within the contour. These contours are important in the determination of which signals cable systems are obliged to carry and on-site inspections are sometimes required by the CRTC in applying the regulatory requirements in specific cases.

Apart from the working relationship at the technical level, there are some other important aspects of the relationship, concerning legislation, policy and appeals to the Governor in Council, which are noted below in sections 2, 3 and 4.

2. DOC advises Minister when changes are needed to the Broadcasting Act

From time to time, as circumstances change, it is necessary for Parliament to amend the Broadcasting Act. The Department of Communications plays a role in advising the Minister of Communications on when and what changes it may be necessary for him to recommend for enactment by Parliament.

3. DOC advises Minister on Governor in Council policy directions to CRTC

In some situations, while it may not be necessary for Parliament to amend the Broadcasting Act, there may be a need for the Government to give policy guidance to the CRTC additional to that included in sections 3 and 5 of the Act. In these situations, the Act provides that the Governor in Council may issue to the CRTC directions of general application on broad policy matters. No such direction by the Governor in Council may be made in respect of a particular broadcasting licence. Moreover, no policy direction may apply to a licensing matter pending before the CRTC if the Commission's deadline for filing interventions has expired, unless the expiry occurred more than a year before the effective date of the policy direction. Policy directions to the CRTC are issued by the Governor in Council on the recommendation of the Minister of Communications, and the Department of Communications is responsible for advising the Minister on when and what policy directions he recommends. The existence of this power of policy direction can encourage co-operation between the CRTC and the Department of Communications.

4. DOC advises Minister on appeals to Governor in Council against CRTC Decisions

After the CRTC has considered a licensing application and has rendered a decision to issue, amend or renew a broadcasting licence, the Governor in Council has ninety days within which he may set aside the CRTC's decision or refer it back to the CRTC for reconsideration and hearing. The Governor in Council may do this on his own motion or in response to an appeal or "petition" received within the first forty-five of the ninety days. In setting aside or referring back a CRTC decision, the Governor in Council must be satisfied that the CRTC's decision would derogate from the attainment of the policy objectives in section 3 of the Broadcasting Act. The Governor in Council's actions to set aside or refer back CRTC decisions are taken on the recommendation of the Minister of Communications, and the Department of Communications is responsible for advising the Minister on what action to recommend.

SOME FEATURES THAT ARE NEW IN THE BROADCASTING ACT OF 1991

Broader definition of "broadcasting"

The definition is broadened to include more than over-the-air transmissions intended for direct reception by the general public. It now includes any transmission of programs for reception by the public, whether or not encrypted, and whether by the air waves, by wire, visual or other electromagnetic system or any optical or technical system.

"Technology Neutral"

The old distinction between broadcasting transmission and receiving undertakings is replaced by a new distinction between programming undertaking and distribution undertaking. By focusing on the functions of producing and distributing programs, instead of on the technology used in the performance of these functions, the Act of 1991 is intended to be "technology neutral".

Policy objectives are more detailed and up-to-date

The objectives in section 3 of the new Act of 1991 are more detailed and up-to-date than those that appeared in the previous Act of 1968. For example, Clause (d) of the new Act includes a provision calling on the Canadian broadcasting system, through its programming and the employment opportunities arising out of its operations, to serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society. In Clause (t), the Act now includes policy objectives aimed specifically at distribution undertakings.

Governor in Council's power of policy direction

The Governor in Council's power to issue policy directions to the CRTC (described in more detail above) is new to the Act of 1991.

Additional powers for the CRTC

Included among the additions made in 1991 are the CRTC's powers to:

- exempt classes of broadcasting undertaking from holding broadcasting licences or from other requirements of the Act, according to the terms of the exemption specified by the CRTC;
- issue mandatory orders and these may be made orders of the Federal Court or of any superior court of a province and are enforceable in the same manner as orders of the court;
- require any distribution undertaking to carry, on such terms and conditions as the CRTC deems appropriate, programming services specified by the CRTC.

"They who hear decide"

Under the Broadcasting Act of 1968, the CRTC members reached their decisions on a collegial basis regardless of which of them actually presided at the public hearings which considered applications for broadcasting licences or other matters.

This procedure was changed by the Broadcasting Act of 1991. It specifically provides that the panel of CRTC members which hears a particular application or other matter "has and may exercise all the powers and may perform all the duties and functions of the Commission" in relation to the matter before it. The Act further provides that the members of each panel "shall consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2) and the regulations made by the Commission."

Regionalization of the CRTC

The CRTC Act, as amended by the Broadcasting Act of 1991, allows for the appointment, by the Governor in Council, of a maximum of 13 full-time and 6 part-time members of the CRTC, for terms of up to five years. The Chairman and two Vice-Chairmen of the CRTC are included among the 13 full-time members.

The 1991 broadcasting legislation gave the Governor in Council for the first time the power to direct the CRTC to establish an office of the Commission in any region of Canada. In addition, the Governor in Council was given the power to designate full-time members for particular regions of Canada and the full-time members so designated must reside in their respective regions.

The Governor in Council exercised these new powers in December 1992, by directing the CRTC to establish offices in the following six regions:

- Atlantic
- Quebec
- Ontario
- Manitoba / Saskatchewan
- Alberta / Northwest Territories
- British Columbia / Yukon

The Government has also designated six of the CRTC's full-time members to serve as Regional Commissioners, one for each of these six regions. It is not yet clear to what extent this regionalization and the "They who hear decide" rule will affect the implementation of policies that the CRTC adopts to apply to all of Canada.

