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# PROPOSALS FOR A COMMUNICATIONS POLICY FOR CANADA A POSITION PAPER OF THE GOVERNMENT OF CANADA





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# PROPOSALS FOR A COMMUNICATIONS POLICY FOR CANADA

## A POSITION PAPER OF THE GOVERNMENT OF CANADA

The Honourable Gérard Pelletier  
Minister of Communications  
March 1973

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# Preface

These proposals are designed to suggest possible approaches to the solution of the following problems, which arise in attempting to formulate a policy for the development of telecommunications in Canada:

1.

How can Canadians be assured of a reasonable variety of choice in the communications services available to them, and what must be done to ensure that at least basic communications services are available to all Canadians, wherever they may live, at just and reasonable rates?

2.

How can Canadian telecommunications systems be developed and used, to the greatest possible extent, to foster Canadian social and cultural values, and to provide a sure means of disseminating a Canadian perception of Canada and of the world to all Canadians?

3.

How can the east/west links which are essential to the social, cultural, and economic development of the country be maintained and developed in relation to the powerful pull of north/south ties?

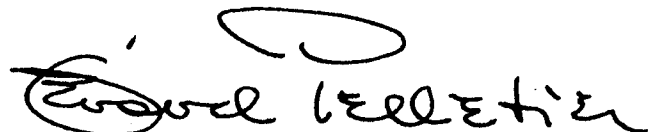
4.

What can be done to ensure that Canadian communications systems are and remain effectively in Canadian ownership or under Canadian control?

5.

What are the best means of harmonizing federal and provincial objectives and activities in the field of telecommunications for the greatest benefit of all Canadians?

This paper does not present exclusive or definitive answers to these questions; its purpose, rather, is to put forward a number of optional solutions as the most productive possible basis for public discussion by all concerned.



Minister of Communications

The following internationally accepted definitions are embodied, with minor variations, in the relevant federal statutes:

- Telecommunication means any transmission, emission or reception of signs, signals, writing, images or sounds or intelligence of any nature by wire, radio, visual or other electromagnetic system.

- Radiocommunication (or Radio) means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by means of electromagnetic waves of frequencies lower than 3,000 Gigacy-

cles per second propagated in space without artificial guide.

- Broadcasting means any radiocommunication in which the transmissions are intended for direct reception by the general public.

Thus, when these terms are used throughout this Paper, it should be understood that telecommunication is a generic term which includes all forms of radiocommunication, of which broadcasting is a specialized component.



I  
Introduction

A. In the Public Interest

The existence of Canada, as a political and social entity, has always been heavily dependent upon effective systems of east/west communications. This is the historical reason for the successive development of the routes of the voyageurs, coast-to-coast railways, telegraph and telephone systems, broadcasting services, airlines, the Trans-Canada Highway and, most recently, a domestic satellite-communications system. These systems, counterbalancing the strong north/south pull of continentalism, have been essential for industrial and resource development, for the transmission and dissemination of information, and for the expression and sharing of social and cultural values.

To-day, communications systems are developing with new levels of diversity and sophistication, which tend to reinforce the economies of a north/south axis. At the same time, more and more Canadians are discovering and giving expression to their relationship to each other and to the diverse cultures and regions of the country. There is a gathering urgency to state and follow a communications policy which is national in scope, which will have the support of all Canadians, and which will permit that shared knowledge of Canada and of the world which is not a luxury but a necessity. It is an established philosophy in Canada that the unity of the country can only be based on a recognition of diversity. The Canadian writer, Northrop Frye, has said: "... real unity tolerates dissent and rejoices in variety of outlook and tradition ...". Thus Canada has two official languages and the Government has worked

effectively to strengthen the cultural heritage of English-speaking and French-speaking Canadians, and to encourage contributions by the other cultures that help to form the Canadian identity.

It is also a historical fact that the federal institutions of communications and culture, while contributing to the unity of the country, have also contributed to cultural and regional diversity in Canada.

In the very broadest terms, the objectives of Canadian communications policy, in which broadcasting policy plays a significant part, should be to:

- safeguard, enrich, and strengthen the cultural, ~~political, social and~~ economic fabric of Canada;
- contribute to the flow and exchange of regional and cultural information;
- reflect Canadian identity and the diversity of Canadian cultural and social values;
- contribute to the development of national unity; and
- facilitate the orderly development of telecommunications in Canada, and the provision of efficient and economical systems and services at just and reasonable rates.

These objectives, which are already embodied in the Broadcasting Act, other federal statutes, and federal policies, were evolved to serve the public interest. They have provided a base for the regulation and supervision of the Canadian broadcasting system and, as such, have received the positive and growing support of Canadians in all parts of the country.

But, as with all national objectives in so sensitive and important a field, they require constant reassessment in the light of the relationship between creative resources and the technical development of communication systems. The formulation of a new national communications policy should reconfirm and broaden these objectives while retaining their original spirit and intent.

It should also be emphasized that a national communications policy should ensure that federal and provincial aims and activities can be effectively harmonized. The definition of provincial objectives remains, of course, the responsibility of the provincial authorities. The Government is confident that the process of consultation proposed in this paper should make it possible to ensure that this harmonization will be achieved.

In recent years, technological developments have been adding a new complexity to the concept of telecommunications. The vast expansion in the means of instantaneous transfer of information between all parts of the country not only helps to dispose of distance as an obstacle to national trade and commerce but provides new prospects for reducing regional disparities and developing the North. Multi-channel cable systems will eventually make it possible to offer to the public at large a vast new range of information, cultural enrichment, and entertainment through remote access from the home to computerized databanks and libraries. Within the foreseeable future, direct home-reception of satellite broadcasts will become feasible, adding a new dimension to the available range of choice. At the other end of the scale,

the rapid development of simple low-cost video, film-making, and broadcasting equipment offers increasing opportunity for members of the public to take an active part in the communications process. These are not separate isolated developments responding to particular business or consumer needs; they are the integral components of a technological revolution that will have profound and unmeasurable effects on social conditions.

Thus today, more than ever before, it is clear that the technological and economic aspects of communications are intimately related with their social and cultural implications. Moreover, there is an evident and growing tendency for many formerly distinct systems of electronic communications to become interconnected, more integrated, and more powerful. One very important symptom of this development is the growing interaction of broadcasting with other forms of telecommunication. Another is the rapid integration of the technology of computers and communications, the economic benefits of which are already being vigorously exploited while little has been done to devise defences against the concomitant dangers and disadvantages that may develop. There is also a rapid growth in the consumer market for all kinds of electronic audio and visual equipment for direct use by the general public, who have increasing access to collective communications systems.

The Government is therefore concerned to ensure that the future communications environment fore-shadowed by this huge range of new techniques and tools should not be allowed to develop without any regard for its impact on Canadian social and cultural values and the quality of life in Canada, as well as on the Canadian economy.

Another important issue is the improvement and development of telecommunications systems linking all parts of the country, and offering efficient services to the business community and to the public at large. The geographical situation of Canada is such that in many parts of the country, particularly those that are the most heavily populated, a deliberate effort is required to counteract the natural force of economic gravity which operates on north/south lines and is being re-inforced by technological advance. National policies should therefore be developed for the concentration of Canadian financial, technical, and human resources in a new national commitment to ensure that these assets will serve to promote Canadian unity, to develop the diversity of Canadian social and cultural values, to foster the Canadian economy, and to satisfy the needs of all Canadians to the greatest possible extent.

The essential prerequisites for the achievement of national objectives are:

- the provision of fuller and more diverse Canadian sources of information, entertainment, and cultural and educational material of excellent quality;
- the development and preservation of high-quality telecommunications systems linking all parts of the country, so that as many Canadians as possible may have equitable access to the services provided;
- the efficient use of available skills and material resources, and the most effective use of social and technical innovations; and
- ~~the assurance of Canadian control, either through regulation or by restrictions on foreign ownership, of the entities offering telecommunications services of all kinds.~~

The immediate challenge, therefore, is to shape a set of objectives for telecommunications in Canada, similar in scope to those established for broadcasting, which will have the support of all governments, of all sectors of the communications industry, and above all, of the Canadian people.

### C. The Scope of these Proposals

This Paper does not attempt to deal with the particulars of specific programs related to the implementation of telecommunications policy, such as the extension of the national broadcasting service, increased resources for the Canadian production of programming and information, improvement of communications in the North, or support for the Canadian electronic industries. In due course, such programs should be developed in harmony with

national communications policy objectives as they emerge from forthcoming federal/provincial discussions. A statement dealing with computer/communications policies will be made in the near future, but carrier aspects that are relevant to the scope of this paper are covered in its appropriate sections. The Government is also giving close attention to the recently-published report



on Privacy and Computers, which was sponsored by the Departments of Communications and Justice, and intends to make a statement in the near future on the regulation of its own data banks.

The purpose of this paper is to invite broad participation in the elaboration of agreed objectives to form the basis of Canadian communications policy, and to examine the legislative

and regulatory framework that will best serve the interests of Canada, setting out the general position of the Government with regard to desirable or necessary courses of action. It is intended as a basis for positive discussion with the Governments of the Provinces, with industry, and with all others concerned, which will lead to definitive policy decisions and the development of specific programs for their implementation.

II

## The Challenge

The distribution of legislative authority between the Parliament of Canada and the provincial legislatures is established by the Constitution. The only form of telecommunication known to the Fathers of Confederation in 1867 was the electric telegraph, then still in its infancy, and accordingly the application of the Constitution to other modes of telecommunication has developed from a series of judicial decisions, each of the greatest importance although they are neither comprehensive nor in all respects conclusive. For the purpose of this Paper, it is sufficient to summarize the de facto distribution of authority that has emerged, which is, for a variety of reasons, that:

- radiocommunications, including broadcasting transmitting and receiving undertakings, are federally regulated;
- the federally regulated telecommunications carriers (which account for more than 75 per cent of all telephone and telegraph services in Canada) include Bell Canada, British Columbia Telephones, Canadian National Telecommunications, Canadian Pacific Telecommunications, Telesat Canada, the Canadian Overseas Telecommunication Corporation, and four relatively small telephone or telegraph companies;
- all other telephone and telegraph undertakings are provincially regulated.

The result of this divided authority over telecommunications carriers is that the provincial legislatures and, consequently, the Governments of the Provinces do not all exercise the same rights and authority over the principal telephone companies providing service within the province. In Ontario, Quebec, and British

Columbia, the principal telephone company is subject to federal regulation, while in each of the other provinces the principal telephone company is subject to provincial regulation. Thus, since there has been no co-ordinated authority over the several undertakings that together provide telephone service to all parts of Canada, the recognition of a 'national dimension' in the network as a whole has been left largely to the discretion of the Trans-Canada Telephone System (TCTS). This is a voluntary association comprising Bell Canada, operating in Ontario, Quebec, Labrador, and the eastern part of the Northwest Territories; the Bell subsidiary or affiliate companies in New Brunswick, Nova Scotia, and Newfoundland; the Crown corporations of Manitoba, Saskatchewan, and Alberta; and British Columbia Telephones. TCTS is not incorporated and has not, as a composite undertaking, been subjected to any regulation whatsoever. Although a commendable degree of co-ordination and standardization has been achieved by TCTS since its formation in 1931, there has in the past been little opportunity for expression of the public interest, in a national sense, in the orderly development of telephone systems in Canada.

It seems clear that, in the approach to this problem by all concerned, there is nothing to be gained from the adoption of rigid attitudes leading to disputes about the distribution of legislative and regulatory authority, from which the real ultimate loser would be the Canadian public. Accordingly, during the last few years, the Government has made continuing efforts to seek the views of the Provinces by inviting their co-operation in the studies of communications problems, and by meetings and discussions at the Ministerial and official levels. The

Government is now prepared to enter into more formal discussions with the Governments of the Provinces about possible arrangements to ensure a proper equilibrium between national and regional needs and interests in the regulation of all telecommunications carrier services.

There are two basic approaches to this problem. The first, which the Government is willing to discuss with the Provinces should they so desire, is the introduction of a two-tier system in which international and interprovincial aspects of all

Canadian telecommunications carrier undertakings would be federally regulated, while all intra-provincial aspects would be subject to provincial authority. The second approach would involve reciprocal arrangements, primarily of a consultative nature, for effective collaboration between the federal and provincial governments and regulatory bodies and the systematic disclosure and exchange of information. Both these approaches are examined in some detail in Section VI, and the necessary flexibility for either could be provided for in the federal communications legislation.

## B. Canadian Cultural Resources and Creative Capacity

The social identity of a country resides in a community of thought and ideas, of values, of social and political institutions, a community which can be maintained and developed only through the free flow of expression and the easy dissemination and exchange of information. In Canada, the technological development of telecommunications has not been adequately accompanied by a corresponding growth of sources of domestic programming and information. Moreover, the rapidly changing and convergent technologies of telecommunications and computers, together with their impact on broadcasting, are raising serious problems with regard to the international flow of information. These are of specially urgent concern for Canada because of its proximity to the United States, where the generation of information and entertainment is on a scale that threatens to overwhelm Canadian cultural resources, creative capacity, and sources of information, and to constrict the means of access to them.

It is therefore essential that a high priority be given to the accelerated development of Canadian creative resources, and to greatly increased production and distribution facilities. The term 'Canadian content' will assume much wider importance with the growth of integrated two-way systems giving access to information of all kinds, including educational and entertainment material, stored in computer-memories and video-cassettes. The problem for Canada is not primarily one of excluding foreign programming and sources of information but rather of ensuring access and exposure to such Canadian material as may be available, and of ensuring that available Canadian material is comprehensive and of excellent quality. It is in no way desirable to reduce the range of available choice, nor is it possible for Canada to match, in every respect, the variety and quality of the growing flood of mass-produced entertainment emanating from foreign sources. It is, however, not only possible but essential for Canada to develop its own high-



quality programming, sources of information, and opportunities for personal and community expression on a scale that will represent a genuinely acceptable alternative. The burden of mobilizing Canadian creative, production, and distribution resources is not for the federal Government alone, but is an urgent concern for all governments, the communications industry, and the general public.

Thus, an objective that should commend itself to all governments in Canada is the creation and support

of an information and entertainment industry which will not only satisfy essential domestic needs but will also be able to compete internationally on its own merits. A positive and highly organized commitment needs to be made by the whole country—which will involve federal and provincial authorities and the private sector—to effect a vast increase in Canadian capacity to create, produce, and promote cultural, informational, and educational material, of the highest possible quality, to be made available through telecommunications systems.

### C. Carrier Services and Cable Systems

Efficient low-cost point-to-point communications are an essential ingredient of economic prosperity for every part of Canada alike. A region that lacks proper access to modern telecommunications and computer-related services faces a fundamental obstacle to the attraction and retention of industrial development, and to the creation of employment for an increasing labour force. The level of services available is also an important element in demographic movement and the balance between rural and urban areas.

Equally important is the fact that efficient low-cost telephone service has come to be looked on as a necessity of life for individual members of the public. The emphasis here is more on local service, but this must be balanced against the essential requirements for low-cost long-distance services which arises from the geography and demography of Canada.

Further, the traditional concept of a telecommunications carrier, protected from competition, is being challenged by undertakings employing new techniques and modes, particularly cable systems developed for other purposes. Community-Antenna Television (CATV) systems, for instance, which have already had an important impact on the Canadian broadcasting system and on the economics of conventional broadcasting, have the potential capacity to offer many other kinds of service. Such an entry, on a large scale, into the protected field of the established carriers poses much more than a problem of competition. For, whether these services are provided on demand, by subscription, or otherwise, policies must be formulated

with regard to their development in the public interest. These are some of the carrier problems arising from the emerging technology of communications. There is much to be done before disparities of access to efficient information, entertainment, and communications services can be eliminated or even substantially diminished, at the same time providing ample opportunity for expression as well as reception. For these social, cultural, and economic benefits to be enjoyed to the full they must be promoted by agreement among all governments in Canada in pursuit of agreed objectives that will satisfy the requirements of the Canadian public.

#### D. Canadian Ownership

##### 1. General

The Government regards the whole field of communications as a key sector that must be subject to effective Canadian control. All the component industries of the sector will

be subject to whatever screening arrangements and other measures Parliament may approve, but there are some further special considerations that must be taken into account.

## *2. Carrier Undertakings*

All but two of the principal telecommunications carrier undertakings in Canada are Canadian-owned. However, while there appears to be no immediate cause for concern, effective Canadian control of telecommunications-carrier systems is essential, and provision will have to be made to ensure that there can be no dilution of the existing degree of Canadian ownership.

## *3. Broadcasting Undertakings*

No change is envisaged in the principles limiting foreign ownership or participation in broadcasting undertakings in Canada.

## *4. Computer/Communications Systems*

More than 50 per cent of the present remote-access data-processing industry in Canada is Canadian-owned. Still in its infancy, the industry is vulnerable to competition from the United States and an increasing proportion of foreign ownership. The Government attaches great importance to the development and support of a strong data-processing

industry in Canada and will favour measures to maximize Canadian influence and control in key areas of computer/communications.

More positive action may be necessary with regard to firms offering remote-access computer services directly to private homes, and it has been proposed that Canadian ownership of such firms should be mandatory. The reason for this distinction lies in the capacity of remote-access computer systems to provide the public with databank and information services, where the provision of, and access to, Canadian content will be as much a matter of concern as it already is with regard to broadcast programming. The Government notes that computer service is already being provided in the home, to a very limited extent, in some parts of Canada by firms that are not owned or controlled by Canadians. However, it is at present too early to determine the proper balance of policy that will best serve Canadian interests and values in this regard.





III

# Federal Legislation

A. The Need for a Revision of Federal Communications Legislation

The achievement of national objectives, which must recognize regional interests, is impeded by the *de facto* division in the exercise of authority between Parliament and the provincial legislatures. There is no doubt that many of the resultant problems can be resolved by discussion and agreement on the lines proposed in Section VI below. But, even within the accepted sphere of federal jurisdiction, existing legislation has to some extent been overtaken by the advance of technology. In particular, many of the statutory powers for

regulation of the telecommunications carriers require clarification and amplification, taking into account the increasing area of interaction among all forms of telecommunication, particularly as they affect broadcasting. It is therefore timely to review existing federal legislation, with a view to establishing a single coherent embodiment of telecommunications law related to clearly stated statutory national objectives.

B. Regulation of Telecommunications Carriers Subject to Federal Legislative Authority

The present federal regulatory body for telecommunications carriers is the Canadian Transport Commission (CTC), which derives its authority from the National Transportation Act, the Railway Act, and the Special Acts of incorporation of the undertakings subject to its authority. The CTC either does not have, or has not in the past exercised, authority over a number of matters that are dealt with in Sub-section C below.

The powers of the CTC are suitable only for the broad economic regulation of a particular corporate entity, and are not related to any statutory national policy and objectives, such as the vital importance of east/west communications to the sovereignty and economic prosperity of Canada, and to the preservation of its social and cultural identity. The only criteria for the exercise of regulatory authority are embodied in Section 321 of the Railway Act (RSC 1970, c.R-2), which requires the Commission to ensure that:

"(1) All tolls shall be just and reasonable and shall always under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate.

(2) A company shall not in respect of tolls

(a) make any unjust discrimination against any person or company;

(b) make or give any undue or unreasonable preference or advantage to or in favour of any particular description of traffic, in any respect whatever; or

(c) subject any particular person or company or any particular description of traffic to any undue or unreasonable prejudice or disadvantage, in any respect whatever;

and where it is shown that the company makes any discrimination or gives any preference or advantage, the burden of proving that the discrimination is not unjust or that the preference is not undue or unreasonable lies upon the company."

To ensure a more comprehensive regard for the public interest, the Government intends to develop, in consultation with the Provinces, a statutory declaration of national telecommunications objectives, taking due account of provincial needs and interests, which will provide a frame of reference for the federal regulatory body in exercising its authority.

1. Just and Reasonable Rates

In recent years there has been a marked increase in the frequency with which the carriers have sought regulatory authority to increase their rates to the public. Similar developments, in part the product of inflationary pressures, are taking place in the case of all public utilities. In the past, it has not been easy for consumer interests to be reflected adequately in the regulatory process. The complexity of the subject and the contingent requirement for highly specialized legal and economic skills have inhibited individuals and groups from appearing before the regulatory board to press their views. The Government is accordingly considering a number of suggestions with regard to the representation of consumer interests when licensing and regulatory matters are being dealt with by the Minister of Communications and the federal regulatory bodies.

It must not be overlooked, however, that the requirement that the rates charged for telecommunications services should be "just and reasonable" implies protection for the carrier as well as for the user. This means that the rate of return on investment must be of an order that will enable the carrier to attract the new capital necessary for improvement and extension of service. Existing procedures for revision of rates involve the preparation of a detailed submission to the CTC and a public hearing before decisions are promulgated. Despite the best efforts of all parties to proceed with despatch, the process necessarily extends over several months and the decisions tend to be retrospective in character.

Accordingly the carriers contend that existing procedures for revisions of rates do not permit sufficient consideration to be given to the effects of inflationary factors, with the result that the rate of return may prove insufficient to attract new capital. The most practical solution to this problem, among others, appears to be the development of a continuing system of financial reporting and evaluation; the regulatory body would thus have a more comprehensive view of the financial needs of the carriers, and rate hearings could be expedited accordingly, while giving full weight to consumer interests.

2. New Services

Another problem of growing importance and complexity is posed by the need for new economic criteria in the regulation of telecommunications carriers. Until recently, the reasonableness of tariffs proposed by the carriers has been judged almost exclusively in relation to overall rate of return on investment, but the validity of this criterion as the sole basis for rate regulation has been eroded by the introduction of new services and new modes of transmission.

The telecommunications carriers are now offering a wide variety of services which, unlike the public telephone and telegraph services, might perhaps better be provided in the public interest under competitive conditions, and this trend is likely to be intensified in the future, especially in the field of computer/communications. Excessively detailed regulatory procedures may in themselves constitute an obstacle to innovation and to the provision of service on a nondiscriminatory basis, or may cause an excessive administrative load, both on the regulatory body.

and on the carriers, that will ultimately be reflected in additional cost to the public.

The regulatory body might therefore be empowered to prescribe the terms and conditions on which any new service may be offered to the public and authorized to exempt the provision of specified services from rate regulation, if it is satisfied that, by such means as corporate separation or otherwise, this can be done without detriment to the effective economic regulation of the general service to the public. This authority to exempt might be subject to Ministerial approval or, alternatively, the terms and conditions for exempting certain services (e.g. data-processing) might be prescribed in the legislation or by direction from the Governor in Council.

### 3. Cross-subsidization

If the carriers are to be permitted to offer unregulated services, one of the essential safeguards is that the public interest be taken fully into account in any circumstances where there is a possibility that the subscribers to one service may be subsidized by subscribers to another, particularly if the latter are the general public, or where the shareholders of supply-undertakings are profiting unduly through discriminatory procurement procedures on the part of the carrier. However, the existence and extent of cross-subsidization cannot be identified without an adequate knowledge of the true cost of each service, which is not always easy to ascertain and may sometimes be a matter of arbitrary judgment regarding cost-allocations for facilities used in common by several services.

If the existence and extent of cross-subsidization, which are at present almost at the sole discretion of the carriers, are to be determined in future by the regulatory body, it must be empowered:

- to prescribe the form and frequency of returns accounting for operational and capital expenditures both by the carriers and their subsidiary and associated companies;
- to prescribe uniform methods of cost accounting and depreciation;
- to establish the cost-separation formulas that it will use in determining the rate base for all service; and
- to exclude from the rate base any expenditures that do not appear to have been in the public interest.

The Canadian Transport Commission has already inaugurated a detailed study of telecommunications costs as the first step in determining the feasibility of cost-separation procedures.

### 4. Interconnection

The constituting charters of telecommunications carriers generally protect them against any interference with their plant and equipment, and consequently allow them almost complete discretion with regard to the conditions imposed on the attachment of independently provided equipment or private systems to the public systems. Examples of such attachments range from telephone-answering devices and tele typewriters to complex computer installations and extensive private exchanges for voice and data transmission, which may be technically harmful to the public system or economically detrimental to the operations of the carrier. Today there is a growing demand for liberalization of the restrictions imposed by the carriers, on the grounds that they tend to inhibit innovation and retard the provision of necessary services.

A great variety of equipment has been developed which may be leased or purchased directly from equipment suppliers other than the carriers, offering the user almost unlimited choice in the selection of the equipment best suited to his particular needs. But unlimited freedom of choice in the selection of telecommunications equipment, without reliable standards of reference, creates difficult problems. Recognizing the legitimate carrier requirements that arise from the responsibility to provide service to the general public, industrial and commercial users see the need for accurate classification standards applying to the installation, performance, interfacing, maintenance, and information-transfer capability of equipment, and for its certification in accordance with these standards, as being technically compatible with the public telecommunications networks.

However, the problem extends far beyond the relatively simple questions of compatibility and protection of the public carrier system from technical damage. The interconnection with an extensive private system may deflect highly profitable traffic from the public system, thus inflating the rate at which service to the public could otherwise be provided. Moreover, equipment or systems that were initially acceptable on technical grounds may, as a result of poor maintenance, become a danger to the technical integrity of the system to which they are attached; thus, in authorizing such attachments or interconnection, it is necessary to take into account the stability of the supplier and his probable capacity to provide continuing and reliable service.

This problem has technical and economic aspects which differ from one region to another, but it is clearly a desirable objective to agree upon common practices and standards which would apply throughout Canada. Pending discussions with the Provinces and industry, a solution that commends itself for situations where other measures are not adequate is the formulation, in collaboration with all concerned, of technical standards for interconnection. These would apply to undertakings subject to federal regulation and, it is hoped, might be acceptable to the provincial authorities.

The federal regulatory body could be empowered, on request or on its own motion:

- to assure itself that any proposed interconnection to a federally regulated system complies with established technical standards;
- to determine whether the interconnection would be in the public interest having regard to economic and other considerations;
- to order interconnection subject to whatever conditions (including charges) it may see fit to impose; and
- to order the cessation of any interconnection that has not been formally approved.

##### 5. New Entry

Careful consideration will also have to be given to the circumstances in which it might be in the public interest to allow new undertakings to offer services or facilities which have been, in the past, in the nature of protected franchises enjoyed by the federally regulated carriers. This kind of competition can be regarded as a valuable stimulus to innovation and the use of new technology in response to developing needs of users. But such new entrants, by

offering only to a limited customer-market the most lucrative services, which would otherwise be provided by the public carriers, may jeopardize the economic ability of the carriers to provide general services to the public at large. Therefore, in considering applications from new undertakings seeking to offer telecommunications services, even if better or cheaper services can be provided for special purposes, due weight may have to be given to the effect on the quality and cost of service provided by existing public systems, and on the orderly development of telecommunications in Canada. At present, in the absence of statutory procedures and guidelines, these consequences cannot be taken into account in dealing with new applicants.

It is accordingly intended that a person other than a carrier already federally regulated will not be permitted, within the legislative authority of Parliament, to offer carrier services to other parties until the matter has been aired at a public hearing. If a radio licence is required, as it would be in many cases, the matter could be handled through the licensing process. If the new service is to be offered by a broadcasting receiving undertaking, the matter could be dealt with as at present, that is to say through the issuance or amendment of a broadcasting licence, which may be set aside or referred back for reconsideration by the Governor in Council. If the new service, (e.g. a dedicated coaxial-cable carrying interprovincial traffic), does not involve the use of radiocommunication and would not therefore require either a broadcasting licence or a radio licence, some form of authorization would be requisite; such authorization would be granted only after a public hearing, and the Governor in Council would have the right (as with broadcasting licences) to set the decision aside or refer it back for reconsideration.

## 6. Other Matters

Consideration will also be given to empowering the federal regulatory body to:

• ~~order a carrier to provide basic services in areas where they are not available;~~

• ~~enforce uniform standards of technical quality for services offered by the carriers (the existing legislation makes no provision for the enforcement of standards of quality, which may vary widely between one location and another, or between different subscribers paying the same rates);~~

• ~~approve or prohibit the incorporation, acquisition, or disposal of subsidiary companies by federally regulated carriers (including the disposal of a major shareholding in companies that may not be subsidiaries in a strict legal sense);~~

• ~~inquiry into, and approve or prohibit, the entry of new carriers, subject to federal authority in competition with the established carriers;~~

• order or forbid, subject to conditions outlined earlier in this Paper, the interconnection of public carrier systems, and the attachment of systems or equipment to the public carrier networks;

• approve all agreements between federal carriers and cable-television operators covering the use of facilities and services; and

• order carriers to make facilities available at reasonable rates and without unreasonably restrictive conditions.



Further, it is arguable that, while the rate of investment, construction, and development is primarily a concern of management, the public interest in these matters should not be left entirely for determination by the carriers themselves. One possibility is to require approval for any item of capital expenditure above an amount which might be left to the

regulatory body to determine from time to time. A possibly more desirable alternative is to require the carriers to submit annually a five-year program of investment and construction for review by the regulatory body, which would be empowered to exclude from the rate-base any capital expenditures not deemed to conform to the public interest.

#### D. Regulation of the Canadian Broadcasting System

The Government remains fully committed to the principles and objectives of the *Broadcasting Policy for Canada* set forth in the Broadcasting Act.

It seems desirable to reconsider and perhaps clarify the statutory provisions governing the relationship between the broadcasting and carrier

functions of cable-television systems. Recognizing the interest of provincial and municipal authorities in the regional and local impact of these systems, the Government will welcome the views of provincial governments on problems that may arise as a result of this relationship.

IV

The Concept of a Single  
Federal Agency for  
Telecommunications Including  
Broadcasting

The telecommunications carriers subject to federal jurisdiction are regulated by the Canadian Transport Commission, an arrangement that reflects the origins of telecommunications within the transportation system. The regulatory link between transportation and communications is no longer of special importance, and the two fields have been separated in the executive arrangements of the federal Government. The nature of regulation in the two areas, while similar in some respects, is different in kind, and the

railway companies operate their communications facilities as a virtually separate undertaking. In a time of very rapid technological change, there is an evident need for a move away from *ad hoc* regulatory procedures, related primarily to overall rate of return, towards a form of 'continuing surveillance' of the performance of carriers, along lines advocated by many contemporary economists expert in the regulation of public utilities.

### 1. Background

Community-Antenna Television (CATV) systems make use of a broadcast-receiver which is subject to exclusive federal jurisdiction, and it has been held by the courts that the associated coaxial-cables are an integral part of the undertakings, and consequently also subject to exclusive federal jurisdiction.

Accordingly, CATV systems, which are designated as 'broadcast receiving undertakings' in the Broadcasting Act, are subject to the authority of the Canadian Radio-Television Commission. However, the coaxial-cable systems that distribute the broadcast signals are technically capable of being developed so as to carry other services, of a closed-circuit nature, involving computers, databanks, and sophisticated display devices, which might otherwise be handled by telecommunications carriers.

All forms of communication are intimately interwoven with the social, cultural, and economic fabric of the country, and any change in one mode has repercussions, sometimes unexpected and often unpredictable, in others. Thus, while the CRTC, in fulfilling its responsibilities under the Broadcasting Act, can only be concerned with cable-television undertakings as part of the Canadian broadcasting system, its

decisions may have a significant impact on the future nature, structure, and ownership of telecommunications systems in all parts of Canada.

### 2. The Impact of Cable-television on Broadcasting

The traditional framework of control of Canadian broadcasting has been distorted in recent years by the phenomenal growth of the cable-television industry, and Canada is one of the most heavily cabled countries *per capita* in the world. The industry has been developed by privately-owned undertakings providing service mostly to urban areas, which very often make use of the poles and wires of a telecommunications carrier. Contractual arrangements range from total ownership of the distribution system by the CATV operator to so-called partial systems, which are commoner, where ownership and effective control of the coaxial-cable are retained by the carrier, while the antenna, the amplifiers that relay the signal, and the connection to each household are the property of the

CATV operator. This pattern developed before the passing of the Broadcasting Act in 1968, at a time when broadcasting licences were not required for CATV systems and the radio licences issued by the Minister of Transport were of a supervisory nature and represented only a very limited articulation of Government policy.

Since 1968, the CRTC has issued several policy statements and made many precedent-setting decisions which represent the first attempt to rationalize the relationship of cable television to the Canadian broadcasting system as a whole, of which it forms a part. The Commission's policy is based on the necessity to supervise the development of cable television in relation to its effect on broadcasting and attempts to establish mechanisms in a regulatory framework to achieve a certain integration of objectives so that the development of CATV systems shall not destroy the base of the Canadian broadcasting system. To the extent that the statutory power has been given to the CRTC under the Broadcasting Act, the Commission has attempted to take into account the economic, financial, social and cultural needs of Canada relating to the provision of broadcasting services. Its cable television policy is consistent across Canada, and yet is designed to permit flexibility for the protection of those parts of the broadcasting system that may be endangered.

The designation of CATV systems under the Broadcasting Act as "broadcasting receiving undertakings" serves the dual purpose of providing a regulatory framework under the Act and of describing the functional relationship of CATV systems to the Canadian broadcasting system. CATV systems may, in the future, be capable of providing a variety of information-based services through the means of one-way and two-way transmission. In providing some of these services CATV

operators may carry out communication-carriage functions, i.e. they may be under an obligation not to interfere with the content of the information transmitted over their facilities.

In developing policy options for future development of the role of CATV systems in remote-access data-processing and information-based services, the following considerations will be relevant:

- it may be difficult to distinguish clearly between broadcasting and carrier functions on the basis of hardware alone, since many of the closed-circuit services using the facilities of CATV systems will contain an element of "programming";
- there may be difficult issues regarding competition between existing carriers and CATV systems in the development of efficient distribution systems;
- it will be necessary to determine the extent to which various services provided by CATV systems may be permitted to cross-subsidize one another; this in turn will require determination of whether the model of regulation now applied to communication carriers is appropriate;
- it will be necessary, for regulatory purposes, to attempt to forecast the nature and quantity of the various demands which CATV may be called upon to satisfy, as a result of accelerating social and technological change.

Redefinition of this role in the light of possible future policy requirements could perhaps be accomplished by a unified agency having jurisdiction over both broadcasting and carrier functions.

### 3. The Impact of Independent Cable Systems on the Established Telecommunications Carriers

It is necessary to consider how best to regulate the impact of CATV systems, if they are allowed to become carriers of services other than broadcast distribution, on the established telecommunications carriers. The Canadian Cable Television Association is committed to the concept of CATV systems as carriers of certain kinds of telecommunications services, not only broadcast reception, so that the potential capacity of the coaxial cables can be fully developed. At present, however, about 70 per cent of the cables used by CATV undertakings are leased from the local telephone companies under agreements which often prohibit the CATV operators from offering other telecommunications services that they might be able to provide by modifying their systems. The carriers, for their part, argue that it is in the public interest, at least in urban areas, for all communications distribution and access facilities to be provided by a single entity, so as to eliminate unnecessary multiplication of rights of way and of transmission and switching systems. It is hard to see how, under present legislation and with two federal regulatory bodies with different objectives, these two opposing points of view can be reconciled to the greatest advantage of the public.

### 4. Provincial Interest in Cable Systems

Several provincial governments have expressed increasing interest in the development of CATV and other cable systems in relation to regional and local planning for telecommunications services of all kinds. The complexities of the Canadian broadcasting system demand the most careful attention to the impact of CATV undertakings upon its stability and capacity to serve national and local needs. The increasingly complex relationship between broadcasting and carrier functions suggests that a single federal telecommunications agency, responsible both for the supervision of the broadcasting system and for the regulation of telecommunications carriers subject to federal jurisdiction, would be in a position to give due weight to expressed provincial and local interest in the development of communications facilities in Quebec, Ontario, British Columbia, parts of Newfoundland, and the northern Territories. A federal body familiar with the problems of carrier regulation would be better placed to take account of provincial and local carrier interests as they may be affected by its broadcasting decisions in the Provinces where the principal carrier is not federally regulated. The Government is therefore ready to discuss with the Provinces the possible mechanisms for consultation set forth in Section VI-C below.

### C. Satellite Communications

Satellite communications involve a new mode of transmission which will increasingly have profound socio-cultural effects and a marked impact on the economics of established telecommunications systems. While Telesat Canada provides alternative transmission facilities to both established carriers and broadcasters, it is also a potential competitor of the former by offering its facilities directly to any customer willing to lease one or more complete channels. For these purposes, it will be subject to regulation by the federal body that has jurisdiction over established carriers. But the development of communications satellites and related ground-equipment will, in the relatively near future, introduce yet another obscurity into the once relatively clear distinction

between broadcasting and point-to-point forms of telecommunication. Direct home-reception of broadcasting from satellites may be possible in the 1980s, if costs can be sufficiently reduced, e.g. through the use of multi-purpose satellites. Meanwhile, in remote localities and particularly in the North, there is a growing and articulate demand for greatly improved telephone service, and for regionally distributed programming of local origin, both of which will require ground-to-satellite capacity on a large scale. It will be difficult in those circumstances to exercise effective regulatory control if federal authority is still divided.

### D. Computer/Communications

Remote-access data-processing involves a combination of computer and telecommunications services. The Government believes that, for the computer-service element, reliance on competition policy will promote efficiency and result in maximum benefits to the users of these services and to the Canadian economy. While some constraints may prove to be necessary, with regard to such matters as ownership, participation, privacy, standards, and civil liability, the computer-service industry might best be left unregulated in other respects.

However, the same argument does not necessarily apply to the telecommunications links that afford remote access to computer services, where there should be an assurance of equitable rates and reasonable conditions for the provision of service. If this position is accepted, it is clear that the powers of the body authorized to regulate the telecommunications carriers can be very simply applied to remote-access links to computer services, and that no special regulatory institutions for the computer/communications industry as such need be contemplated.



E. The Advantages of a Single Federal Regulatory Agency

It is evident that many existing and foreseeable regulatory problems would be eased by the establishment of a single federal regulatory agency to cover the whole field of telecommunications insofar as it is subject to federal jurisdiction. Such a body, exercising authority over both the Canadian broadcasting system and the operations of the federally-regulated telecommunications carriers, would be in a position to take account of the increasing interaction between broadcasting and other forms of telecommunications, particularly with regard to the broader capabilities of cable systems. The potential duplication and conflicts which might arise between two federal regulatory bodies in the same general field would be eliminated, and the recruitment of experts in the economics and technology of communications, who are in notably short supply in Canada, would be facilitated.

Another important outcome would be the ability of a single federal agency to establish effective means of collaboration and consultation with provincial regulatory bodies in a way that would be difficult, if not

impossible, if two federal regulatory bodies continue to be involved. Some features of this advantageous aspect are discussed in Section VI-C.

As telecommunications systems become physically and operationally compatible and interconnectable, it becomes increasingly difficult to differentiate between them in terms of channels and processing techniques, and more practical to do so in terms of the forms and functions of messages and information. Thus a single agency would be more readily adaptable to the rapid and continuing evolution which has created a grave imbalance between the resources devoted to the development and technology of systems, and those devoted to the creation, production, and distribution of programming and information content. In short, one of the principal advantages of the proposed new agency would be the attainment of a proper balance between the social, cultural, economic, and technical aspects of communications, in accordance with clearly stated national objectives.



V

Distribution of Federal  
Responsibility  
for the Attainment of National  
Telecommunications Objectives

## A. Background

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In most countries outside North America, the government itself is the provider of communications facilities and services, and is therefore in total control of policy and plans. The presumption is that the interests of the consumer can be protected through the normal procedures of representative democracy. In Canada, as in the United States, the exercise of regulatory authority is divided; further, the fact that many communications services are provided by private enterprise under quasi-monopoly conditions makes it necessary to provide some regulatory mechanism that will afford protection to the public in the granting of exclusive franchises and their exploitation.

An agency that is charged with responsibility for these regulatory functions must, in practice, be given a wide area of authority for the implementation of government policies insofar as they affect individual corporations and citizens. It is therefore important that legislation should be as clear as possible in defining the areas within which such an agency may exercise full authority. Moreover, since it is impossible, particularly when drafting a statute dealing with so complex a subject as communications, to foresee all the social, economic, cultural, and technological developments and new situations that may emerge, opportunity must be provided for the Governor in Council to give directions, compatible with the statute, as to the policies to be followed in pursuing national objectives.

## B. Statutory Relationship of the Governor in Council to the Agency

The Broadcasting Act reflects a justifiable public concern with objectivity in the granting of broadcasting licences and with freedom of expression in programming. The CRTC is accordingly granted a wide regulatory and supervisory authority, with which the Governor in Council may interfere only on matters or in circumstances that are rigidly specified. In constituting an agency dealing also with the regulation of telephone and telegraph undertakings, consideration might be given to an alternative, whereby the subjects deemed to fall within the exclusive responsibility of the regulatory body, and therefore not within the competence of the Governor in Council to give directions, would be specified. Whichever alternative is adopted, it would clearly be inappropriate to permit a direction to the regulatory body which would, for example:

- award a licence or franchise to an identifiable person;
- affect the nature of broadcast programming or other programming;

- apply qualitative standards to broadcast programming or other information (except through generally applicable laws affecting, for instance, libel or obscenity);
- restrict the free expression of opinion (within the limits permitted by generally applicable laws);
- determine a rate for a particular service;
- order an extension of service at the expense of the providers of, or the subscribers to, a system or service.

It should be clearly understood that any such statutory provisions would in no way diminish the authority of the CRTC to supervise and regulate the Canadian broadcasting system. The independence of the Canadian Broadcasting Corporation, subject to the powers of the regulatory agency, would of course be fully maintained.

C. Intervention by Federal Ministers

While provincial governments have always been free to intervene in proceedings before federal regulatory bodies, and have often availed themselves of the opportunity to do so, the federal Government has not commonly exercised the same right. One reason is that, under several statutes, the Governor in Council is empowered to vary or rescind, to set aside, or to refer back for reconsideration the decisions of regulatory bodies created by Parliament, and intervention in proceedings has been regarded as incompatible with these reserved powers.

*Power of direction*

Nevertheless, occasions arise in which it might be desirable for a federal Minister to appear or be represented at a public hearing to advocate some aspect of Government policy that should be taken into account, but where the Government is not empowered or does not wish to issue a formal direction. If statutory provision is to be made for such intervention, consideration may have to be given to possible checks and balances to preserve the autonomy of the regulatory body; for example, if a federal Minister appears, either personally or

through a legally authorized representative, at a rate hearing:

- the Governor in Council might be barred from referring the decision back for reconsideration, but not necessarily from using its power to set the decision aside;
- if the hearing is held to reconsider a decision that has already been referred back, the Governor in Council might then be barred from using its power to set aside the reconsidered decision;
- if the subject-matter is one on which the Governor in Council, or the Minister, is empowered to give a formal direction but has chosen not to do so, resort to the power of direction for the purpose of varying or rescinding the decision might be disallowed;
- if the intervention concerns only one specific aspect of the proceedings, the Governor in Council should not be debarred from exercising his reserve powers with regard to other aspects.

D. Direct Ministerial Authority

1. Radiocommunications

Under the Radio Act, the Minister of Communications exercises a regulatory function and is responsible for "the orderly development and operation of radiocommunication in Canada". Under the Department of Communications Act he is empowered to "take such action as may be necessary to secure, by international regulation or otherwise, the rights of Canada in communications matters" (s.5); however, he is further required under the Radio Act to "consult the Canadian Radio-Television Commission with respect to all such" (international) "matters that, in his opinion, affect or concern broadcasting" (s.8).

To enable the Minister to fulfil these responsibilities, he is empowered to make regulations on a wide range of technical matters, including the use of the radio-frequency spectrum and the planning of broadcasting facilities, and for the effective implementation of international agreements to which Canada is a party. He is also charged with the issuance of radio licences and, for broadcasting undertakings, of technical construction and operating certificates which are a prerequisite for the issuance of broadcasting licences by the CRTC.

Thus, certain decisions devolving on the Minister entail subjective judgments on licensing and other matters, and might for that reason be more properly referred to a regulatory body, since normal departmental machinery is not well suited to the organization of public hearings, for which an administrative tribunal is a natural and effective instrument.

An obvious example arises from the assignment of frequencies in areas of the radio-frequency spectrum which are, in fact, congested or likely to become so, and where the issuance of a licence may confer substantial material benefits on the successful applicant. Similar cases might arise out of the policy of encouraging common use of microwave systems so that the public at large may be better served; consequential decisions, while defensible in the public interest, may have the side-effect of conferring benefits on one of two or more parties in the case. It may also be advantageous to hold a public hearing on certain kinds of administrative regulations (e.g. under the Radio Act) before they are promulgated. It is therefore desirable to provide for some form of impartial hearing where there are or may be divergent views about the application of federal policies, or where demands for assignments within an allocated band cannot all be met.

As a practical means of dealing with the problem of situations where there is competition for a particular frequency, or where complex facts must be weighed or information discovered, it is suggested that in the new legislation the Minister should

be empowered, exceptionally and at his sole discretion, to call upon the federal telecommunications agency, or to invite a provincial regulatory body, to advise him or make recommendations, either directly or after a public hearing in either case, on any matter falling within his jurisdiction.

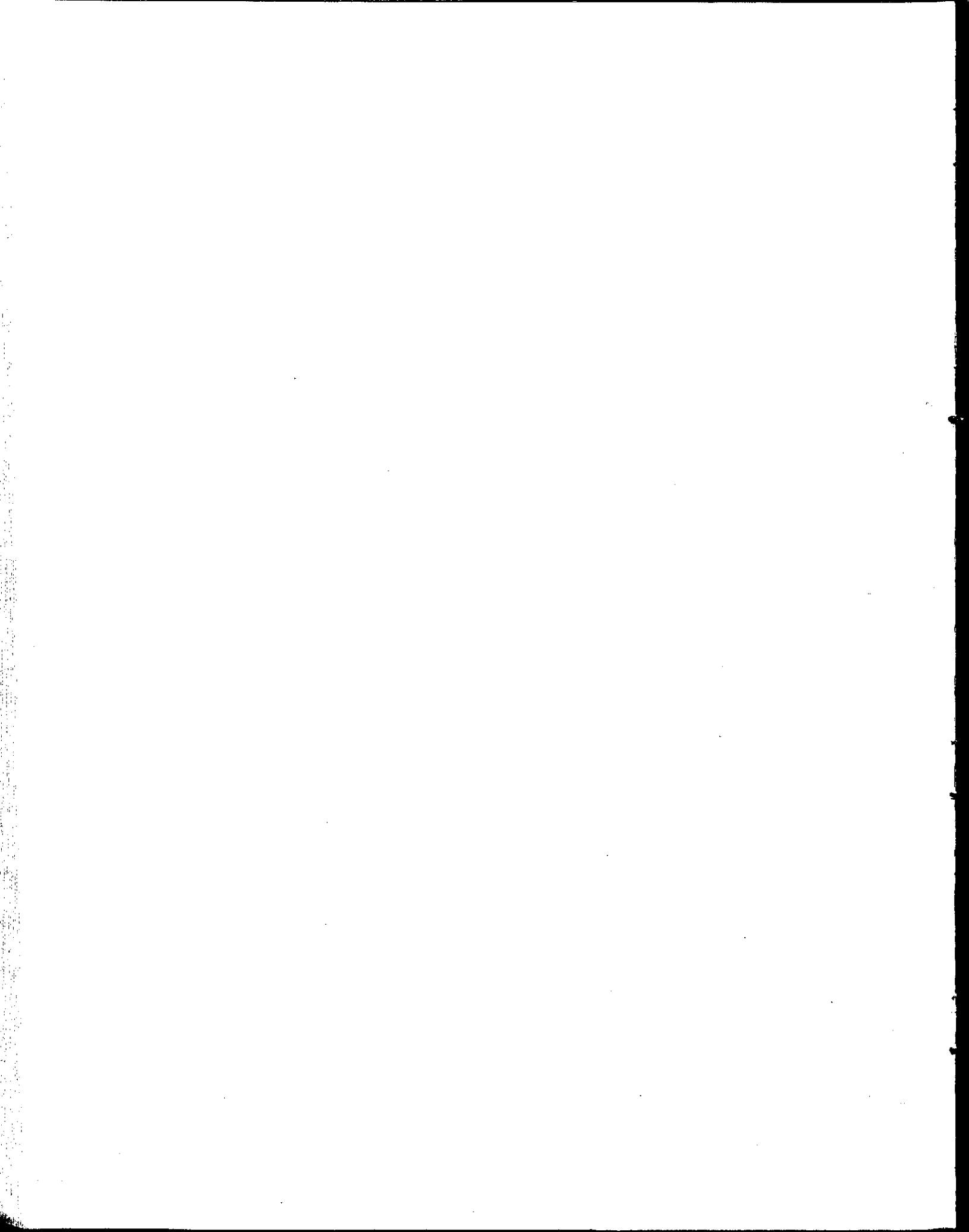
## *2. International Facilities and Traffic*

Existing statutory provisions may not be adequate for the supervision of international facilities and traffic as they are now developing. In particular, the situation will be complicated by the construction of computer networks with a need for international compatibility, and by the operations of Telesat Canada.

As stated above, the Minister of Communications has certain broad responsibilities with regard to international aspects of telecommunications. Further, one of the statutory purposes of the Canadian Overseas Telecommunication Corporation, which is required to "comply with any directions from time to time given to it by the Governor in Council or the Minister with respect to the exercise of its powers", is "to coordinate Canada's external telecommunication services with the telecommunication services of other nations".

While it is recognized that international services are subject to agreements between operating entities and, in broad terms, to approval by other governments or their agents, it would clearly be desirable to establish some more effective form of Ministerial or regulatory authority over proposed policies, service arrangements, and rate structures for all telecommunications traffic between Canada and other countries.





VI

Federal/Provincial Co-Operation

A. Collaboration by The Federal and Provincial Governments

The Telecommission studies have clearly demonstrated the need for consultation and collaboration on matters of policy and planning between the federal and provincial governments. Furthermore, the federal Government has followed with interest the statements by the Provinces, individually and collectively, of their concern with the development of communications policy, with particular reference to cabletelevision and interconnection.

Given the complexity of communications problems, the inter-governmental consultative process might best be served not only by periodic meetings at the ministerial level, but also by continuing liaison between federal and provincial officials and efficient arrangements for the exchange of information. The purpose of this exchange would be, ideally, to ensure that all governments concerned should have the opportunity to consider and comment on proposed policies, plans, regulations, and standards before they are put into effect. While it would be unrealistic to expect unanimity on all the problems encountered, it is nevertheless certain that a conscientious collaborative effort will go far to eliminating friction over a wide range of matters that are of mutual interest and concern.

Two provincial governments have suggested, as an institutional framework for this collaboration, the

establishment of a Council of Communications Ministers. While the federal Government is prepared to discuss this proposal with all the provincial governments, a less formal arrangement might also be considered. The federal and provincial Ministers responsible for telecommunications might agree to attend periodic meetings, perhaps once or twice a year. In this way there would be opportunity from time to time for Ministers to discuss and harmonize the development of federal and provincial policy, and for provincial Ministers to make representations on matters falling within the powers of the Governor in Council, under the new legislation, to give formal directions to the federal regulatory body.

However, many matters for consultation and discussion could be handled at *ad hoc* meetings of officials at an appropriate level, or by the establishment of a committee to consider a particular matter and make recommendations; either could be set up at the request of the federal Government or any province. In order to supplement these consultative arrangements, the distribution and exchange of information and enquiries, on the widest possible basis, would provide a useful approach. The federal Government has already taken the lead in this regard, and is willing to enter into reciprocal arrangements with all the Provinces.

B. Consideration of a Two-tier System of Regulation

There were sound reasons for the statutory declarations by Parliament that Bell Canada and British Columbia Telephones are undertakings for the general advantage of Canada, making them exclusively subject to federal regulation. This authority should not be fragmented unless substantial benefit to the public interest can clearly be demonstrated. But there is an obvious need for mechanisms that will further facilitate the implementation of truly national objectives through the exercise of effective federal jurisdiction over certain aspects of interprovincial and international operations and traffic, which at present account for some 35-40 per cent of the total toll revenues of Canadian telephone companies, and which are—in some aspects—substantially more costly than their counterparts in the United States.

As stated above, the Government is prepared to discuss, if the Provinces so desire, the feasibility of introducing a two-tier system of regulation, under which international and interprovincial aspects or the operations of all Canadian telecommunications carriers would be federally regulated, while intra-provincial aspects would be subject to provincial authority.

Since telecommunications systems and services are publicly owned in most other countries, the only comparable model is to be found in the United States. Even there, however, the circumstances are different, for long-line telephone services operated by the American Telephone and Telegraph Company (AT&T) are subject to the authority of the Federal Communications Commission (FCC), while the individual States have jurisdiction over the intra-state operations of the telephone companies, many of which are components of the AT&T/Bell system. There is much evidence that experience in the United States is not very encouraging for the development of a dual system of regulation of telephone service.

While, in one way, the difficulties might be relatively easier to overcome in Canada, with far fewer governmental entities involved, they might be compounded by the different corporate structure, since there is no Canadian incorporated undertaking fulfilling functions similar to those of AT&T. If an undertaking is to be subject to regulation by more than one body, conflicts are bound to arise about the ultimate impact of regulatory authority on the economic capability of the undertaking to provide service to the public. In view of the obvious difficulties involved in arriving at arrangements acceptable to all governments, prior consideration might perhaps be given to the alternative arrangements described below.

C. Consultative Arrangements between Federal and Provincial Regulatory Bodies

1. Procedure for Rate-Hearings

A point made forcefully by the Government of Ontario with regard to CTC rate-hearings was that much vital information provided by a federally-regulated carrier is treated as confidential and therefore disclosed only to members of the CTC itself; the provincial Government is thus severely handicapped in its capacity to intervene effectively on matters that may have a serious impact on other forms of telecommunications subject to its own jurisdiction. The Quebec Government has expressed similar concern about its inability to have an effective voice in the regulation of the intra-provincial operations of Bell Canada.

*refers to common carriers list Bell Canada*

One solution that merits consideration, at least for rate hearings, would be a provision for representation of the appropriate provincial regulatory body or bodies at hearings and *in camera* sessions on intra-provincial rates in Ontario, Québec, and British Columbia, with full disclosure to the provincial representatives of all information provided by the carrier. Similar arrangements could apply to hearings and *in camera* sessions on interprovincial rates, with representation of any Province or Provinces that might be affected. Reciprocal arrangements would, of course, be expected with regard to extra-provincial aspects of carrier operations subject to provincial jurisdiction. This would afford opportunity for a full examination of provincial or federal interests during the course of the hearings, whether or not the provincial or federal government chose to be represented in an adversary capacity as well.

2. Formal Consultation

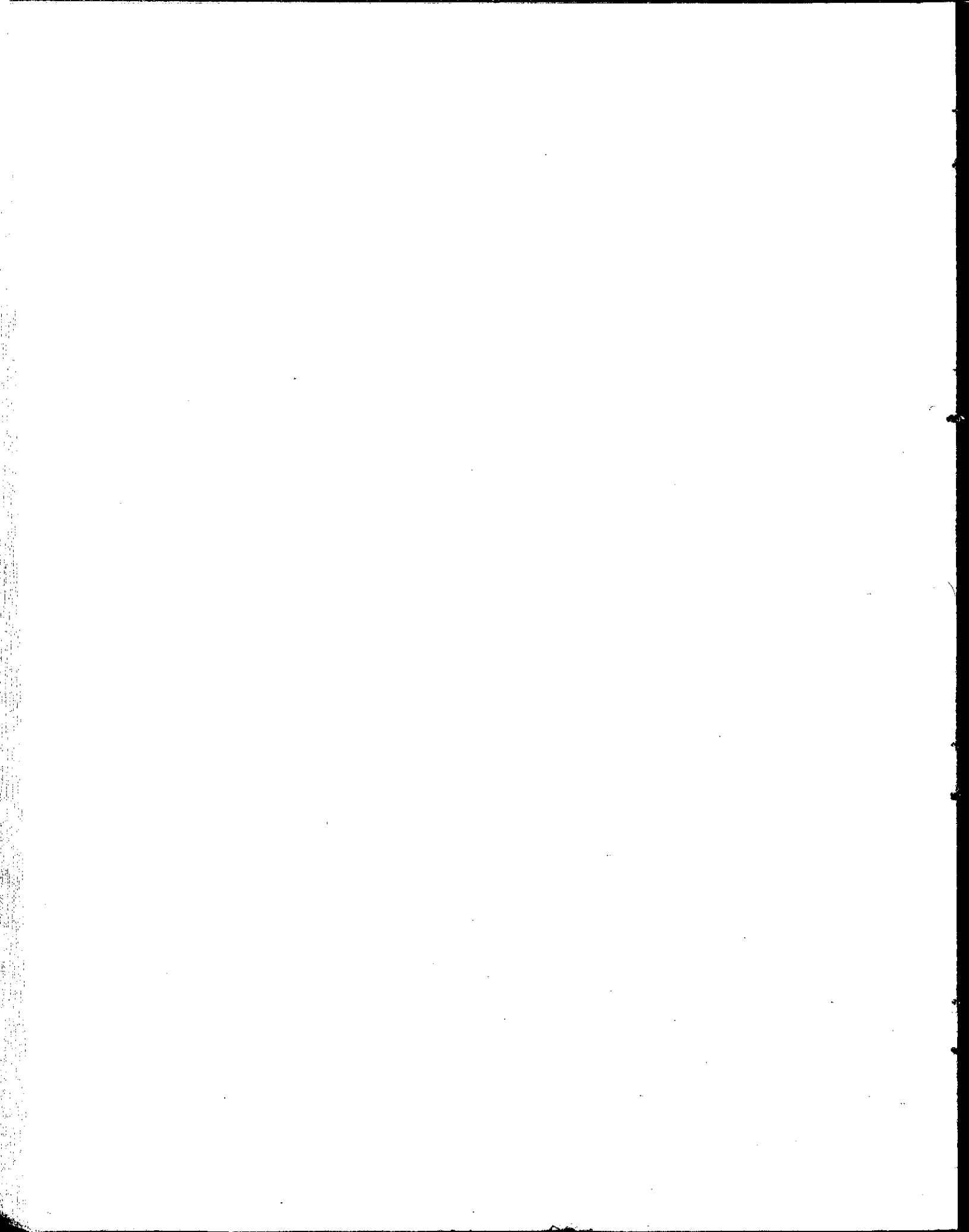
The Government is also prepared to consider a provision empowering the federal regulatory agency, subject to approval by the Governor in

Council, to remit certain purely intra-provincial matters within its jurisdiction to the appropriate provincial regulatory body for advice. The agency might also be authorized to consult a provincial regulatory body in advance of a rate hearing which could have important intra-provincial implications.

The Government would further welcome discussions with the Provinces about the formulation of arrangements for consultation between the federal and provincial regulatory bodies in advance of policy decisions falling within the competence of those bodies. Such a mechanism might be valuable for dealing with such matters as the offering of new services by existing carriers, applications from non-carrier organizations for authority to offer services in competition with the established carriers, the development of cable systems, mutually agreed arrangements for the registration of computer/communications undertakings, and so on.

3. Other Consultative Arrangements

Agreed arrangements for regular exchanges of information and contacts between officials of the federal and provincial regulatory bodies seem to be highly desirable. The Trans-Canada Telephone System has suggested the formation of a National Association of Telecommunications Regulatory Authorities, consisting of delegates from federal and provincial regulatory bodies, to consult on matters of rates and service, and on national and provincial objectives, taking regional differences and requirements into account. A body of this kind might facilitate agreement on administrative matters, such as uniform accounting methods and cost-separation formulas, and the Government would welcome provincial comments on this proposal.





VII

Consultation with Industry

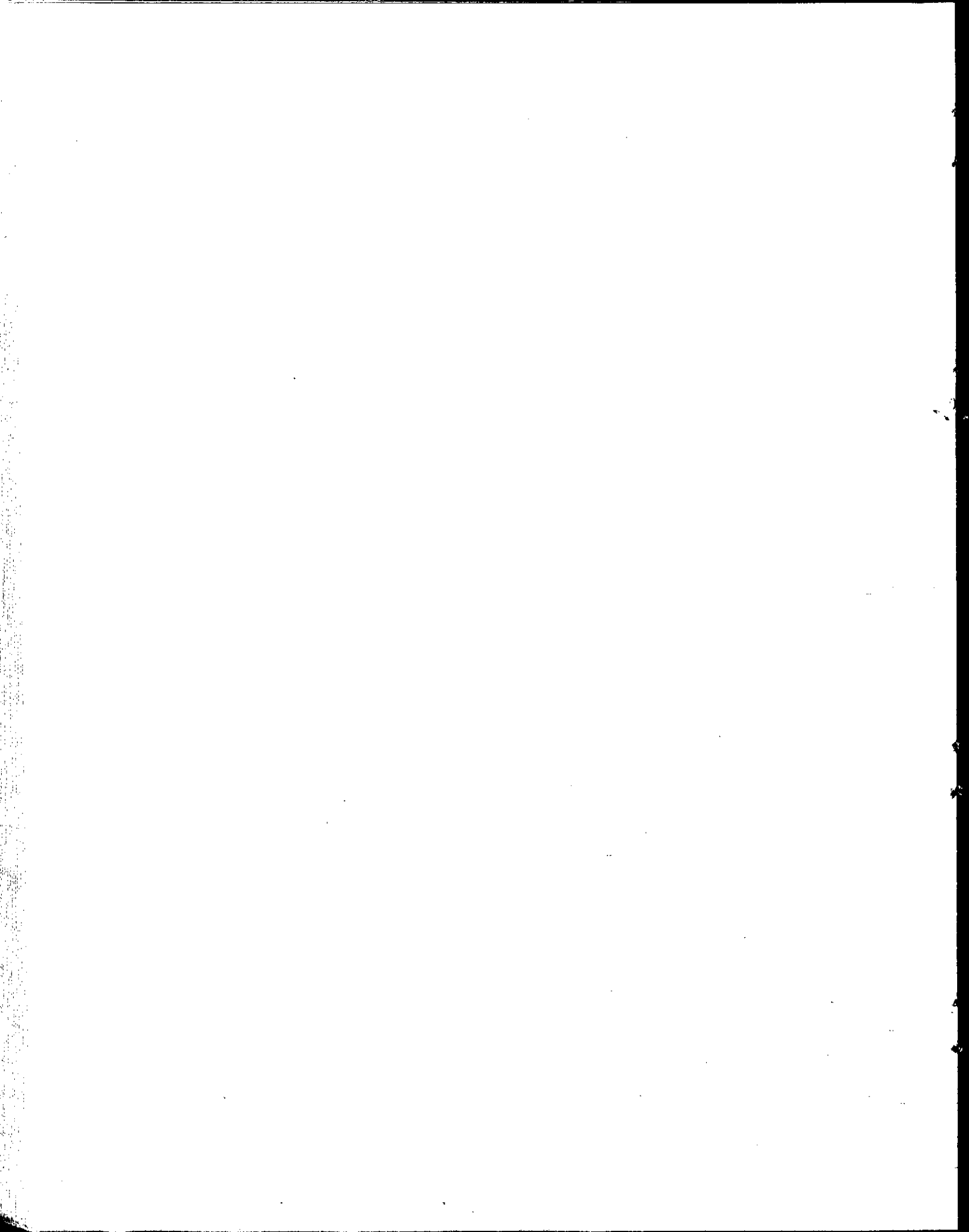
The Trans-Canada Telephone System has put forward a proposal for the formation of a 'National Telecommunications Advisory Council' to work in parallel with its proposed 'National Association of Telecommunications Regulatory Authorities', which could serve as a consultative body in the development of policy; the membership would include government (presumably both federal and provincial) and industry representatives. This would be a body of formidable size, for the single word 'industry' must comprehend the carriers, the broadcasters, the cable-operators, the manufacturers of telecommunications and data-processing equipment, and the data-processors. There would be few matters on which the one or two representatives of each government and of each industry would be able to participate without reference back to their parent bodies, and the chances of a consensus on any subject at all would be negligible.

An alternative would be to arrange for the establishment of a number of consultative bodies, each dealing with a particular aspect of telecommunications. An example that has worked well is the Canadian Radio Technical Planning Board (CRTPB), which was established in 1944 to advise the Government on the use of the radio-frequency spectrum; this body now represents the interests of 22 associations of users, manufacturers, and other organizations directly involved with telecommunications in Canada.

A strong case can be made for formal arrangements for consultation in areas such as computer/communications that are in an early and rapidly changing state of development. But it would be inadvisable to constitute such bodies by statute, since the justification for the existence of any particular body may be subject to fairly rapid obsolescence. However, there is a danger of serious loss of productivity among the fairly limited number of experts who are competent to contribute effectively to consultations, and there is already a perceptible trend towards remedying this situation by appointing staff whose only function is to attend consultative meetings. Since there are few firms large enough to enjoy this luxury, there is a danger that the interests of the smaller firms will increasingly be overlooked.

It is again suggested that the key to effective consultation lies not so much in councils, committees, and meetings, but rather in the distribution and exchange of information on the widest feasible scale, supplemented by *ad hoc* meetings and discussions on any matters of sufficient importance as they arise.

The Government is at present of the opinion that no formal advisory or consultative arrangements between the Government and industry should be established by statute. The most careful consideration will, needless to say, be given to any arrangements (such as that with the CRTPB or otherwise) that will afford reasonable, or maximum, opportunity for all sectors of the telecommunications and associated industries to comment on, or be consulted about, matters that are of immediate concern to them.





VIII

Conclusion

In this paper, the Government has set out its commitment to the shaping of national communications policy objectives, in consultation with the Governments of the Provinces. For the achievement of these objectives, the prerequisites are the augmentation of Canadian cultural resources and creative capacity, the development of efficient communications systems to serve the interests and meet the needs of all Canadians, and assurance of an effective degree of Canadian ownership and control.

This statement by the Government is not a White Paper enunciating settled policies. It is an outline of the general position of the Government with regard to the development of national communications policy, together with practical suggestions for new federal legislation which will facilitate the solution of some of the complex communications problems that Canada faces today. The main features of these proposals are:

- a positive commitment to, and the development of mechanisms for, consultation and collaboration among federal and provincial governments and regulatory bodies in the formulation and implementation of national policy objectives;
- a commitment to the principles of broadcasting policy enunciated in the Broadcasting Act;
- the development of means to ensure that technological advances, such as coaxial-cable and satellites are used to contribute to the capability of the Canadian broadcasting system to fulfil its responsibilities to the people of Canada;

- a revision and consolidation of federal legislation relating to telecommunications;

- provision for more effective regulation of telecommunications carriers subject to federal authority; and

- the establishment of a single federal agency to regulate both broadcasting and the operations of the carriers subject to federal authority.

These proposals are, in general, designed to provide the means for positive action, coupled with the greatest possible degree of flexibility in response to social and technological change. Moreover, they are open at this stage to modification in the light of detailed discussion with the Governments of the Provinces and the industries concerned, and of the response they may engender from users of telecommunications services and the general public.

Economic, efficient, and adequate communications, making the best use of all available modes, are essential to the sovereignty, integrity, and defence of Canada, and for the political freedoms, social well-being, cultural development, economic prosperity, and safety of all Canadians. While the fullest possible regard must be paid to the special needs of different parts of the country, it is essential that there should be agreement among all Canadian governments on the objectives of a communications policy for Canada.

