

**Tracing broadcast diversity and its manifestations in
the CRTC's *Let's Talk TV* proceedings**

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Abstract

Nurturing diversity is a key objective in Canadian public policy; however, “diversity” is polysemous, contested, flexible, and usually defined in an institutional context. The challenge of defining and ordering diversity objectives is particularly pronounced in broadcasting, wherein the CRTC is tasked with organizing a multitude of economic and social objectives put forward by a broad range of stakeholders.

This dissertation unpacks the complex and contested notion of diversity, with a focus on the CRTC’s largest and most topically broad broadcast policy review of the decade: the 2013-2016 *Let’s Talk TV* (LTTV) proceedings. Chapters 3 and 4 historically trace and connect the dots between the development of the diversity principle in international and national policy debates. They investigate how “diversity” is understood as a Western value, how it has been used and contested in international (particularly UNESCO) policy, and how Canada has understood and instrumentalized it in pursuit of specific political and economic objectives. Chapter 5 draws from these insights to offer a nine-part analytical model delineating the ways diversity has been understood as a broadcasting policy objective. Chapters 6-8 employ this analytical model to assess the role of diversity objectives in the CRTC’s LTTV proceedings, with a focus on the way the federal regulator operated under Stephen Harper’s Conservative political regime.

This dissertation finds that the absorption of “diversity” into Canada’s capitalist and nation-building projects risks purging it of its radical-democratic critique, leading to a politics of recognition that does not necessarily encompass claims for redistribution and hence provides limited latitude for promoting real social change. In broadcasting specifically, it demonstrates the politicized nature of the LTTV proceedings and the extent to which the CRTC under the Harper regime framed “diversity” objectives through the lens of consumer choice, often at the expense of social justice-oriented policy objectives. It concludes with a call for policymakers to realign Canadian broadcasting policy objectives to foreground the social good, and offers suggestions for future research providing practical ways to modify existing policy processes and deeply embedded values anchored in “consumerist” or “free-market” ideologies.

Keywords: diversity policy; CRTC; Let’s Talk TV; Canada; UNESCO; discursive institutionalism

Dedication

To Adam,

My most prolific cheerleader, commiserator, co-ponderer, and breakfast provider. I could not have done this without your love and support.

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List of Acronyms

APTN	Aboriginal Peoples Television Network
BBG	Board of Broadcast Governors
BDU	Broadcast Distribution Undertaking
CBC	Canadian Broadcasting Corporation
CBR	Canadian Bill of Rights
CCD	Canadian Coalition for Cultural Diversity
CDCE	Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO)
CETA	Canada-European Union Comprehensive Economic and Trade Agreement
CPE	Canadian Programming Expenditure
CRBC	Canadian Radio Broadcasting Commission
CRTC	Canadian Radio-television and Telecommunications Commission
DFAIT	Department of Foreign Affairs and International Trade
DI	Discursive institutionalism
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
IFCCD	International Federation of Coalitions for Cultural Diversity
INCD	International Network on Cultural Diversity
INCP	International Network of Cultural Policy
LTTV	<i>Let's Talk TV</i> (CRTC proceedings)
NAFTA	North American Free Trade Agreement
NAM	Non-aligned movement
NWICO	New World Information and Communication Order
OLMC	Official language minority community
OTA	Over-the-air broadcasting
OTT	Over-the-top broadcasting
PNI	Programs of National Interest
UDCD	Universal Declaration on Cultural Diversity (UNESCO)
UNESCO	United Nations Educational Scientific and Cultural Organization
VI	Vertically integrated

WTO

World Trade Organization

Chapter 1.

Introduction

In his June 2013 introduction to the Canadian Radio-television and Telecommunications Commission (CRTC)'s landmark *Let's Talk TV* (LTTV) proceedings, CRTC chairman Jean-Pierre Blais asserted the need for television offering "a range of choice and a diversity of content" in our "borderless world" (Blais & CRTC, 2014). Blais's comments highlight major emerging policy challenges: 1) New technologies and an increasingly global media system, termed "communicative abundance," provide consumer access to more content than ever before (Keane, 1999); however, 2) while diversity remains a key priority for broadcasting, policy-makers are unsure of how to define and support it in the new environment.

Understanding contemporary diversity issues requires understanding the political, social, and technological spaces and circumstances from which various conceptions of diversity arise, and critically examining where we have historically drawn lines between conceptions that are deemed acceptable and mutually beneficial, and those that are dismissed as unnecessary, self-serving, or deviant. It also involves unpacking the intended and unintended impacts of policy on a broad range of stakeholders, many of which will approach diversity from different positions but with a resoundingly similar mantra: *Diversity in broadcasting is crucial, but what about me and my group's needs? What's in it for us?*

The objective of this dissertation is to undertake this challenge by tracing dominant historical and contemporary approaches to diversity in global and domestic policy arenas. In doing so, I uncover clues that help us better understand what our current diversity objectives are in the broadcasting policy realm, and how they were recently operationalized in a major broadcast policy-making event (the CRTC's 2013–2016 *Let's Talk TV* proceedings).

To do this, I draw on Raboy and Padovani's (2010) insight that analysis of the role of media policy in protecting diversity must be multi-levelled and multi-sectoral, involving analysis of national policy frameworks alongside global agreements on trade

and cultural policy. I focus on the growth of ideas surrounding diversity, and its formation and re-formation as a discursive institution (Schmidt, 2010). This dissertation asks:

1. Where did the idea of diversity of expressions come from?
2. How is it understood in Canadian broadcasting policy? Why does it continually emerge and re-emerge as a key value in this policy realm?
3. In what ways were diversity values understood and supported (or not supported) during the CRTC's *Let's Talk TV* proceedings?

1.1. Why study diversity in Canadian broadcasting?

Like most Western states, Canada has a long history of regulating broadcasting in pursuit of specific social and economic objectives, in large part due to early recognition of the need to balance the complex roles of media and cultural industries as “both industry and art” (Grant & Wood, 2004, p. 23). In recent decades, the Government of Canada has interpreted this complex economic-social balancing act in part through the lens of protecting and promoting a diversity of voices in cultural industries, particularly broadcasting.

Diversity is considered a foundation principle of communication policy in many Western countries, reflecting the belief that heterogeneity in media sources, content, and exposure is crucial for the protection and promotion of democracy (Napoli, 1999) and cultural diversity (Fleras & Kunz, 2001). However, while there is generally broad agreement that diversity in broadcasting is good, there is much less agreement about what it means, or what an ideally diverse media landscape would look like. Diversity as it pertains to broadcasting is polysemous, culturally constructed, and usually defined within an institutional context. Despite its wide support, the concept remains maddeningly vague and under-theorized. It is infuriatingly difficult to define.

Furthermore, although often touted as a key value in broadcasting and a benefit to all, Canada has a history of contradictory positions on diversity. While it has traditionally maintained a “toolkit” of regulatory measures to promote media diversity (Grant & Wood, 2004) and has been a driver for global cultural diversity frameworks such as the UNESCO *Convention for the Protection and Promotion of the Diversity of*

Cultural Expressions (colloquially referred to as the *Convention for the Diversity of Cultural Expressions*, or CDCE) (Graber, 2008), the CRTC is critiqued for not enforcing its own diversity policies (Raboy, Landry, & Shtern, 2010) and for using policy to protect large domestic firms in a highly concentrated market (Winseck, 2011).

Additionally, various institutions that promote diversity are facing increasing pressures: outside of Québec, official Canadian engagement with the CDCE seems to be fading; the Canadian Conference of the Arts has been disbanded, weakening public input into diversity policy; after decades of underfunding, the CBC faced successive budget reductions from 2012-2015; and in 2006, the Conservative Government issued a directive requiring the CRTC to rely on market forces as much as possible in telecommunications, which can have potential crossover effects in an increasingly converging broadcast-telecom industry. The Canadian media policy framework is becoming a contradictory amalgamation of traditional normative considerations for a regulated broadcasting sphere, a “cultural industries” sphere that receives some public subsidy but little market protection, and a largely unregulated internet sphere that poses challenges for developing and justifying new diversity policies. Within this complex policy space are juxtaposed the interests of private, domestic, and foreign media firms, advocates of digital media-driven innovation, and consumers, along with citizens and organizations speaking on behalf of public, sectoral, or ethnic interests.

In the coming years, this complex policy environment is likely to become even more difficult to navigate as new technologies and an increasingly global media system, termed “communicative abundance” (Keane, 1999), allow Canadians to access whatever content they want, whenever they want it. So far, most policy for diversity exists in a distinctly pre-internet mindset, with a focus on content and source diversity; yet, the emerging environment of communicative abundance simultaneously provides consumer access to more content than ever before, while also raising new questions about appropriate policy responses (if any) to ensure citizens experience diversity in the content to which they are *exposed* (Goodman, 2004). With major technological and policy shifts occurring very rapidly both domestically and globally, it is crucial that we try to understand what exactly diversity means and what its objectives should be.

1.2. Theorizing diversity

The boundary issues discussed above make the task of preparing a comprehensive review of theories surrounding diversity extremely tricky. Canada does not have a coherent strain of literature that problematizes broadcast diversity; instead, diversity theory is split across a variety of literatures spanning a range of fields. The most prominent of these are: critical race studies, which tend to focus on questions related to the inclusion and exclusion of historically marginalized groups (Fleras, 2011a; Simpson, James, & Mack, 2011); studies surrounding national identity-building, which emphasize the use of diversity to support Canadian national development (Day, 2000; Grant & Wood, 2004; Mackey, 1999); political economy, which spans a range of issues but generally coalesces around the role of capitalism and state power in influencing the shape and tone of the broadcasting system (Raboy, 1990; Skinner & Gasher, 2005; Winseck, 2011); and business, which focuses on ways diversity can be harnessed to increase private profits (Cox & Blake, 1991; Cukier et al., 2017; Greening & Turban, 2000).

I situate this dissertation within the sub-field of Canadian broadcasting policy, which is interdisciplinary in nature and often draws from political science, policy studies, history, and other related fields. While there is a significant body of scholarly literature examining Canadian broadcast policy, the sub-area of diversity in this field is disjointed and relatively underdeveloped, with only a handful of recent works explicitly addressing the broadcasting policy-diversity nexus. Within the works that do address this topic, most focus on a few specific types of diversity concerns but do not rigorously conceptualize the field more broadly. Often, diversity is a subsidiary theme in a larger work detailing policy and the work of the CRTC. This section provides a brief overview of the most recent important works that address broadcast diversity in the field of Canadian broadcasting policy. Chapter 5 builds on this overview with a deeper and more interdisciplinary approach to unpacking the scholarly field in relation to a number of specific diversity topics.

Raboy and Shtern (2010) address broadcast diversity within the lens of communication rights, arguing that a lack of diversity in the Canadian media (defined as ownership, geographic, cultural, and programming diversity) separates citizens from the media (p. 228). They ultimately recommend that the CRTC enhance the diversity of

voices through regulation of cross-media ownership, assessing the impacts of problem thresholds for ownership concentration, enhancing cultural diversity in employment practices, and better utilizing community media.

In their review of media policy reform to improve Canadian journalism, Skinner et al. (2016) focus primarily on concerns surrounding media concentration and call for a series of policies related to reducing cross-media ownership, strengthening Canadian ownership rules, and providing better support for journalism as well as not-for-profit broadcasters including the CBC. This research dovetails with a large number of works considering the impacts of ownership diversity in broadcasting (e.g., Bagdikian, 2014; Brin et. al., 2012; CMCRP, 2017; Hildebrandt & Solderlund, 2005; Skinner & Gasher, 2005), most of which focus broadly on the impacts of capitalist values in media management and the potential impacts that implicit neoliberal bias can have on editorial autonomy.

Salter and Ordartey-Wellington (2008) describe the CRTC's approach to diversity as, at times, a synonym to "consumer choice," a notion that also emerges as a major theme in this dissertation. The authors categorize the CRTC's contemporary approach to diversity as encompassing the licencing of many channels in different genres, managing ownership concentration by requiring divestitures, and focusing on editorial independence in news and public affairs programming. They also list a few other of the CRTC's diversity considerations, such as ensuring public access to airwaves (e.g., through community broadcasting), catering to minority tastes, and facilitating viewpoint and content diversity in programming (although it is important to note that the Commission does not itself regulate broadcasting content). The authors ultimately conclude that while the Commission tends to pay more attention to some forms of diversity than others (e.g., consumer choice as better supported than community broadcasting), it has overall attempted to support even unpopular or less-lucrative forms of diversity to the best of its ability.

Armstrong (2016) does not provide a detailed conceptualization of diversity per se, but does catalogue the CRTC's response to a number of social and cultural issues: programming for official language minority groups; ethnic, third-language, and Aboriginal programming (which he considers together); employment equity; and system accessibility for people with disabilities. However, Armstrong's assessment of diversity

does not go beyond cataloguing the Commission's approach to various diversity topics, and his book (*Broadcasting Policy in Canada, Second Edition*) generally avoids critical engagement with CRTC directions and decisions.

Looking beyond Canadian research, Philip Napoli (1999) presents a notable exception to the above dilemma in his attempts to create a workable model of the diversity principle in American broadcast policy. In Napoli's model, broadcast diversity can be broken down into three major components. The first is *source diversity*, which consists of workforce diversity and ownership diversity (including both programming and outlet ownership). The second is *content diversity*, which includes diversity in program-type format (genre), diversity in targeted demographics, and diversity in ideas and viewpoints. The third is *exposure diversity*, which examines the audience's horizontal and vertical exposure to diverse content. Napoli defines horizontal exposure as considering how mass audiences distribute themselves across available content, and vertical exposure as considering the varying exposure patterns exhibited by an individual audience member.

Napoli's model provides a useful starting point for considering the scope of what might rightly be categorized as diversity in broadcasting. However, its relative simplicity may be better suited to the American system, where broadcasting is more purely considered as an economic endeavour. The Canadian environment differs in its long history of exploiting broadcasting in the service of specific social objectives, as well as in the current magnitude of competing social considerations that it is asked to meet.

While these works provide a useful starting point in situating this research, I contend that the diversity principle in the Canadian broadcasting system requires its own pointed analysis, and the development of an operationalizable model to help scholars and policy-makers understand diversity issues holistically.

1.3. The approach of this dissertation

This dissertation draws on the tools provided by discursive institutionalism to offer a detailed historic mapping of the diversity principle as it evolved in both global and domestic policy spaces. It uses process tracing and documentary analysis to unpack diversity through time and across policy arenas. I draw from this assessment to form the

basis for a model presenting the major components of the diversity policy framework for Canadian broadcasting. With the aid of this model and historical perspective, I subsequently narrow my focus to consider the evolution of the diversity principle in the contemporary broadcast policy environment, which I accomplish through a granular assessment of the use of broadcast diversity principles during the CRTC's major 2013–2016 review of broadcasting policy, *Let's Talk TV*.

1.3.1. Liberalism and neoliberalism

Diversity (and its correlate, “pluralism”) is a key principle in liberalism and neoliberalism. At its core, liberalism asserts that “the individual is the basic unit of value and the freedom of the individual takes priority over the interests of the community” (Potter, 2000, p. xxxv). It contends that people in a diverse society will inevitably disagree about what constitutes “the good life”, and that the appropriate role for the state is therefore to maximize individual liberties and freedom of choice for individuals. In Canada, liberalism is linked to free-market fiscal policies and considerable latitude for individual liberties, leading to a variety of social policies and laws supporting rights of equity-seeking groups (e.g., women, racialized individuals, Indigenous peoples, religious groups, and members of LGBTQ+ communities, etc.).

The language of neoliberalism developed following a series of political shifts in the late 1970s and early 1980s, best known for the election far-right governments in the UK and the USA during a time of rapid globalization. Its theoretical core is very similar to liberalism, defined by David Harvey (2005) as “a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterised by strong private property rights, free markets, and free trade” (p. 2). Neoliberalism, however, places greater emphasis on economic liberalization policies including deregulation, privatization, reductions in the size and spending of governments, and free trade.

While my objective is not to trace the history of liberalism and neoliberalism in Canada, the evolution of diversity cannot be decoupled from the relative prominence of these social and economic philosophies. The development of diversity in relation to the

histories of liberalism and neoliberalism therefore emerges as an important sub-theme throughout this dissertation.

1.3.2. Structure of this dissertation

I lay out the basis for this assessment in Chapter 2, which provides an explanation of my research design and methodology. I introduce my primary theoretical lens, *discursive institutionalism*, which focuses on the role of ideas in institutional formation and change through conscious and unconscious use of them in everyday speech and practice. I put forward my dissertation's premise that diversity itself is a discursive institution that is constantly defined and redefined in discourse, over time and across policy spaces. I subsequently explain and assess my research methods (process tracing and document analysis), and present a reflection on the dissertation's scope.

Chapters 3 through 5 each trace the institutionalization of diversity in different policy arenas. Chapter 3 considers the institutionalization of diversity in global policy discourse, with a focus on its development in UNESCO, as well as the impact of the World Trade Organization (WTO) and bottom-up social movements in framing and shaping diversity objectives. It begins by documenting the relationship between Canadian cultural policy and the international canon on cultural diversity throughout the second half of the 20th century, with an emphasis on the conflicting social and economic objectives underlying diversity objectives, and special consideration to the time and content of Canada's involvement in these discussions. The second half of Chapter 3 considers the absorption of certain diversity principles into nationalist and/or economic agendas with the development of the 2005 UNESCO CDCE, which I argue is the most substantial binding and standard-setting global instrument on cultural industries. I situate Canada and Québec's role in the CDCE development, and then assess its use within Canadian cultural policy, with an emphasis on broadcasting.

Chapter 4 focuses on the development and use of diversity policy in the Canadian federal policy realm by unpacking the politics behind a series of historic accommodations that would eventually form the basis of Canada's diversity policy framework. It argues that Canada has historically understood diversity as both a problem and a solution: when diversity concerns could not be erased and posed threats to the

capitalist and nationalist project, Canada responded by instead recasting certain kinds of diversity as productive contributions to its economic and colonial objectives.

Chapter 5 builds on the findings in chapters 3 and 4 to consider the development of diversity in Canadian broadcasting policy. It orders diversity goals into a model that roughly depicts how the CRTC interpreted and promoted diversity over the last few decades. I emphasize the considerable complexity and tensions inherent in attempts to regulate broadcasting for diversity objectives.

Chapters 6 through 8 turn to a granular analysis of the diversity principle as it was enacted in one major set of policy proceedings: the CRTC's 2013–2016 LTTV proceedings. Chapter 6 provides process tracing of the proceedings, to create a comprehensive map of how the proceedings unfolded and to aggregate the broad range of policy changes that arose from them.

Chapter 7 follows up this description with an analysis of the proceedings as an attempt at deliberative multi-stakeholder policy-making. I posit that such an assessment is particularly important when considering diversity issues due to an increased risk that tokenistic or inequitable inclusion will compound existing power imbalances and further marginalize groups seeking equity and inclusion. I draw from Iris Young's four ideals of deliberative policy-making (inclusion, political equality, reasonableness, and publicity) to assess LTTV's capacity as a vehicle for the creation of broadcasting policy that supports diversity. I find that while the CRTC did attempt to boost broad public inclusion and engagement with the proceedings, flaws in the proceedings' design, power imbalances among participants, and government interference compromised the proceedings' quality, purpose, and efficacy.

Chapter 8 provides an analysis of the LTTV's decisions by theme. It asks: What diversity concerns did the CRTC prioritize during the LTTV proceedings? How are the proceedings' results likely to impact diversity policy objectives in the Canadian broadcasting system? I provide a granular assessment of LTTV's results in relation to likely impacts on each of the distinct policy topics advanced in Chapter 5. I find that LTTV tended to prioritize objectives related to consumer sovereignty while largely neglecting the needs of equity-seeking communities and ongoing concerns related to ownership diversity. I assess the ways in which LTTV sought to make broadcasting more

productive, and conclude by considering these findings in the context of the long history of diversity discussed in chapters 3 and 4. I argue that an examination of LTTV in relation to these complex histories casts it as the next stage in the long development of diversity objectives: LTTV represents a subtle transformation into new norms as diversity principles are absorbed into productive economically based objectives.

Finally, Chapter 9 concludes by providing a summary of the dissertation's key findings, and identifying areas of emerging concern for diversity policy and possible future research directions in the context of changing viewership patterns and new technologies.

1.4. Research contributions

Contributions to theory and knowledge: This dissertation unpacks the complicated notion of “diversity”, with an emphasis on how it has been used to legitimize policy arguments in national and international policy arenas. Nationally, it provides a detailed historical review of the place of diversity as a policy trope in federal policy, and provides an assessment of the intersection between broader federal policy actions and broadcasting policy specifically. Globally, it recounts the debate and outcomes of policy processes at a major multilateral institution (UNESCO). Most importantly, it is original in its attempt to connect the dots between debates and struggles around diversity in national and international policy spheres, and thereby illuminate the interconnections between them. It unpacks the links between diversity as a value in Western culture, its framing in international policy discourse, and its instrumentalization in the Canadian context. This assessment is particularly original in its consideration of broadcasting policy in relation to parallel developments globally and in related Canadian policy spheres.

It also contributes a granular empirical assessment of a major broadcasting policy review (LTTV) and the impact of the broader political climate surrounding in which it took place. It documents the process and outcomes of LTTV in detail, and in doing so, uncovers how the arm's-length federal regulator operated under a specific leadership regime (under Chairperson Jean-Pierre Blais) and in a specific political climate (under Stephen Harper's Conservative government).

Contributions to methodology: Chapter 5 of this dissertation draws on the detailed historical assessment completed in chapters 3 and 4 to presents an original analytical model that breaks down the notion of diversity in broadcasting into three broad categories, which contain a total of nine sub-components. In brief, these are:

- A. Cultural variety and equality
 - I. Supporting Canadian cultural expression
 - II. Supporting bilingualism and biculturalism in the broadcast system
 - III. Creating space for Indigenous cultural expression
 - IV. Representing and supporting equity-seeking groups
- B. Consumer choice
 - V. Facilitating consumer sovereignty in selecting broadcast options
 - VI. Ensuring the system provides adequate genre and program diversity
- C. Sectoral diversity
 - VII. Supporting private-sector ownership diversity
 - VIII. Supporting local and community broadcasting
 - IX. Determining the appropriate role and supports for public broadcasting

This analytical model, which I use in chapters 6-9 to assess the LTTV proceedings, offers a unique methodology for assessing policy impacts as they relate to diversity. While the model was developed specifically for examining Canada's broadcasting policy arena, it could in future provide a useful starting point for assessing diversity considerations in other related policy spheres.

Chapter 2.

Research design and methodology

2.1. Introduction

As Chapter 1 demonstrates, it is extremely difficult to clearly delineate diversity policy due to its poorly defined and constantly evolving nature. This dissertation therefore employs discursive institutionalism (DI) to assist in understanding a complex field that is constantly evolving, forming and reforming in slightly different ways across time and policy space, and in the service of different objectives.

This chapter provides an explanation and critical evaluation of discursive institutionalism as it is employed in this dissertation, as well as an examination of the specific methods I use to collect and assess data: process tracing and documentary analysis. It begins with a review of discursive institutionalism, and positions its key principles within the field of critical policy studies. I explain how I employ the theory to assist in understanding diversity policy, and advance the premise that diversity itself can be understood as a discursive institution that forms and re-forms across time and in different policy spaces. I then consider and respond to some of the critics to DI before moving on to a description of my specific research methods. I conclude by reflecting on the scope of my dissertation.

2.2. The new institutionalisms

While the study of institutions has a long history in political science, “old” institutional analysis—critiqued as atheoretical and descriptive—slowed in the late 1940s as scholarly focus turned toward behaviourism and rational choice theory (Peters, 2012). Interest in institutionalism resurged in the early 1980s, following the release of John Meyer and Brian Rowan’s (1977) influential paper, *Institutionalized Organization: Formal Structure as Myth and Ceremony*. Meyer and Rowan argued that organizations develop to reflect formal institutional rules, which function as “myths” providing organizations with resources, legitimacy, and stability, and hence, improved chances of surviving. Meyer

and Rowan's canonical text sparked renewed interest in institutionalism, which was eventually rebranded as a series of fields comprising a "new institutionalism."

Hall and Taylor (1996) identified three primary schools of thought within new institutionalism: rational choice institutionalism, sociological institutionalism, and historical institutionalism. In the last decade, scholars including Vivien Schmidt (2008) and Colin Hay (2006) have argued for a fourth "discursive" or "constructivist" institutionalism to be added to the three identified by Hall, while B. Guy Peters (2012) has identified as many as eight distinct approaches to new institutionalism. The new institutionalisms differ in their ideas on what constitutes an institution, how institutions are formed, how they change, and what degree of agency individuals have in shaping said institutions. However, they share a belief that understanding decision-making and the social world requires an understanding of the role that institutions play in enabling and constraining how actors behave and what behaviour they expect to see from others.

This discussion considers the three institutionalisms identified by Hall and Taylor (1996) with a focus on Schmidt's (fourth) discursive institutionalism/Hay's constructivist institutionalism as the most clearly delineated new institutionalisms. Briefly, rational choice institutionalism (Becker, 1986; Pollack, 2007; Tsebelis, 1990) draws from rational choice theory, and views institutions as constraining entities through which self-interested individuals seek to achieve their goals. Sociological institutionalism is a broad field encompassing a number of approaches to institutions (Peters, 2012), and is interested in the relationships between institutions and the fields in which they are organized (Hardy & McGuire, 2008). Historical institutionalism is interested in path-dependency within institutional formation, with an emphasis on how previous decisions made at critical moments shape future decisions that are bound by the "path" created by the previous decision (Steinmo & Thelen, 1992). I discuss discursive institutionalism—which differs in its focus on ideas and discourse in institutional formation and change—in some detail below.

2.3. Discursive institutionalism

2.3.1. Key attributes: the role of ideas

Discursive institutionalism, a fourth new institutionalism based in the work of Vivian M. Schmidt (2008, 2010, 2015) and Colin Hay (2006),¹ calls attention to the role of ideas and interactive discursive processes that shape and are shaped in an institutional context. It is interested in the processes through which new ideas develop in the policy sphere, as well as how they are communicated, debated, and contested in the political communicative sphere (Schmidt, 2015). Discursive institutionalism is premised on the assumption that ideas and narratives impact and change institutional dynamics, which in turn become institutionalized in social practice and impact social outcomes (Arts & Buizer, 2009). It is more commonly used in international relations than in the study of domestic politics (Peters, 2012),² although a focus on ideas in institutional formation and change can also be a very valuable endeavour at the domestic level.

Discursive institutionalism understands the institutional context in two ways: as a set of dynamic structures and constructs of meaning that actors internalize; and as formal or informal cultural frames, incentive structures, or historical rule that impact an actor's capacity for action (Schmidt, 2015). Institutions are thus socially constructed by sentient agents through their words and actions (Schmidt, 2010). Once constructed, an institution becomes part of a whole hierarchy of institutional facts, and people often lose sight of its origins, accepting it as a given or natural piece of social life. For example, most people accept currency as an inevitable part of social life and order and use it

¹ Discursive institutionalism is similar in its structure and goals to constructivist institutionalism, as theorized by Colin Hay (2006). I prefer Schmidt's (2008, 2010, 2015) term "discursive institutionalism" as an umbrella concept that includes a broad range of institutional research focused on ideas; however, due to the strong similarity between the basic assumptions and goals of Schmidt's and Hay's works, I discuss both under the term discursive institutionalism.

² Yoshiko Herrera (2010) uses DI to investigate the role of norms in Russian domestic policy. Discursive institutionalism is commonly used to uncover the role of ideas and discourse in international relations. For example: Sheri Berman (1998, p. 34) examined the difference in socialist politics between the Swedish Workers Party and the German Social Democratic Party; Bas Arts and Marleen Buizer (2009) used DI to analyze global forest politics from the 1980s until 2009; Florian Kern (2011) compared approach to energy system sustainability in the UK and the Netherlands; Amandine Crespy (2010) examined bottom-up preference formation about a Directive over service liberalization in the EU.

without much consideration for how the economic system functioned in the context of preceding (now less-prominent) barter and gift economies.

A key distinguishing feature of discursive institutionalism, vis-à-vis the other new institutionalisms, is its greater ability to account for institutional change. In general, HI, RI and SI struggle to explain substantive change because institutions are believed to provide predictability and permanence, thereby shaping and constraining actors' behaviour and resisting evolution (Hay, 2006). In contrast, Schmidt (2015) argued that institutions evolve incrementally as people unconsciously use them in new ways in their everyday speech and practice. Discursive institutionalism also emphasizes the ability of sentient agents to debate, discuss, and critique institutions, and to create institutional change through their conscious choices to use them in different ways or to cease using them altogether—a principle similar to Habermas's (1987) view of “communicative action.” As Hay (2006) stated, discursive institutionalism seeks to:

identify, detail, and interrogate the extent to which—through processes of normalization and institutional-embedding—established ideas become codified, serving as cognitive filters through which actors come to interpret environmental signals. Yet, crucially, they are also concerned with the conditions under which such established cognitive filters and paradigms are contested, challenged, and replaced. Moreover, they see paradigmatic shifts as heralding significant institutional change. (p. 65)

In this way, DI tends to view institutions as processes rather than defined structures or patterns. An institution arises through interactions among its members, and institutional processes represent individual agents through their ideas, discourses, and interactions (Peters, 2012). Understanding social practices requires understanding how ideas, narratives and concepts are coordinated and communicated by and through sentient agents. Schmidt (2015) argued that this differentiates DI from the other new institutionalisms, but she also viewed it as compatible with them and posited that discursive institutionalist work may be conducted within the tradition of any such institutional analyses.

2.3.2. Coordinative and communicative discourse

Schmidt (2008) divided the different types of policy discourse into what she called “coordinative discourse” and “communicative discourse.” Coordinative discourse, or the discourse of policy-making, includes discussions among those at the centre of

policy design “who are involved in the creation, elaboration, and justification of policy and programmatic ideas” (p. 310). This can include members of epistemic (knowledge) communities, advocacy coalitions of networked actors that share an active interest in a particular policy domain (Sabatier & Weible, 2007), policy entrepreneurs that assemble and coordinate networks and bear reputational responsibility for policy action (Mintrom & Vergari, 1996), and policy “mediators” (Schmidt, 2008) that facilitate change by supporting ideas emerging from advocacy coalitions and discursive communities.

Communicative discourse takes place in the political realm apart from formal policy-making spaces, and includes “individuals and groups involved in the presentation, deliberation, and legitimation of political ideas to the general public” (Schmidt, 2008, p. 310). Communicative discourse can be either top-down or bottom-up, including attempts to inform or shape public opinion by political actors, as well as discourse arising from the media, interest groups, NGOs, social movements, and others. Schmidt notes that social movements can also play an important role in supporting bottom-up communicative discourse through activism and protest. Particularly for fringe or new social movements, winning media attention can be an important point of entry into the public imaginary. However, Schmidt (2015) argues that at times, social movements become institutionalized—as in the case of the women’s movement and the environmental movement—and may begin to focus instead on its role in coordinative discourse with policy actors.

The question of whether to join a formal policy discourse can be difficult for groups wishing to present a counter-hegemonic force. These groups must choose between the *potential* to make small incremental changes within the confines of a formal policy space (which may or may not happen), or attempt to gain popular support for alternative visions through organization and protest outside of the coordinative sphere. As Hintz (2009) pointed out, any attempts to influence policy from the “inside” require a political opportunity structure that will allow for change, strong alliances, weak or fragmented opponents, and the ability to effectively frame and communicate objectives to a target audience. Allowing civil society participation in coordinative discourse can help legitimize policy action (Dany, 2013), which some communicative actors consider to be too significant a price to pay for what will likely be limited influence in coordinative discourse. For example, during the 2003 World Summit on the Information Society (WSIS), some actors chose to avoid the formal coordinative process and instead hold a

counter protest (“WSIS? We Seize!”) in the centre of Geneva at the same time as the summit (“About the WSIS? We Seize! Project,” 2003).

Crucially, discourses occurring in coordinative and communicative spheres need not be substantively linked to one another. Some policy ideas that are debated in the coordinative sphere are not discussed in the communicative sphere, either due to fear that the public would not approve of controversial policy ideas, or because those with the ability to share ideas between the coordinative and communicative spaces (e.g., the media) do not believe that the public would be interested in that particular coordinative discussion (Schmidt, 2015).

Alternately, policy-makers and politicians may argue in favour of different things in coordinative and communicative spheres in order to maintain public support while taking unpopular policy action. An extreme example of this form of political double-talk reached the Canadian news in 2009, following the ultimate failure of an airline passenger bill of rights that had previously been unanimously supported in the House of Commons. Documents released to Canwest News through an access to information request showed that then-Conservative transport minister, Lawrence Cannon, who had spoken publicly in favour of passenger rights (Jang, 2008), had privately contacted executives and lobbyists at Canada’s three major airlines. Cannon had urged the airlines to lobby opposition members to stop the bill in the coordinative sphere, stating that he did not “want us to be forced into regulating passenger protection issues” (Canwest News, 2009). While publicly discussing the importance of passenger rights in airline travel, the government was making moves to kill the airline bill of rights among actors engaged in the formal coordinative sphere. While this example presents a clear and extreme example, these sorts of discrepancies are more likely to be mundane and routine, involving quiet behind-the-scenes government action that rarely reaches the communicative realm.

2.3.3. Discursive institutionalism and power

Discursive institutionalism falls under the broad umbrella of Critical Policy Studies. Discursive institutionalism’s conceptions of discourse and power draw from Foucault: power is considered to be not simply overtly repressive, but *constructive* and

constitutive.³ While power can serve to restrict, repress, and oppress, it can also *produce* discourses and systems of knowledge. However, DI operationalizes discourse in a broader sense than Foucault—discourse includes the representation and embodiment of ideas (Foucault, 1990), but also the processes by which ideas are generated through discursive communities or advocacy coalitions (Sabatier & Weible, 2007), and communicated and contested in the political sphere (Dryzek, 2002; Habermas, 1987).

Foucault’s “structures of discourse” seem to be more or less the same as Schmidt’s “philosophical ideas”—that is, ideas that are deeply engrained and difficult to change. But DI is more interested in how discourse as an interactive process can (through use of “foreground discursive abilities”) enable actors to gain the critical distance needed to change institutions, even as they continue to use them. This, Schmidt has argued, is why public debates (e.g., those partaken through participatory CRTC policy processes) are so important in a democracy. Given my interest in both 1) the processes through which ideas about diversity evolve and change, and 2) the deliberative democratic potential of public policy processes and the CRTC’s occasional ability to make agile moves for reform as a result, this variant of Critical Policy Studies fits well with this dissertation’s objectives.

2.3.4. Broadcast diversity as a discursive institution

In DI, institutions are processes that emerge from the ideas and interactions among members, and thus need not follow an established organizational structure. The institution is largely a virtual entity with indefinite boundaries, and may only last for short periods, reflecting a brief equilibrium in discussions and debates surrounding policy ideas (Peters, 2012, p. 118). Institutions are continuously created and recreated, dependent on actor involvement. This differs from more normative forms of new institutional research, in which relatively stable institutions are defined through the existence of norms, myths, symbols, and routines. Discursive institutionalism is the least

³ Schmidt theorizes about the discursive power of ideas in three ways: 1) power through ideas, in which actors persuade others of the value of their worldview; 2) power over ideas, in which actors control the meaning of ideas such as by imposing ideas or shaming others into conformity; and 3) power in ideas, which is interested in how historically specific structures of meaning or the institutional setup of policy impacts actors’ abilities to promote their ideas.

structured of the new institutionalisms, providing a great range of action (and ambiguity) for institutional members (Peters, 2012).

A key premise of this dissertation is that diversity, as a policy objective, can be conceptualized as a discursive institution. Diversity is a slippery construct that is continually defined and redefined, emerging and reemerging in communicative and coordinative discourse. Globally, it is institutionalized in part through UNESCO, which has several conventions related to cultural diversity; the most significant of these, which I discuss in detail in Chapter 3, is the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (CDCE). Domestically, diversity as an institution is continually formed and reformed in the policy discussions surrounding multiculturalism and national identity, and is solidified in a series of government policies such as the official policy of multiculturalism, the Charter of Rights and Freedoms, and the Multiculturalism Act.

Certain norms surrounding the understanding of and appropriate supports for diversity in both the global and domestic spheres are subsequently transplanted into broadcasting policy, where diversity is institutionalized through the CRTC's interpretation and mobilization of the concept in the course of its regulatory and monitory activities. Diversity in broadcasting is also occasionally front and centre in coordinative discourse that takes place in a formal institutionalized setting, such as during the CRTC's 2007 proceedings on diversity of voices. Understanding broadcasting diversity as a discursive institution requires understanding the political and social spaces and circumstances from which various conceptions of diversity arise. It involves critically examining where Canada has historically drawn lines between constructions of diversity that are deemed acceptable and mutually beneficial, and those which are dismissed as unnecessary, self-serving, or deviant. It also requires an examination of how diversity evolves and is operationalized in different domestic and global policy spaces, and a search for clues as to how different ideas about diversity form and diffuse into the broadcasting policy sphere.

2.3.5. Critiques of discursive institutionalism

Stephen Bell (2011) critiqued DI for going too far in its deconstruction of institutions, which he argued leads to a body of literature that is fluidly ideational and

discursive to the point of being overly relativistic and “veering close to the fully interpretivist or postmodern constructivism” (p. 889). He argued that discursive institutionalism is not necessary as a fourth institutionalism because historical institutionalism can be sufficiently flexible to account for the role of ideas and incremental institutional change.

However, as Schmidt herself has noted (2012), there may be less space between Bell’s recommendations and Schmidt’s theory than Bell considers. Schmidt viewed discursive institutionalism as fundamentally compatible with other forms of institutionalism, and considered all research that combines an investigation of institutions with an analysis of ideas and discourse as discursive institutionalism, even if the researchers themselves do not define their work that way. Furthermore, Bell was incorrect in his conceptualization of DI as radically interpretivist in its approach. Schmidt (2015) argued that institutions are “real” even if they are socially constructed because they are comprised of real interests and have the ability to make things happen. While they may not be visible, discursive institutions are social facts that impact the social world and can constrain the behaviour of sentient actors in real ways.

In a more tempered critique, Peters (2012) argued that DI tends to focus almost exclusively on ideas and discourse, sometimes to the exclusion of the structural considerations of institutions. While ideas no doubt can play an influential role in policy deliberation and development,⁴ some policy areas may be more influenced by ideas than others. Furthermore, DI does not really discuss the relationship between ideas and interests, nor does it have a mechanism to determine whether policy decisions are ultimately taken due to the adoption of good ideas, or if ideas are used to justify the adoption of policies that best accommodate certain actors’ interests. For example, advocates for supply side (“trickledown”) economics may advocate for Chicago school-type economic reform in hopes of creating jobs through tax reductions for corporate employers. However, profit-maximizing business interests align with a low-tax policy, regardless of whether such a policy would provide more jobs—making it difficult to determine whether such policy advocacy is designed for ideational reasons (job creation) or personal interests (profit maximization).

⁴ See Berman (1998, p. 34) for a spirited defense of the study of ideas in institutional analysis.

There is legitimacy to these concerns insofar as DI can produce research that is primarily descriptive, and in which there is little latitude for decisively defining causal patterns or providing new theoretical insight. However, the challenge of balancing descriptive research with an objective to uncover definitive causal patterns is a puzzle in which there may be no escape for those interested in the relationship between discourse, ideas, and policy outcomes. It is not possible to climb inside the heads of policy-makers and definitively determine how they make their determinations. Instead, I have attempted to mitigate these concerns through the use of process tracing to provide deep temporal and institutional scaffolding for my case study on the CRTC's LTTV proceedings.

2.4. Research Methods

This project is a case study (George & Bennett, 2005; Gerring, 2007) that uses process tracing to uncover the meaning, structure, and practice of broadcast diversity as a discursive institution. The formation and reformation of the institution of diversity is compatible with George and Bennett's (2005) definition of a case study as "an instance of a class of events" (p. 17).

2.4.1. Process Tracing

Process tracing involves analyzing the various steps in a policy process to determine how the process took place, and how it generated the outcome of interest (Bennett & Checkel, 2015). It involves the "systematic examination of diagnostic evidence" (Collier, 2011, p. 823) that the researcher selects and analyzes at a fine level of detail in the context of her research questions. Bennett (2010) described process tracing as analogous to a detective solving a crime "by looking at clues and suspects and piecing together a convincing explanation, based on fine-grained evidence that bears on potential suspects' means, motives, and opportunity to have committed the crime" (p. 208).

Process tracing is commonly used in discursive institutionalist studies (Berman, 1998, p. 34; Crespy, 2010; Kern, 2011). It is particularly useful in illuminating the links between ideas, discourse, and policy action by showing how ideas and discourse guide public actors and provide legitimation and justification for policy decisions (Schmidt,

2015). Process tracing involves “opening up the ‘black box’ of decision making instead of ‘bracketing’ it” (Berman, 1998, p. 34), allowing the researcher to closely examine what factors influence policy actors and why they arrive at a policy decision. In this dissertation, process tracing also involves the challenging work of differentiating between deeply held philosophical (or ideational) motivations for policy action from motivations that involve meeting certain material objectives (Jacobs, 2015).

While this dissertation focuses heavily on a single case study—the CRTC’s 2013–2016 LTTV proceedings—it scaffolds its discussion of broadcasting diversity as it evolved during the proceedings with a historical mapping of diversity principles in both global and Canadian domestic policy realms. My objective in doing so is to draw from past instances in the history of diversity and the social and economic objectives that underlie it to better understand its current mobilizations, and the complex array of public and private actors and interests seeking to influence it to specific ends. Without this historical analysis, it would be impossible to assess how such a nebulous idea is currently institutionalized, or to fully understand how its use might be evolving at this time.

To these ends, I employ two approaches recommended by Alan Jacobs (2015) for using process tracing to unpack and test potential ideational causes for policy action: 1) examining ideational stability and change over time, and 2) unpacking policy ideas across various communicative and coordinative actors. Assessing ideational stability can provide some insight as to whether some form of diversity is held by policy actors as a deep philosophical belief (which would be resistant to change), or whether diversity is continually deployed in different ways in the interests of various material goals. Tracing diversity across coordinative and communicative actors can be useful in uncovering policy learning and the transmission of policy ideas about diversity. This study uses what Beach and Pedersen (2013) referred to as “theory-building process-tracing,” meaning that it builds a theory surrounding the formation and use of discursive institutions centred on diversity over an extended historical period.

2.4.2. Document analysis

The nature of this research required comprehensive analysis of primary documents, through which I traced the flow of important ideas and recommendations

across time and policy spaces. I concur with Sara Ahmed's (2007) description of documents as "things" that circulate alongside other things within institutions, and through their existence and use play a powerful role in shaping the boundaries of an organization. Policy documents in particular set out objectives and values at a specific point in time and place, and can in this way impact organizational development and, in some cases (such as Canada's multiculturalism policies), even broader societal values. For researchers, they are particularly useful in providing historical snapshots of viewpoints *at the time of writing*. This is particularly important when tending to a value-laden area such as diversity, as those involved may be reluctant to admit to holding previous positions that are now considered antiquated and highly inappropriate; in this way, "documents do much more than serve as informants and can, or properly, be considered as actors in their own right" (Prior, 2008, p. 822).

I thus followed documents around in time and institutional space, searching for clues as to how they were taken up or contested. This method, combined with my broader process tracing framework, involved considerable time spent "soaking and poking": soaking in the details of individual policy documents to take in their tenor and nuance, and poking at a wider range of documents that may or may not be relevant to the study at hand. It involved both wide and deep reading, and considerable trial and error.

I considered supplementing my document analysis with expert interviews, but opted not to for several reasons. First, the opportunity for expert interviews was limited in my historical assessments surrounding diversity, since many policy actors are no longer available for comment. Furthermore, for my LTTV case study, a wealth of information was already publicly available, including not just the CRTC's highly detailed policy documents (which outline their rationale and summarize their perception of stakeholder views), but also through publicly available speech transcripts, memos and letters sent to stakeholders and working groups, and a wealth of interview snapshots and quotations obtained through media articles (which were also useful in providing feedback about public responses to events as they unfolded). Finally, the labour-intensive nature of process tracing through document analysis made the additional time required to track down high-level policy actors unreasonable. Both as an alternative and to complement my own analysis, I instead make extensive use of secondary scholarly research on

many of the documents assessed, to provide different insights and to allow me to benefit from the primary interview research conducted by these scholars.

2.5. Reflection on scope

The decision to scaffold my LTTV case study by considering the development of diversity through a long temporal period and in a variety of policy spaces required me to condense large amounts of data into smaller maps and timelines that set clear temporal and analytical boundaries for more-detailed assessments. Such an approach risks analytical reductionism; however, it was also necessary to manage thousands of pages of documents, and to allow me to search for patterns across time and space. I made extensive use of the qualitative data management software NVIVO to help locate patterns across huge quantities of data, but nonetheless frequently had to reduce complex policy problems into what can best be described as the tips of policy icebergs. I attempted to mitigate this analytical violence by focusing such summaries on areas that are already well documented, where I could direct the reader to both original policy documents and excellent-quality academic assessments of their development and impacts. This allowed me to provide detailed histories in areas that are less-often addressed in academic literature. Nonetheless, such an approach is imperfect—especially when addressing a highly charged yet inconsistently defined policy realm such as diversity.

Chapter 3.

The institutionalization of diversity in global policy discourse

More than in any previous period of world politics, the international stage is now a mirror of a country's identity. What happens on this stage can have profound effects on domestic identity and vice versa. When a country's citizens see themselves reflected in the mirror of others' perceptions, that reflection can either strengthen or weaken national identity and citizenship; it can reinforce or challenge prevailing values by providing new perspectives on them. This is especially true for Canada, a country that for most of the second half of the twentieth century defined its national identity according to its global role as a 'peacekeeper,' its inclusiveness as a society, and its sense of being distinct from its giant neighbor to the south (Potter, 2009, p. 4).

An important aspect in understanding how Canada came by its particular diversity discourse and regulations in broadcasting involves considering the ways in which global ideas evolve over time, and how these ideas both diffuse into and are influenced by interactions among a wide array of actors and institutional forms—national governments, business interests, civil society actors, and the shape and tenure of the global institutions themselves (Raboy & Padovani, 2010). To these ends, this chapter traces the development of diversity values as they evolved in global discourse, and were subsequently both influenced by and transplanted into Canadian policy narratives. While its focus is on UNESCO as the primary international body housing discourse on diversity and cultural policy, this chapter also considers the role of the WTO and other external factors, including global social movements and prominent civil society actors.

This chapter is divided into two sections. Part one presents a historical overview of the international canon on cultural diversity, with emphasis on Canada's interests and role in global diversity discourse. It provides a rough periodization of the diversity principle, from post-war programs of cultural exchange through to the acceptance of the 2003 UNESCO *Universal Declaration on Cultural Diversity* (UDCD). It considers the original basis for diversity (before it was referred to as such) within the context of peacekeeping and developmental objectives, followed by a failed evolution into a radical developmental critique of Western capitalist hegemony in *the New World Information and Communication Order* (NWICO) campaign of the 1980s. I conclude by considering

the ways in which powerful global actors overruled NWICO's radical claims for diversity, leaving UNESCO to instead draw together several objectives that came to be closely connected with diversity in the early 2000s: multiculturalism, human rights, global creativity, development, and cultural industry protectionism.

Part two focuses on the absorption of diversity principles into industrial and nationalist agendas with the development of the UNESCO CDCE, arguably the most significant binding and standard-setting piece of global policy on diversity for cultural industries. It begins with a brief summary of the CDCE's development, and then analyzes Canada and Québec's mobilization of the Convention and the diversity principle to support certain domestic goals. I assess the diffusion of the Convention within the Canadian public service and political discourse in the House of Commons. I conclude by considering the overall impacts of international standard setting for diversity, with a focus on its influence on domestic broadcasting policy.

3.1. The relationship between Canadian cultural policy and the international canon on cultural diversity

3.1.1. Introduction to the UNESCO canon on culture

UNESCO was formed in the wake of the Second World War, with a stated purpose of supporting peace and security through educational, scientific, and cultural collaboration. UNESCO's Constitution, which was adopted in London in 1945, emphasizes the importance of knowledge and cultural sharing as essential for global peace and security, stating that: ". . . since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed" (UNESCO, 2014, p. 5). It also sets out the importance of fostering respect for diverse cultures as being essential to world peace, acknowledging that "ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war" (UNESCO, 2014, p. 5). It further calls for a "wide diffusion of culture" as "indispensable to the dignity of man" (UNESCO, 2014, p. 5).

Despite UNESCO's lofty ambition to support cultural tolerance and sharing, its cultural mandate evolved slowly over the first several decades of its existence. For the

purposes of this summary, I have divided the stages in the development of a global institutional framework for cultural diversity, as lead by UNESCO, into the following periods:⁵

1. 1940s–1960s: managing Third-World development and culture’s dual nature
2. 1960s–1980s: decolonization and the NWICO movement
3. 1980s–2000s: culture versus free trade
4. 1990s–present: move toward and international instrument for cultural diversity, and an increase in Canada’s leadership role

1940s–1960s: managing Third-World development and culture’s dual nature

In UNESCO’s early days, cultural debates centred on elevating universal ideals tied to Western enlightenment values, and deflating the parochial notions of culture and ethnocentric biases that characterized Nazi-era racism (Singh, 2015).⁶ Early UNESCO did not define culture, or prescribe solutions for how culture might be leveraged to promote peace and security. Instead, its approach to culture was anchored on support of the “arts and letters” and a program of “cultural interchange,” including support for theatre, translation of classic texts, and exchanges between museum exhibitions (Mawani, 2015, p. 63).

Around the same time, the international community via the United Nations was deep in discussion surrounding the viability of a legal agreement to promote global trade. In 1947, 23 countries signed onto the *General Agreement on Tariffs and Trade* (GATT, now the *World Trade Organization*), with a goal of promoting cooperation through international trade. The GATT focused heavily on economic development, with a view to

raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing

⁵ For a detailed account of UNESCO’s early canon on diversity, see also Mawani (2015) and Loisen & Pauwels (2015).

⁶ Banton (2002) described the attribution of racism to the Nazis as a noble lie, since racism was common across Europe. Furthermore, Julian Huxley, UNESCO’s first Director-General, was a prominent member of the British Eugenics Society (Mazumdar, 1992).

the full use of the resources of the world and expanding the production and exchange of goods” (GATT, 1947, preamble).

Both UNESCO and the GATT aimed to promote international cooperation and prosperity. However, the GATT focused its mission on reducing trade barriers in order to serve consumer preferences, while UNESCO’s “culture as dialogue” view emphasized citizen access to diverse cultural offerings (Loisen & Pauwels, 2015, p. 47). At the time, cinema films were explicitly excluded from the National Treatment provision (Article III) of the GATT agreement, as a result of lobbying from European countries driven by the French delegation (Pauwels & Loisen, 2003). This exclusion allowed Europe to continue its screen quota system.

Discussion surrounding the free flow of ideas and cultural protection consequently became heated at UNESCO’s second General Conference held in Mexico in 1947, in an emerging debate that in part owed its roots to the politics of the Cold War. During the conference, delegates representing Czechoslovakia and Poland attacked unrestricted trade in mass communications (particularly products originating in the United States) as a danger to cultures with meagre financial and technical resources. In turn, American delegate Lloyd Free vehemently denied allegations that the US “consciously or unconsciously, embarked on a plan of ‘cultural imperialism’ for either political or economic purposes,” arguing instead that the free flow of information consists of a system of reciprocal interchange (UNESCO, 1948, p. 3). This early debate marked the beginning of a global struggle that would continue through to the present day, with the defense of cultural viability in the face of free trade and arguments surrounding freedom of expression crystalizing as key aspects of UNESCO’s cultural diversity canon.⁷

While Western countries clashed about the appropriate role for trade in culture, UNESCO simultaneously played a role in inextricably tying cultural objectives to a capitalist economic system through its involvement in communication and cultural

⁷ In the early 1950s, UNESCO was also embroiled in debate surrounding the definition of “race” and racism. The Division for the Study of Race Problems, led by ethnographer Alfred Métraux, published two statements on race, in 1950 and 1951. The statements established race and racism as cultural constructions and rejected any “biological” basis for racism. For a detailed account of the work done by UNESCO’s Department of Social Sciences and the political and disciplinary tensions associated with the work, see Hazard (2012) for a summary of the science and politics surrounding UNESCO’s race studies, and Krebs (2016) on the work of Alfred Métraux and the role of the UNESCO courier in sharing UNESCO’s anthropological research.

development programs that were intimately entwined with Cold War politics. As the threat of communism loomed in the period after the Second World War, post-colonial countries were re-emerging as the new Third World and becoming sites of proxy Cold War “hot” wars and political battles over competing systems of governance (Chakravartty & Sarikakis, 2006). In order to halt the spread of communism, western countries—under the leadership of the United States and with support from Third World political elites—developed a series of strategies to facilitate developing countries in transitioning to American-style political, economic, and social systems. One aspect of this transition included a series of “communication for development” strategies, which were housed in the Bretton Woods School for Development Communication and mediated by a number of institutions including UNESCO, the World Bank, and the International Monetary Fund (Chakravartty & Sarikakis, 2006; Manyozo, 2006).

The Bretton Woods School for Development Communication adhered to a postwar modernization theory⁸ that was heavily influenced by early communications and development theorists Daniel Lerner (1958)⁹, Everett M. Rogers (1962)¹⁰, and Wilbur

⁸ Postwar modernization theorists viewed modernization as helping to bring a (highly idealized) version of the developed Western World abroad, and assumed that, with the help of rich countries, poor countries could develop more quickly and without many of the growing pains that Western states experienced during their own development. Modernization theory seeks to determine the social variables within a country that allow for movement from traditional society to one that is “modern.” It focuses on the various political, social, and psychological aspects of development, with key elements including economic development and state-guided industrialism (Lipset, 1959; Rostow, 1990); democratic and merit-based governance that allows for social mobility (De Sola Pool, 1966); policy-making based on science-based knowledge, rationalism, and expertise (De Sola Pool, 1966); and a social desire for innovation and improvement (De Sola Pool, 1966; McClelland, 1967).

⁹ Lerner argued that modernization occurs through a linear, unidirectional process: first, urbanization helps to produce the critical mass of people required for growth in mass media, while also creating a greater need for literacy within the population. The development of literacy leads to greater media consumption, and is “the pivotal agent in the transition to a fully participant society” (p. 62). Greater media consumption helps traditional man identify with modern man through the development of “empathy,” as the mass media make it possible for man to experience the “infinite vicarious universe” (p. 53). Mass media thus become a key socializing agent and driver for social change, as they disseminate information related to development, stimulate political participation, and encourage the movement toward a democratic, consumer-based market economy

¹⁰ Rogers’s diffusion of innovations theory focuses on how new “innovations” (ideas, behaviours, or products) leading to social change being spread successfully in a social system. Rogers argued that the mass media initially play a key role in spreading information about innovations that are necessary for modernization. These innovations are picked up by “early adopters,” who act as opinion leaders (c.f. Katz & Lazarsfeld, 1955) in spreading the innovations to their interpersonal networks. This lends support to a top-down, centrally planned communications system that can be used to spread information about and influence attitudes and behaviours toward modernization.

Schramm (1964)¹¹. Generally, these theorists viewed nations as either “traditional” or “developed,” and shared the idea that there is a positive correlation between the levels of mass media development and economic development. They advocated for centrally planned (top-down) communications systems to foster growth from traditional, impoverished societies to modern, pluralist social systems driven by individual responsibility and the free market. In particular, scholars and policy-makers focused on the power of new media and communications technologies to educate and disseminate information to the masses in order to erase “harmful” traditional practices and create modern subjects who would identify both as citizens and market consumers (Chakravartty & Sarikakis, 2006).

Beginning in the 1960s, decolonization scholars hotly critiqued these development goals and their mechanisms (e.g., Dizzard, 1966; Dorfman & Mattelart, 1971; Schiller, 1992). Among the most damaging critiques was the observation that modernization theory’s blind reflection of Western values rendered its policies unable to connect to the local populations it was supposed to support (Dorfman & Mattelart, 1971; Gilman, 2004; Mody, 2006). Furthermore, in a similar vein to the trade concerns raised by Czechoslovakia and Poland at the 1947 General Conference, critics raised concerns about the one-way flow of content from Hollywood to developing countries—a process described as “cultural imperialism” (Schiller, 1992).

While cultural diversity itself did not exist as a cohesive policy objective during this period, these discussions would eventually morph into two related strains of diversity discourse: the role of culture in supporting human development and self-determination, and the importance of protecting cultural industries in developed and developing countries from the homogenizing effects of unfettered free trade. These debates would heat up further during a period of decolonization from the 1960s to 1980s.

¹¹ Schramm argued that there is a positive correlation between mass media development and economic development, and that communications development should be centrally planned to allow for balanced and measured growth. Mass media can aid in economic and political development by raising the aspirations of the masses, focusing their attention on important issues, broadening their horizons (particularly important in the case of rural populations), and indirectly changing or enforcing strongly held attitudes, practices, and social norms.

1960s–1980s: decolonization and the NWICO movement

Throughout the decolonization of the 1960s, UNESCO's view on culture underwent a shift toward an anthropological understanding that focused on culture as "ways of life." This was part of a broader worldwide trend that UNESCO followed rather than led, but the organization was instrumental in making the new norm stick internationally (Isar & Pyykkönen, 2015, p. 15). In 1966, UNESCO introduced a *Declaration of Principles of International Cultural Cooperation*, which for the first time formally recognized the importance of cultural diversity and the equality of national cultures *and* minority cultures that exist *within* the state (Wouters & Vidal, 2007, p. 152). In particular, Article 1 of the Declaration lays out the importance cultural equality and diversity:

1. Each culture has a dignity and value which must be respected and preserved.
2. Every people has the right and the duty to develop its culture.
3. In their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind (UNESCO, 1966).

Alongside this shifting view of culture and new space for diversity, UNESCO became a site of struggle for developing countries seeking to re-appropriate cultural diversity as a political argument in support of decolonization and in opposition to hegemonic cultural flows from Western states into developing countries (Graber, 2006). Within this context, in 1974, began what Chakravarty and Sarikakis (2006) described as "the most significant struggle over international communication policy in the Fordist era" (p. 30): the UNESCO talks on NWICO.

The New World Information and Communication Order and the idea of the right to communicate are linked to the Non-Aligned Movement (NAM) of developing, postcolonial countries that launched in the 1960s on the shared belief that "the activities of imperialism are not confined solely to the political and economic fields, but also cover the cultural and social fields" (Padovani & Nordenstreng, 2005, p. 264). The NAM pushed for what have been called the "Four D's" in global communication—democratization, decolonization, de-monopolization, and development—in response to three perceived unacceptable realities:

1. Use of the 'free flow of information doctrine' to justify liberalization of communication regulation, effectively leading to a dominance of Western content in developing countries;
2. An increase in concentration in media and communications industries, leading to more foreign ownership over industries in developing countries; and
3. Western control over technologies for media creation and distribution, which made it difficult for poorer states to keep up (Raboy & Shtern, 2010).

A major outcome of the NWICO talks was the creation of the International Commission for the Study of Communication Problems (The MacBride Commission) in 1977; UNESCO accepted the Commission's final report, *Many Voices, One World*, at its 21st General Conference in Belgrade in 1980. The report's primary recommendations centred on strengthening and democratizing communications in decolonized states, including several goals related directly to support for cultural diversity. The main recommendations included:

1. Strengthening independence and self-reliance to narrow the 'communication gap';
2. Supporting development, including solving technical issues, strengthening cultural identity, and reducing commercialization in communications;
3. Affirming professional integrity and standards, including the protection of journalists and improved international reporting;
4. Democratization of communication, and the understanding of communication as a human right, including promoting free speech and content diversity; and
5. Fostering international cooperation (International Commission for the Study of Communication Problems, 1980).

The MacBride Report's recommendations offered an ambitious program for communication rights; however, the tangible results of this UNESCO consensus were again compromised by Cold War politics centred on capitalist and nationalist logics. To the dominant Western powers, UNESCO was considered a burden and a threat to their power; thus, in a strategic turn away from multilateralism, both the US (led by Reagan) and the UK (led by Thatcher) withdrew from UNESCO in the mid-1980s (Nordenstreng, 2012). Around the same time, large Western media companies also launched a targeted

counter-attack on NWICO that condemned UNESCO and Seán MacBride for allegedly attempting to impede freedom of the press (Palmer, 2012). For these reasons, and because there was no experienced and organized group that could take up the cause, the communication rights campaign embedded in NWICO deteriorated throughout the 1980s.

1980s–2000s: culture vs. free trade

While the topic of communication rights fell by the wayside, UNESCO began to explore the notion of the “cultural industries” in the late 1970s and early 1980s, again with an interest in the role of culture in promoting development (Mawani, 2015). The theoretical underpinning for this discourse originated from postwar Frankfurt School scholars Theodor Adorno and Max Horkheimer, and their influential 1944 book, *Dialectic of Enlightenment*. Adorno and Horkheimer were the first to coin the term “culture industry,” which was a pejorative for homogenized mass-produced cultural goods (e.g., films, radio programs, magazines, etc.) created to serve capitalist objectives. The term later evolved to the plural “cultural industries” to account for complexities in cultural production (Hesmondhalgh, 2013). While debate remains surrounding the parameters of the term, UNESCO itself describes it as referring to cultural goods and services that are “produced, reproduced, stored, or distributed on industrial and commercial lines” (UNESCO, 1982a, p. 21), such as goods associated with screen industries, recorded music, and publishing.

At the 21st General Conference of UNESCO (1980, Belgrade), members embraced the notion of cultural development while also acknowledging the challenges associated with the rise of cultural industries, asserting that: “National cultural industries should be regarded as one of the most important factors in endogenous cultural development. Cultural industries may represent a threat, but at the same time they represent a vast potential” (UNESCO, 1980, p. 25). Members acquiesced to a research program that would study the question of cultural industries and mass communication, and an expert committee met in Montréal later that year to “examine the place and role of cultural industries in the cultural development of societies” (UNESCO, 1982a, p. 15). Specifically, the expert committee asked:

How might it be possible to harness the power of cultural industries to the promotion of cultural development and, generally speaking, foster the

mutual enhancement of cultures and the current process of universalization, while safeguarding the cultural identity of individual peoples and giving them the means of controlling their own development? Could the development of action at local level, and of small-scale production units, counterbalance the effects of the cultural standardization brought about by the mass media? What strategies could be effectively worked out at the purely national level, particularly in the developing countries, bearing in mind the urgent economic requirements these countries have to meet? If the responses are to be commensurate with the dimension of the challenges, should not they be sought at the level of international co-operation? (UNESCO, 1982a, pp. 11–12)

While diversity was not an explicit theme for the committee, diversity goals were nonetheless embedded in a range of discussions surrounding democracy, identity building, and development. The sprawling 223-page report included perspectives from a number of countries, and from both liberal economic and Marxist origins, with discussion generally coalescing around a couple key issues: the tendency of cultural products toward uniformity and mass culture; and the impacts of this uniformity on cultural identities and the diversity of ideas, values, and customs. UNESCO explicitly recognized what would later be termed the “curious economics” of cultural industries (Grant & Wood, 2004), as well as the role of cultural products in supporting crucial non-economic objectives including development, identity-building, and democratic functions.

These themes were also taken up at the UNESCO 1982 World Conference on Cultural Policies (MONDIACULT), hosted in Mexico City in 1982. According to De Beukelaer and Pyykkönen (2015), MONDIACULT and the *Mexico City Declaration on Cultural Policies* marked the beginning of UNESCO’s program on cultural diversity. While diversity was not an explicit theme, the declaration affirmed different cultures as the cornerstones of a common heritage of mankind, emphasizes the importance of cultural identity, and sets the tone for a future link to diversity by asserting that “cultural identity and cultural diversity are inseparable” (UNESCO, 1982b, p. 2). The declaration also drew strong links between culture and development, which were anchored in the non-aligned movement’s call for a *New World Information and Communication Order*, and would become the basis for the *World Decade for Cultural Development* from 1988 to 1997 (UNESCO, 1995b). Finally, UNESCO’s commonly used anthropological definition of culture also arose from MONDIACULT, which defined culture as broadly encompassing not only cultural products but also systems of belief and ways of life:

Culture may now be said to be the whole complex and distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions, and beliefs (UNESCO, 1982b, p. 1).

Following MONDIACULT throughout the 1980s and 1990s were a number of crucial developments that substantively backed UNESCO's emerging attitude toward culture: that *all* cultures, and not just "modern" Western culture and art, are valuable and worthy of support. This was, once again, an important paradigm shift that UNESCO followed rather than led: while UNESCO played a standard-setting role in institutionalizing this emerging perspective on cultural diversity, the move itself reflected broader national and transnational social movements supporting cultural rights and the value of diverse cultures. For example, some of the movements occurring around this time that likely influenced UNESCO's perspective on culture include: the formation of the International Indian Treaty Council in 1974 (International Indian Treaty Council, 2017);¹² the formation of the Group of 77 (G-77) of developing countries in 1964 (the Group of 77, 2017);¹³ the Black Power movement and Native American Alcatraz occupation and Longest Walk in the US (Churchill, 1997); the Pan-Mayan movement in Guatemala and Mexico in the late 1980s and early 1990s (Fischer, 2010); the Anti-Apartheid movement in South Africa and around the globe beginning in the 1960s; and across the developing world, pushback against Western-framed objectives and instruments for development (Singh, 2015).

In 1986, the United Nations declared 1988–1997 as *the World Decade for Cultural Development* (United Nations General Assembly, 1986), a move spearheaded by the G-77 of developing countries and recommended by UNESCO at MONDIACULT. As the cultural arm of the United Nations, UNESCO was understood as the lead organization in supporting the decade's four objectives: "acknowledging the cultural dimension of development; affirming and enriching cultural identities; broadening participation in culture; [and] promoting cultural co-operation" (United Nations General

¹² The International Indian Treaty Council was particularly active at the United Nations, and in 1977 became the first Indigenous organization to receive Consultative Status for the UN Economic and Social Council (International Indian Treaty Council, 2017).

¹³ The Group of 77 at the United Nations describes its aims as providing "the means for the countries of the South to articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the United Nations system, and promote South-South cooperation for development" (the Group of 77, 2017).

Assembly, 1986, article 2). More broadly, UNESCO's Director-General, Federico Mayor, described the purpose of the Decade as follows:

to promote awareness of the cultural imperative and to foster a new state of mind that will lead to the emergence of a variety of proposals devoted to a diversity which unites, a creativity which brings together, and a solidarity which liberates (Mayor, 1988, p. 5).

In response to its role in the Decade for Diversity, UNESCO established the World Commission on Culture and Development, a high-level commission tasked with strengthening the links between development and culture and preparing a world report on the issue by 1995 (CNN, 1992). The commission was led by Peruvian diplomat and former Secretary-General of the United Nations, Javier Pérez de Cuéllar, and included a diverse panel of six honorary members,¹⁴ 13 regular members from different parts of the world,¹⁵ and an executive secretary (scholar Yudhishtir Raj Isar) (UNESCO, 1995a). In 1995, the commission released its capstone policy-oriented document, *Our Creative Diversity*, which represented a reconsideration of the development process and set out a new international agenda for development. The document is notable in its shift away from the language of “cultural preservation” toward an agenda based on cultural development and growth. Cultural diversity—elaborated as more or less synonymous with multiculturalism—was considered to be a key aspect of an overall sustainable development agenda.¹⁶ In particular, the report highlights:

- A commitment to pluralism, including tolerance and respect for cultures and ethnic groups within countries (with a special note on the rights of indigenous peoples);¹⁷

¹⁴ The honorary members were: Crown Prince El Hassan Bin Talal of Jordan (member of royal family), Aung San Suu Kyi from Myanmar (politician, diplomat, and author), Claude Lévi-Strauss from France (anthropologist), Ilya Prigogine from Belgium (chemist), Derek Walcott from Saint Lucia (poet and playwright), and Elie Wiesel from the United States (Holocaust survivor, writer, and activist).

¹⁵ The countries represented were: Mexico, Senegal, Switzerland, Brazil, Greece, the United Kingdom, Pakistan, Argentina, Zimbabwe, Norway, the Russian Federation, Japan, and Egypt.

¹⁶ As Obuljen (2006, p. 24) pointed out, this report was also the first to draw the controversial link between cultural diversity and biodiversity. This language was later used in the Draft Ministerial Declaration prior to the World Trade Organization's meeting in Seattle in 1999.

¹⁷ This is in keeping with broader developments at the United Nations, which declared 1995–2004 as the “UN Decade for Indigenous Peoples.”

- Celebration of creativity in all of its forms to support development, and broadening the understanding of cultural heritage beyond the “elite, the monumental, the literate, and the ceremonial” (UNESCO, 1996, p. 31);
- An international plan for gender equality;
- Protection of children and young people;
- Substantive consideration of the link between culture and the natural environment (this report was the first to link culture with biodiversity);
- Support of media diversity and limits to concentration in media ownership; and
- The need for a ‘people-centered UN’ that includes wider participation by NGOs, private foundations, representatives for indigenous peoples and cultural minorities, governmental representatives, corporations, trade unions, and other relevant civil society actors. The report also highlights the need for the UN to become more relevant to younger generations (UNESCO, 1995a).

Of particular relevance is the report’s approach to diversity in media, which focuses on a need to support economic and technological development alongside cultural imperatives. Mawini (2015) pointed out that in this regard, the report raised similar concerns as those discussed at UNESCO in the development debates of the early 1980s and throughout the NWICO discussions. However, the focus had markedly shifted to content diversity and concentration in media ownership, including the introduction of content standards and ensuring access issues were not sidelined in an environment characterized by media abundance. The report does not provide concrete steps to manage these issues. Ultimately, it recommends the development of an “international global media system” that would facilitate access for a broad range of voices, including those from countries that might otherwise find themselves voiceless and without adequate access to media technologies. In this way, the report responds to increasing malaise surrounding trade and cultural diversity related to the Uruguay round of GATT negotiations. It also foreshadows the creation of the 2005 UNESCO CDCE, calling for a feasibility study to investigate the viability of international policies to promote competition (UNESCO, 1995a).

While cultural diversity was still largely discussed in relation to development at this time, it is important to understand the discussions that occurred during and after the release of *Our Creative Diversity* in the context of the changing landscape in international trade. From 1986 until 1994, 123 countries were taking part in the Uruguay Round discussions of the GATT—an expansive negotiation covering “almost all trade,

from toothbrushes to pleasures boats, from banking to telecommunications, from the genes to wild rice to AIDS treatment” (WTO, 2017). The discussions ended in 1995 with the creation of the World Trade Organization (WTO), which replaced the previous General Agreement on Tariffs and Trade (GATT).¹⁸

During the Uruguay Round negotiations, questions about trade in culture galvanized around audiovisual industries. While Europe had won the ability to maintain protections for cinema in the 1940s, the Uruguay negotiations included liberalizing services sectors—including audiovisual services like television—under a new General Agreement on Trade in Services (GATS). Once again, the French delegation led a European resistance against liberalization of the audiovisual sector, arguing that the cultural importance of film and television justified protections via financial subsidies and screen quotas (such as those imposed by the European Community’s 1989 *Television Without Frontiers* directive). The United States, under pressure from the Motion Picture Association of America, contested the proposed exemption for audiovisual industries, leading to a deadlock in negotiations shortly before the close of the Uruguay Round (Pauwels & Loisen, 2003). In the end, countries concerned about their audiovisual industries adopted audiovisual exemptions from the most-favoured nation principle, and opted not to commit to liberalizing their audiovisual sectors. However, there remains no explicit exemption for cultural industries in the GATS, and thus they are intrinsically covered under the agreement. It has since been impossible to fully isolate cultural industries and policies from the new trade rules (Kelsey, 2007).

3.1.2. Toward an international instrument for cultural diversity, and an increase in Canada’s leadership role

Shortly after the release of *Our Creative Diversity* (and the closing of the Uruguay Round of trade negotiations), UNESCO held a large *Intergovernmental Conference on Cultural Policies for Development*. The conference, which took place in 1998, gathered 2,400 participants from 149 governments, 23 international intergovernmental organizations, and around 135 civil society organizations to assist in implementing the World Commission’s agenda (UNESCO, 1998b). The conference’s objectives were

¹⁸ While the WTO replaced the GATT as an international organization, it maintained and updated the General Agreement on Tariffs and Trade as its major treaty for trade in goods.

twofold: 1) to address major problems related to cultural policies and human development requiring attention at national, regional, and international levels; and 2) to strengthen UNESCO's contributions to the formation of cultural policy (UNESCO, 1998b, p. 7). It culminated in the adoption of an *Action Plan on Cultural Policies for Development*, which recommended a series of policy objectives to UNESCO member states¹⁹ and the UNESCO Director-General. The Action Plan took a rights-based approach to cultural development,²⁰ which solidified UNESCO's role as a standard-setting institution for global cultural policy and set the stage for the 2002 *Universal Declaration on Cultural Diversity*. Some of the Plan's key affirmations include:

- Cultures naturally evolve, and the defense of culture should not deprive cultures of their own development dynamics;
- Cultural policy must facilitate effective participation in the information society, including supporting people in mastering new communication technologies;
- Governments should partner with civil society actors when designing and implementing cultural policies related to development strategies;
- Cultural policies should be envisioned simultaneously at global, regional, national, and local levels; and
- Cultural policies should support cultural democratization. They should combat exclusion and marginalization, and serve all sectors of the population (see also: Raboy & Mawani, 2013; UNESCO, 1998a).

The Stockholm Conference marked an important turning point for Canada's involvement in global discussions surrounding cultural diversity. It took place at a time of heightened domestic concern about international trade following a disadvantageous WTO ruling that forbade Canada's tax on split-run magazines in 1997,²¹ prompting

¹⁹ The recommendations to UNESCO member states include: 1) make cultural policy one of the key components of development strategy; 2) promote creativity and participation in cultural life; 3) use policy to safeguard and enhance cultural heritage and cultural industries; 4) promote cultural and linguistic diversity in and for the information society; and 5) make more resources available for cultural development (UNESCO, 1998a).

²⁰ The report describes access to and participation in cultural life as: "a fundamental right of individuals in all communities," and links cultural rights with governments' responsibilities under Article 27 of the Universal Declaration of Human Rights" (UNESCO, 1998a, p. 2).

²¹ In 1995, the Canadian government added a levy to all advertising revenue on split-run magazines, defined as containing less than 80 % Canadian content. The United States successfully appealed to the WTO that the tax violated the "national treatment" principle of the GATT. In 1997,

renewed concerns about the viability of Canadian cultural industries amid American cultural dominance. Canada sent the conference's largest delegation—more than double the size of the French delegation—which included 37 participants representing federal and regional governments, arts organizations, and academia (UNESCO, 1998b). Minister of Canadian Heritage Sheila Copps was highly active at the conference, including chairing a session on pluralism that focused on the question of establishing a balance between diversity and social inclusion (UNESCO, 1998b, p. 27). Following the conference, Copps, with strong support from French Minister of Culture Catherine Tasca, played a key role in establishing the International Network of Cultural Policy (INCP).

The INCP brought together culture ministers from around the world, starting with an inaugural meeting of 22 culture ministers in Santorini in the fall of 2000. The network's purpose was to provide a venue for culture ministers to discuss emerging cultural policy issues, and develop strategies to strengthen cultural policy and promote diversity. To these ends, the INCP was a particularly strong advocate during discussions leading to the *2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (Gouvernement du Québec, 2005). Canada's role in the network was significant: the group's seed funding was provided by the (now defunct) Canadian Conference of the Arts, and the Canadian and Québec governments assumed responsibility for housing its secretariat.

The Santorini meeting also marked a significant uptick in civil society participation, as a group of private NGOs representing cultural groups and artists from 21 countries united to create a civil society-based *International Network on Cultural Diversity* (INCD). The INCD's mission was to “work to counter the homogenizing effects of economic globalization on world cultures” (UNESCO, 2016), and it received funding from the Canadian government through the Canadian Conference of the Arts. The network organized its schedule to coincide with INCP meetings, and the INCP relied heavily on the INCD to provide voice for artists and other civil society actors. However, the network's relationship to government raised certain questions: it received significant funding from the Canadian and Swedish governments, and the imprint of governments on the network's operations has been described as “ubiquitous” (Singh, 2015, p. 36).

the WTO ruled that the tax was discriminatory to foreign producers, causing Canada to withdraw the measure (WTO, 2018).

This led to some questions about the network's independence and ability to influence the international agenda, particularly given that UNESCO only provides formal voice to governments (and not explicitly to non-governmental actors).

One particularly important civil society group advocating for global cultural diversity policies in Québec and Canada was the newly formed *Canadian Coalition for Cultural Diversity* (CCD). The CCD was established in Québec following the Stockholm conference to represent cultural professional associations in policy-making arenas. Its mandate is to take part in debates on culture and trade, and to support the government in asserting its right to use policy to promote cultural diversity (Canadian Coalition for Cultural Diversity, 2017). The CCD supported the development of the International Federation of Coalitions of Cultural Diversity (IFCCD) in 2003,²² which was influential in promoting the idea of an international instrument on cultural diversity. The IFCCD is incorporated in Canada, with a Secretariat in Montréal (IFCCD, 2017). The CCD continues to undertake advocacy and promotional activities on behalf of its 33 member associations, and was recently awarded an additional \$100,000 by Canada's Department of Heritage to take part in research and advocacy activities (Department of Canadian Heritage, 2017). However, with the bulk of its funding coming from the Government of Québec and a mandate to support professional cultural endeavours, its advocacy tends to sway toward Canadian and Québécois nationalistic conceptions of diversity that emphasize shielding cultural industries from the impacts of unfettered free trade.

For Canada, the INCP, INCD, and CCD's international agendas represented a global extension of cultural policy conversations that were already occurring on the home front. Canada had insisted on cultural exemptions in its previous trade agreements with the United States—first the 1988 Canada-United States Free Trade Agreement (CUSFTA), and then the 1994 North American Free Trade Agreement (NAFTA). In the early 1990s, the Federal Government set up a Cultural Industries Sectoral Advisory Group on International Trade (SAGIT), with a membership made up of mostly industry heavyweights, lawyers, business analysts, and academics that would advise the federal government on international trade in cultural industries. In 1998, the SAGIT felt blindsided by the results of the Canada-US split-run magazine dispute and was coming

²² Established in 2003 as the *International Liaison Committee of Coalitions for Cultural Diversity*

to terms with the WTO's institutional bias toward liberalizing trade (Grant, 2013). Arguments for "cultural protection" were unpopular in a free-trade environment, particularly within the WTO. In his memoir, communications lawyer and SAGIT member Peter Grant described the SAGIT's adoption of cultural diversity as an instrumental move designed as a politically palatable alternative to the tainted "protectionist" objective:

Then I suddenly had an idea: How about pushing for an international treaty specifically dealing with culture and trade? . . . Instead of focusing on the concept of a 'cultural exemption,' why don't we talk about the need to protect 'cultural diversity'? And if we can't win inside the WTO, maybe we can influence public opinion outside it. (Grant, 2013, p. 205)

The SAGIT's 1999 report called for Canada to take a leading role in advocating for a new international instrument on cultural diversity (Cultural Industries SAGIT, 1999), the promotion of which subsequently became a major goal for Canada at UNESCO and within its international networks.

It is clear that Canada's initial drive behind the international cultural diversity agenda was instrumental, with diversity mobilized as a mechanism to support domestic industries in light of increased pressure to liberalize trade in cultural sectors. Canada had responded to some UNESCO-driven pressures to change its approaches to human rights and cultural development,²³ but had not taken the same degree of leadership in previous UNESCO discussions, when cultural diversity was linked primarily to decolonization and development. It had, on the home front, been experimenting with its own brand of diversity through its official policy of multiculturalism. As Chapter 4 discusses, the perceived success of this experiment gave Canada a positive reputation for liberal-democratic diversity management that increased its clout in promoting cultural diversity on the world stage. Now that the country was experiencing real anxiety about its domestic cultural industries, protecting cultural diversity also became a useful rallying cry for members of the SAGIT and the Canadian government focused on protecting

²³ Canada eventually signed the UNESCO's Universal Declaration of Human Rights (1948), albeit slightly later than other member states, in response to global pressure. It later launched the Massey Commission to investigate cultural development in response to pressure from UNESCO, as Canada's relative underdevelopment in culture had become a national embarrassment as its international profile grew at UNESCO (Druick, 2006).

Canadian cultural industries and nationalistic (i.e., Canadian or Québécois) expressions of culture.

In November 2001, UNESCO adopted the *Universal Declaration on Cultural Diversity* at its 31st General Conference (UNESCO, 2001). While non-binding, the declaration was significant in many respects. Firstly, the 185 member states unanimously adopted it. While its unanimous adoption was certainly made easier by the fact that the US was not a UNESCO member at the time, its broad support sent a strong message that the international community viewed cultural diversity as a distinct and important political issue, and effectively paved the way for the binding *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*. It helped start a conversation about the “complete lack of standards relating to culture at [the] international level” (Lamy, 2005), and contributed a basic ethical framework from which to build the 2005 convention. Furthermore, in the wake of the September 11th, 2001, terrorist attacks, the declaration provided a timely opportunity for UNESCO to reiterate the connection between cultural diversity, tolerance, dialogue, cooperation, and peace, and to allow member states to re-assert their commitment to open and democratic intercultural dialogue. Finally, the UDCD also clearly laid out UNESCO’s role for “standard-setting, awareness-raising and capacity-building” (UNESCO, 2002, p. 5) in global cultural diversity policy, reinforcing its position as the appropriate institutional home for further global work on cultural diversity.

The declaration included a 20-point action plan for member states, drawing together several goals set out throughout previous discussions (e.g., the Mexico Declaration, *Our Creative Diversity Report*, and the Stockholm Conference), as well as emerging challenges including tackling the digital divide. UNESCO convened a follow-up conference to discuss the Action Plan in May 2003.

3.1.3. Summary of the global canon on diversity

Over the decades following the Second World War, the diversity principle evolved in response to shifts in the global geopolitical environment, and in turn became institutionalized within the reactionary framework of UNESCO. In the early days, diversity did not exist as an explicit goal unto itself, but the seeds of what would eventually become diversity were embedded in UNESCO-led programs of cultural

interchange and early malaise surrounding WTO-driven free trade. Diversity as a normative goal came to the fore during decolonization, and through NWICO and the resistance that was taking place in developing countries became intrinsically bound to objectives surrounding cultural development and human rights. Later, diversity was invoked in relation to cultural industries policy, linked simultaneously to development and multiculturalism as well as developed countries' malaise about American cultural dominance and the desire to protect domestic industries. The UDCD represented a culmination of over half a century of global dialogue, and codified several disparate objectives under the banner of cultural diversity: understanding diversity as encompassing multiculturalism and pluralism, facilitating cultural rights as a key aspect of human rights, supporting cultural diversity as a means to foster global creativity, and protecting domestic cultural industries from free trade. This normative solidification of diversity as a global objective laid the necessary base for the most substantial standard-setting instrument on cultural diversity to date: the 2005 *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*.

3.2. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

In response to pressure from member states, in 2003 UNESCO unanimously approved a resolution calling for “the elaboration by 2005 of an international standard-setting convention regarding the protection of the diversity of cultural contents and artistic expressions” (Grant & Wood, 2004, p. 397). This began a two-year process of drafting and negotiations, first with a panel of 15 independent experts, and later with an intergovernmental group of experts comprised of 550 people from 132 member states. Negotiations culminated in a week of heated debate, followed by the convention's approval by a vote of 148 in favour and two opposed (Israel and the US), with four abstentions (Nicaragua, Australia, Honduras, and Liberia). Overall, the convention demonstrates the wide desire of most UNESCO members to maintain at least some degree of sovereignty over policy on culture and diversity. However, it is important to note that UNESCO holds no extra-state powers, and ratifying members are responsible for organizing the convention's implementation and submitting quadrennial progress reports to UNESCO.

At the core of the convention is an affirmation of member states' sovereign right "to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation" (UNESCO, 2005a). The convention presents four interlinked objectives: the overarching goal of promoting and protecting cultural diversity; identifying what measures states and public bodies may take to protect cultural diversity; ensuring that international trade obligations do not prevent such protection; and, through international cooperation, assisting developing countries and small linguistic and cultural groups in preserving and enjoying their cultural heritage. The convention is meant to serve not just as a tool to help preserve existing cultural policies, but also as an inspiration to find alternative policy solutions to protect diversity and steer policy-makers away from irreversible liberalization commitments.

Nonetheless, the final convention was less ambitious than many of its promoters had hoped—particularly advocates such as the civil society-based (Communication Rights in the Information Society (CRIS) Campaign, which had been active in CDCE discussions and envisioned a rights-based convention with some teeth to safeguard and promote communication rights instead of focusing on protection for cultural industries (CRIS, 2005). Instead, the CDCE focuses on cultural expressions and market-based products, particularly those created in audiovisual industries. This is in part because of the binding nature of the convention, and its goal of initiating concrete policy action. It is also embedded in the CDCE's terminology, which focuses on the creation, production, dissemination and distribution of cultural products (Isar & Pyykkönen, 2015). Crucially, the tendency to focus on products and trade locks the convention's objectives into a market economy that draws the principle of diversity into the logic of capitalism and may undermine its capacity for mobilization in support of more radical, counter-hegemonic objectives.

Furthermore, the wording of the convention is aspirational rather than concrete: member states recognize their right to use policy to protect cultural diversity, and commit to "endeavour" to achieve the convention's objectives, and to "foster" and "encourage" actions and policies to promote diversity in cultural expressions (UNESCO, 2005a). Most of the principles in the convention are too vaguely worded or cautious in their approach to afford any real parameters of state action (Carmody, 2007), leading to a document that is "more like statements of principle than principles in the legal sense" (Fabri, 2006,

p. 79). The only real check-and-balance regarding a state's actions toward implementing the CDCE is the inclusion of civil society groups in the reporting process. However, as Bernier (2006) pointed out, even this may prove difficult to enforce in countries that do not wish to share this information with civil society. Overall, it is up to the state to use the convention as it chooses.

The convention's soft wording also means that it lacks legal force—particularly in relation to the WTO's regime of regulations (rather than rights). The Convention states that its relationship to other treaties is one of “mutual supportiveness, complementarity and non-subordination” (Article 20). However, the WTO's *Dispute Settlement Understanding* (World Trade Organization, 2012, article 23) is binding, while the CDCE's process is not, and states were given the opportunity to opt out of the process entirely upon accepting the convention (Carmody, 2007; Fabri, 2006). In a CDCE dispute, should negotiation or mediation fail, conflicting parties are given a possible recourse to conciliation (UNESCO, 2005). However, unlike the result in a WTO dispute, the outcome of conciliation is not binding on the disputing parties. When combined with the US's decision not to sign the Convention—thereby diluting its likelihood of recognition in global trade fora—the CDCE's claims to non-subordination in relation to other treaties signifies a legal fiction.

The CDCE as a whole appears to depoliticize some of the major issues raised by the UDCD, and largely neglects the rights-based iterations of diversity that characterized the objectives set out during NWICO. Mawani (2015) argued that the significance of the final document may lie more in the process leading to its adoption than with its actual substance, which she describes as “a watered-down, hard-law instrument that has been neutered” by the shortcomings described above (p. 200). While the Convention's power to influence trade outcomes in the global sphere may be limited, its ability to compel state action to support (often) non-productive justice-oriented diversity on the home front is virtually non-existent. As the remainder of this chapter demonstrates, Canada has only *used* the CDCE to promote diversity goals that serve a productive purpose for the country: protecting cultural industries from foreign competition.

3.2.1. Canada and the CDCE

In most ostensible ways, Canada has been a strong and consistent driver behind the UNESCO CDCE. After leading a period of intense international negotiations and lobby efforts, Canada was the first state (and second government, after Québec) to ratify the finalized Convention. Canada enthusiastically joined the intergovernmental committee responsible for implementing the Convention immediately following its entry into force, and hosted the committee's inaugural meeting in Ottawa in 2007 (every subsequent meeting has been held in Paris, where UNESO is headquartered). In its first quadrennial report to UNESCO, Canada stated proudly that its compliance with the instrument was easily achieved since it deeply "identifies with the objectives of the Convention due to its pursuit of similar, national goals" (Canada, 2012, preamble). Canada has several policies in its cultural toolkit to promote its domestic cultural industries (with an emphasis on broadcasting), including subsidy programs, scheduling quotas, national ownership requirements, spending rules, and competition policies (Grant & Wood, 2004). Overall, Canada has been a firm advocate for diverse cultural expressions among nations, particularly regarding protection for domestic industries vis-à-vis a large and better-funded Hollywood juggernaut.

Outside of this nationally situated promotion, however, Canada has been inconsistent in its diversity objectives, and its discussions about diversity of cultural expressions in the global field have been treated as a separate series of dialogues from those regarding diverse expressions within Canada. Throughout the Convention's early days, Canada continued to advocate internationally for a cultural exemption in trade. However, it did so while curtailing or abandoning several of its domestic policies: during this time, the federal Conservative Government directed the broadcasting and telecommunications regulator (the CRTC) to seek market-based solutions as much as possible (Minister of Justice, 2006), cut funding to public broadcasting (Rowland, 2013b), and disbanded the Canadian Conference for the Arts, which had provided funding to various groups that helped get the CDCE off the ground. Canada has also been inconsistent in its approach to cultural protections in old and new media, having used its position at the World Summit on the Information Society (WSIS) to advocate for a market-based self-regulatory approach to internet governance despite its history of negotiating trade exemptions for old media products (Raboy & Shtern, 2010).

The Role of Québec

Québec was an enthusiastic supporter of the CDCE from the early talks in the late 1990s, even independently spearheading the project in a process parallel to the work done by the Cultural Industries SAGIT and the Department of Canadian Heritage. Beginning in 1998, the Government of Québec supported the *Canadian Coalition for Cultural Diversity* (CCD) and its early advocacy work for the CDCE—a relationship that continues to this day. The same year, Québec Premier Lucien Bouchard and French Prime Minister Lionel Jospin established a Franco-Québec working group on cultural diversity. The objective of the group was to provide space for debate and reflection on culture and allow the two governments to define common interests to present at various multilateral forums, including UNESCO, the INCP, the *International Organization of La Francophonie*, and the *Porto Alegre World Social Forum*. The working group was active in discussions surrounding a potential legal instrument on cultural diversity, which paved the way for the Québec Government to take a clear position on diversity and advocate explicitly for the CDCE. The Minister of Culture and Communication (Agnès Maltais) formally announced Québec’s position on cultural diversity in 1999:

[il] est essentiel que soit reconnue, à l’échelle internationale, la capacité des États et des gouvernements de soutenir et de promouvoir la culture . . . [et que la culture] [fasse] l’objet d’un statut particulier à l’égard des accords internationaux de commerce. [Ce statut devant] être balisé par des règles consignées dans une convention ou tout autre instrument international approprié. (Gouvernement du Québec, 2017)²⁴

The Franco-Québec Working Group moved the CDCE’s development forward by commissioning a feasibility study in 2002, which was completed by Québécois legal scholar Ivan Bernier and French legal scholar Héléne Ruiz Fabri (Bernier & Fabri, 2002). The Québec Government subsequently updated its position on cultural diversity in 2003, reflecting the province’s strong desire to maintain autonomy over its cultural policies and setting out its expectations for the prospective international instrument on cultural diversity:

²⁴ This translates to the following: “It is essential that there be international recognition of the capacity of States and Governments to support and promote culture . . . [and for culture to be] an object of special status in regard to international trade agreements. [This status must be] marked by rules laid down in a convention or any other appropriate international instrument.” (translation by author, S. Blake)

- Québec wants to maintain its full right to intervene in support of culture through its policies.
- Québec will refuse to make commitments to liberalization and will have recourse to the means necessary to preserve its policies within the framework of all trade negotiations (WTO, FTAA, bilateral agreements, etc.) and the liberalization of trade and investment each time questions raised may affect Québec's ability to take action to support culture.
- Québec supports the adoption of an international convention on cultural diversity entrenching the rights of countries and governments to maintain, develop, and implement policies supporting culture and cultural diversity.
- This international convention must define rights applicable to cultural diversity while also stressing openness to other cultures and cultural expression.
- This international convention must create parallel rights to international trade rights, not subordinate rights, and must include an efficient dispute settlement mechanism.
- Québec supports the adoption of an international convention on cultural diversity by UNESCO (Secretariat for Cultural Diversity, 2017).

In November 2005, the Québec National Assembly unanimously voted to ratify the CDCE, and Québec became the first government in the world to approve the new instrument. Since then, the province has remained active on the cultural file: in 2006, Québec and Canada signed *l'Accord entre le Gouvernement du Québec et le Gouvernement du Canada relative à l'Organisation des Nations Unies pour L'Éducation, la Science et la Culture (UNESCO)*, which granted Québec the right to maintain government representation as a member of Canada's Permanent Delegation to UNESCO. This permits Québec to speak for itself at UNESCO meetings and events above allowances otherwise accorded in its role as a member of the Canadian delegation. Québec maintains a Secretariat for Cultural Diversity, which is housed within the department of Culture et Communications, and is mandated to provide expertise and research on issues related to culture and commerce. Québec has also independently contributed to the CDCE's international diversity fund, adopted its own Agenda 21 for Culture in response to the CDCE's Article 13,²⁵ and prepared its own quadrennial report

²⁵ Article 13 states that: "Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions" (UNESCO, 2005a).

to UNESCO on its accomplishments in implementing the Convention (Gouvernement du Québec, 2017).

Besides leading to the creation of an instrument that supports Québec's worldview and goals, the development of the CDCE marked the first time the province was so heavily active and influential in international multilateral negotiations. Québec's role on the CDCE demonstrated its strong desire and ability to act as a global force in cultural policy debates. Through its active participation on the Canadian delegation to UNESCO, and with its partnership in France, Québec made its own diplomacy, research, and cultural community activism (through the CCD) invaluable to the Convention's development and adoption. The province's active role in CDCE negotiations paved the way for its special position on the Canadian Delegation to UNESCO, guaranteeing it a place at the table and autonomy to speak for itself for all future multilateral discussions conducted through the auspices of UNESCO. It also likely played a role in Québec's 2005 request for membership status on Canadian delegations for other international organizations and negotiations, including the World Health Organization and International Labour Organization.

In terms of broadcasting policy specifically, Québec's special status at the global cultural policy negotiating table can have an indirect role in supporting policies that are favourable to the province. As I discuss in the chapters 4 and 5, broadcasting itself remains a federal responsibility. However, Québec has now gained a seat at the table at high-level policy discussions that should ostensibly form a basis for federally based culturally policies. Québec's ability to capitalize on this indirect influence, however, is contingent on Canada's attitude toward the *domestic* implementation of UNESCO-developed cultural policy norms—that is, the extent to which the country considers and uses UNESCO standards to directly or indirectly guide policy within its own borders. As a start to investigating this question, the following section discusses Canada's implementation of the CDCE.

3.2.2. Use of the CDCE in Canada

Domestic policy uptakes for diversity do not diffuse in a linear fashion immediately following the ratification of international legislation protecting cultural rights. In practise, the link between a state's decision to sign onto a treaty or convention

promoting certain principles and the actual promotion of said principles domestically is weak. Actual changes in state behaviour may be driven instead by the growth of new international norms—for example, Dobbin et. al. (2007) argued that the growing legitimacy of norms surrounding basic human rights may have played a stronger role in broader declines in state repression than the act of signing onto treaties supporting these rights. On a global level, this is also likely the case for the CDCE: while the Convention’s provisions are vague and enforcing compliance domestically is difficult, the Convention’s ultimate power may be in promoting new international norms related to diverse cultural expressions.

As a key force for the CDCE’s development, Canada demonstrated strong support for the Convention’s philosophy and norm-setting functions as they pertain to tempering trade liberalization for cultural products—functions that serve national interests to protect specific industries. What is less clear, however, is the extent to which Canada would take up the challenge of rigorously implementing some of the Convention’s more challenging, social justice-oriented visions of diversity within its own borders, and whether it would effectively modify its own policies and behaviours to do so. To these ends, this section takes stock of Canada’s implementation of the CDCE since its entry into force.

Promotion of the CDCE in Canada

The CDCE has had some visibility in Canadian policy and political circles, and has enjoyed some promotion through UNESCO, the Government of Canada (particularly the Department of Canadian Heritage), and the Coalition for Cultural Diversity. In order to reach a broader public, UNESCO published several brochures and booklets presenting the Convention in accessible terms (UNESCO, 2005b, 2015) and released a series of (albeit rarely watched) YouTube videos featuring international experts describing the Convention and its goals. UNESCO also assists in organizing conferences related to the Convention, and UNESCO’s Section Chief on Diversity of Cultural Expressions and Secretary of the CDCE, Danielle Cliche, travels frequently to present the Convention to civil society organizations.

Within Canada, the Department of Canadian Heritage has been most active on the CDCE file. In the years immediately following the Convention’s ratification, Canadian Heritage partook in activities to promote it both domestically (with provinces and civil

society actors) and internationally (with an emphasis on promoting ratification) (Canadian Heritage, 2007a, 2007b, 2008). To support its domestic promotion efforts, Canada and the Québec government support the CCD, which is active in promoting the Convention through publicly accessible videos and research studies (e.g., CCD, 2010, 2012) and organizing and attending events related to cultural diversity and the Convention (CCD, 2015). However, it is clear that the Government of Canada's real interest lies in the uptake of the Convention internationally—specifically its potential role in supporting Canada's cultural trade objectives. Canada has expended considerable energy in promoting the Convention abroad, both bilaterally and in international forums such as the Organization for America States, L'Organisation internationale de la Francophonie, and UNESCO (Canadian Heritage, 2007a).

Canada's official engagement with the CDCE has generally dropped off in recent years, as the Convention is now widespread internationally and its promotion within Canada has decreased. This diminishing attention is evidenced in part by its reduced importance in Department of Heritage annual reports and planning documents (Canadian Heritage, 2010, 2011, 2012, 2013, 2014, 2015, 2016a) and decreased attention in parliamentary discussions. In the later years of the Conservative Government's regime (which ended in 2015), federal funding to implement the Convention through Canadian Heritage and Foreign Affairs, Trade and Development declined to about one sixth of the funding it received in the years immediately following the Convention's ratification. This is ostensibly because the Convention was at that point well established internationally, and Canada had ceased its contributions to UNESCO's International Fund for Cultural Diversity (IFCD) (House of Commons, 2013). However, the Government does maintain some engagement with the Convention, and the new Liberal Government made a new commitment of \$100,000 to the IFCD in 2016 (Canadian Heritage, 2016b).

Canada's implementation of the CDCE

Implementation of the Convention by the Canadian Public Service

The Department of Canadian Heritage's *Report[s] on Plans and Priorities* and *Departmental Performance Review[s]* from 2006–2017 list the activities that Canada has undertaken to implement the Convention. In the Convention's early years (2006–2008), the reports discuss Canada's implementation efforts in some detail; however, discussion

of the Convention decreases considerably after 2009. In the most recent *Report on Plans and Priorities* (2016–2017), discussion on the Convention consists of only two sentences describing the department's role in preparing Canada's second quadrennial periodic report for UNESCO.²⁶

In all of the reports, the Department's objectives surrounding the Convention's implementation take only three forms: 1) promoting the Convention internationally; 2) partaking in international governance surrounding the Convention, including participating in its intergovernmental committee; and 3) promoting the Convention with civil society and provincial governments within Canada. Notably, the first two represent distinctly productive uses of the document by bolstering Canada's reputation and interests in the international realm. The third (promoting the Convention domestically) is less productive, and as the reports demonstrate was undertaken with much less vigour.

The departmental reports do provide summaries of the various priorities and programs aimed at promoting and preserving Canadian cultural heritage and artistic expressions; however, these programs are never explicitly linked to the goal of implementing the CDCE itself. None of the reports cite the development of new cultural programs or funding frameworks as having been developed with the explicit goal of better achieving the diversity objectives put forward by the Convention. This suggests that Canada views implementation of the Convention as part and parcel with its day-to-day activities and goals. Furthermore, the reports consistently situate discussion surrounding the Convention under program categories related to culture and foreign policy. This categorization further demonstrates Canada's view of the instrument as primarily a tool to promote its global policy objectives, more so than a commitment to implement a particular set of domestic policies. It places promotion of the Convention within a broader soft-power foreign policy framework that situates Canada as a global leader for liberalism, tolerance, multiculturalism, and equality.

Implementation of the Convention in International Trade

Canada's most explicit use of the Convention so far has been in negotiating a cultural exemption in the 2014 Canada-EU Comprehensive Economic and Trade

²⁶ For this section, I reviewed each annual Canadian Heritage *Departmental Performance Report* and *Report on Plans and Priorities* from 2006 to 2016/2017.

Agreement (CETA). The CETA's preamble affirms all parties' commitments to the CDCE, asserting that:

states have the right to preserve, develop and implement their cultural policies, and to support their cultural industries for the purpose of strengthening the diversity of cultural expressions, and preserving their cultural identity, including through the use of regulatory measures and financial support (Government of Canada, 2014).

While this reference to the Convention may provide a useful template for future trade negotiations, the CETA's cultural exemption is just one in Canada's long history of negotiating such provisions; similar exemptions exist in all of Canada's 12 Free Trade Agreements and 28 bilateral foreign investment protection and promotion agreements. Nonetheless, this use of the CDCE represents one use of the Convention in pursuit of specific national interests: protecting cultural industries from unfettered free trade.

Use of the Convention in cultural policy in the House of Commons

The Standing Committee on Canadian Heritage²⁷ endorsed the development of the CDCE in its 2003 report, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, and made a strong recommendation that Canada maintain its domestic ownership policies for broadcast (Standing Committee on Canadian Heritage, 2003c). Since then, the Standing Committee has occasionally referenced the CDCE in meetings and reports (e.g., 2005, 2008, 2011, 2012) as a guiding principle and justification for a range of cultural policies. For example, in 2005 the Committee described the CDCE as a relevant tool and justification for building and maintaining policies to promote the feature film industry, stating: "The Convention places cultural preservation on the international agenda and confirms in the eyes of the international community, as well as the annals of international law, the legitimacy of Canada's current and future policies aimed at supporting Canadian film" (Standing Committee on Canadian Heritage, 2005, p. 2).

In the years since the CDCE's ratification, some of the most interesting discussions within Canada surrounding it have taken place in the House of Commons. The longest and most complex discussion accompanied the introduction of an opposition motion about Canada's implementation of the Convention, which was tabled by Liberal

²⁷ I assessed 39 Standing Committee on Canadian Heritage reports from 2005–2017 to evaluate the Committee's depth of engagement with the CDCE.

MP Mauril Bélanger in May 2006. The final version of the motion, which included a friendly amendment put forward by NDP MP Charlie Angus to explicitly address concerns related to trade negotiations, reads as follows:

That, in view of the ratification by Canada of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, the House insist that the government provide direction to trade negotiators to ensure that domestic cultural rights are not undermined in any trade talks, and that its departments and agencies maintain the program policies and regulations in support of Canada's artistic sector and cultural industries, in particular, by maintaining or enhancing: (a) existing Canadian cultural content requirements; (b) current restrictions on foreign ownership in the cultural sector; and (c) financial support for public broadcasting in both official languages. (Canada & House of Commons, 2006b, p. 210)

The timing of the motion is relevant. The Convention was still a fresh document; Canada ratified it only six months previously, and it had not yet entered into force at UNESCO. Furthermore, the Liberal Government that had worked to negotiate and ratify the Convention had recently lost the election in January 2006, and was replaced by a Conservative minority government. The motion was introduced as the new government took over negotiations in the Doha Round of the WTO (focused on reducing trade barriers), and amidst speculation that the Conservatives planned to cut funding to the public broadcaster (Cobb, 2006) and were considering liberalization in telecommunication (Canada & House of Commons, 2006a). Notably, the motion does not propose any new measures to support cultural industries or diverse expressions; Bélanger himself explained the motion as striving to maintain the status quo of cultural protections, stating: "what we are looking for collectively I hope in the House is that we do not go backward" (Canada & House of Commons, 2006a, p. 1691).

The House debated the motion for almost an entire day, and it ultimately passed with support from the Liberal, Bloc Québécois (BQ), and New Democrat (NDP) caucuses. The Conservative caucus voiced its support for the CDCE but rejected the motion, arguing that it would handcuff the new government to an outdated policy regime; the Conservative position was epitomized by MP Jim Abbott's statement that "this motion seeks to deny the government the freedom to adapt . . . new policies or to modify old ones" (Canada & House of Commons, 2006a, p. 1694). Some Conservative members also balked at the notion of cultural protectionism; MP Lynne Yelich, for example, argued that protectionism hinders Canadian producers, stating that "we cannot

be protectionist with borders surrounding our cultural artists and creators. If we begin closing doors, we will not allow them to be free with their artistic and cultural work” (Canada & House of Commons, 2006a, p. 1749). Gary Schellenberger referred to protectionist policies as “patronizing,” stating that such policies imply that Canadian artists are not sufficiently talented to compete globally (Canada & House of Commons, 2006a, p. 1711).

The debate touched on a number of topics related to Canadian arts and culture, but the majority of discussion focused on areas related to broadcasting policy and the CRTC. The Bloc Québécois (BQ) repeatedly referred to a recent CRTC decision granting lower Canadian content requirements to satellite radio stations, arguing that the government’s failure to overturn the decision was a violation of the CDCE. The BQ also expressed concern that the new government might liberalize telecommunications, arguing that in light of technological convergence between radio, cable, and telecom, such a decision would have serious repercussions for broadcasting regulation. Charlie Angus of the NDP spoke eloquently about the need to protect Canadian policies from US bilateralism and liberalization pressures in the Doha round of the GATS. The Liberals, NDP, and BQ all spoke about the importance of increasing support for the CBC. The topic of improving support to the CBC was flatly rejected by the Conservatives via MP Dean Del Mastro, who argued that the public broadcaster suffered from mismanagement: “I think the problem with CBC is not a lack of funding; rather, it is the lack of a sound business plan” (p. 1713).

Even though the motion passed in parliament, it did not impact the government’s activities. Motions do not become law, and there is no requirement that the Prime Minister or Cabinet take any action based on a motion. In practice, the Conservative Government did not adhere to any aspect of the motion as it was discussed in the House: the government did not send back the CRTC’s decision on Canadian content rules for satellite radio, or intervene in any other of the Commission’s decisions related to Canadian content in the following years (despite a willingness to send back other CRTC decisions). The Conservatives moved forward with plans to liberalize ownership rules in telecommunication, although they did not follow through on plans to open up the broadcasting sector to foreign ownership. The party also significantly cut funding to the CBC in subsequent years.

The motion's impact was symbolic and political. It sent a message to the government and the public that all three of the major non-governing political parties were (at least temporarily) united in their approaches to cultural policy, and that their positions differed considerably from the Conservative minority government. It also brought concentrated attention to Canada's responsibilities under UNESCO, placing an emphasis on the obligation to enact the Convention in domestic policy as well as in international trade agreements. It attempted to give tangible shape to Canada's interpretation of the CDCE—notably one that focused on maintenance of cultural policies and programs, rather than the creation of new ones. It also linked Canada's obligations under the CDCE to broadcasting policy, and articulated the requirement that the CRTC also abide by the spirit and objectives of the Convention.

The Convention was again raised in the House of Commons in 2007, 2009, and 2010—always by members of the non-governing caucuses (Liberal, NDP, and BQ members), and always in relation to existing cultural policies that were perceived as being under threat via the Conservative Government.

In November 2007, the BQ invoked Canada's CDCE obligations to accompany a debate about the government's directive to the CRTC to "rely on market forces as much as possible" in telecom regulation (Minister of Justice, 2006). In response to the government's perceived move toward unilateralism and liberalization in telecom and broadcast governance, the Standing Committee on Canadian Heritage passed a motion requiring the government to put any changes in interpretation of the Broadcasting and Telecommunications Acts before them before making any changes (Canada & House of Commons, 2007, p. 1392). Bloc Québécois MP Maria Mourani explained the reason for the motion as reflecting "the uneasiness with this government turning its back on its democratic duties when it comes to presenting its policy directives to Parliament" (Canada & House of Commons, 2007, p. 1379). In supporting the motion, BQ MP Jean-Yves Roy argued that the government's directive to the CRTC was a violation of its responsibilities under the CDCE:

I find it paradoxical and disappointing that Canada, which was in the forefront of the cultural diversity movement and was the first country to ratify the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, would be in this position today, when the very purpose of that convention is to provide legal protection for the right of states to make their own cultural policies. Today the CRTC—a central

regulating body—is abandoning its duties with respect to the adoption and implementation of those policies. This is indeed quite curious. Unless, perhaps, the government is telling us that the ratification of a convention like the one on diversity of cultural expressions means nothing, that it is just words, and Canada’s signature is worth nothing. (Canada & House of Commons, 2007, p. 1393)

The QB, NDP, and Liberal parties all expressed concern that the CRTC was bowing to big business interests in its approach to vertical integration in broadcast and telecom industries, and that the government was instrumental in pushing a market-based approach to broadcasting. In the words of Liberal MP Keith Martin, the CRTC’s failure to protect against media concentration represented an immediate threat to diversity and democracy:

I believe the CRTC has failed miserably in not allowing a diversity of voices to get out. It has failed in terms of allowing the media concentration that is occurring today, which is not only disruptive to the public but disruptive to journalists and to this House. It also is disruptive to the ability of all of us as elected officials to do our jobs. (Canada & House of Commons, 2007, p. 1383)

The Convention’s next substantive use in the House occurred in 2009, when Liberal MP Sukh Dhaliwal invoked Canada’s CDCE responsibilities in response to the government’s decision to cut funding to cultural industries and the CBC:

Unfortunately, we no longer have a Canadian government that embraces [the convention’s] principles. The first sign of this was during the last election when the Prime Minister stood by his decision to cut \$45 million from cultural funding. Now this trend is continuing with the government’s assault on the CBC. (Canada & House of Commons, 2009, p. 2226)

Once again, the three major non-governing parties generally converged in their approach to cultural policy—in this case, each harshly criticizing the defunding of the CBC. However, much like in the case of the 2007 motion, the Conservative Government simultaneously voiced its support for the CDCE while continuing to pursue its own cultural policy agenda, which in the following years included deep cuts to the CBC.

The tone of the discussion surrounding the Convention was much different in 2010, when the opposition caucuses invoked the CDCE in relation to the CETA. Bloc Québécois MP Carole Lavallée referenced the CDCE to support her argument for embedding cultural protections within the agreement’s preamble:

Quebec was the first state in the world to approve the UNESCO convention on the protection and promotion of culture, generally called the Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Canada and the European Union were among the first to support and then ratify this UNESCO convention. Should they not set an example, therefore, and both agree to completely exempt culture from the trade agreement they are negotiating and include in the preamble to the agreement a reference to the UNESCO convention as a legal framework on which cultural exemptions could be based? (Canada & House of Commons, 2010, p. 7279)

Members of the BQ, Liberal, and New Democratic caucuses requested that a cultural exemption be included in the CETA preamble, with reference to the CDCE. In this case, the Conservative party clearly affirmed its intention to invoke the CDCE in support of a cultural exemption. Conservative MP Ron Cannan stated:

Canada and the EU both share an ongoing commitment to the principles of the UNESCO convention, such as the need to maintain the policy space necessary to pursue cultural priorities and to foster cultural exchanges that promote the diversity of cultural expressions. With respect to culture in the free trade negotiations with the European Union, the government remains committed to defending Canada's cultural interest *and will exempt these areas from trade obligations* [emphasis added]. We believe that the EU will understand our need to take this approach as it has demonstrated a long-standing respect for the needs of countries to have the capacity to develop and implement cultural policy policies. (Canada & House of Commons, 2010, p. 7292)

In its report on the Canadian-European Free Trade Agreement in 2011, the Conservative-led Standing Committee on Canadian Heritage included a section on the CDCE that explained the Convention and its objectives. Charles Vallerand from the Canadian Coalition for Cultural Diversity appeared before the Committee to discuss the CDCE, including the challenges of negotiating such an exemption (Standing Committee on Canadian Heritage, 2011).

The exemption was ultimately negotiated and included in the CETA preamble. However, in this case, as in every other invocation of the CDCE, there is little solid evidence that convention obligations had any role in changing the government's behaviour toward cultural policy. As previously discussed, Canada has a long history of negotiating exemptions to free trade agreements, many of which (including the NAFTA exemption) were negotiated under previous conservative governments. The exemption negotiation with the European Union was also expected to be relatively smooth, since

EU member states are known to share an interest in protecting cultural industries (Canada & House of Commons, 2010, p. 7279). It is likely that Canada and the EU would have negotiated a similar cultural exemption, even in the absence of the UNESCO CDCE.

Summary of Canada's implementation of the CDCE

Overall, Canada has taken a business-as-usual approach to its CDCE responsibilities. In 2013, New Democrat MP and member of the Standing Committee on Canadian Heritage Pierre Nantel issued a formal request in parliament for an update on how Canada had implemented the CDCE, what its future plans for implementation would be, and how the government has engaged the provinces in the convention's implementation. In response to the question, "Has the Department of Canadian Heritage reviewed its policies to ensure they comply with the Convention?" the government responded:

Canada was already compliant with the objectives and principles of the Convention at the time of ratification. In fact, Canada has an extensive ecosystem of cultural policies and measures to create an environment that favours the diversity of cultural expressions within its borders. (Parliamentary Secretary, 2013, p. 4)

In terms of its future plans to implement the Convention, the response stated that the Government of Canada would attend intergovernmental committee meetings of the CDCE, take part in international discussions about emerging issues, and prepare its second quadrennial periodic report on the Convention's implementation for the 2016 deadline.²⁸ Notably, none of these commitments include critical evaluation of the current implementation of the Convention, or the introduction of new policies to encourage diverse cultural expressions domestically.

The government's response also shows limited interest in further promoting the Convention at different governmental levels domestically. In answer to the question about provincial engagement in the Convention's implementation, the response only discussed official engagement with the province of Québec—citing 60 meetings and 55 teleconferences between representatives from Québec and the Canadian government.

²⁸ At the time of writing (September 2017), it is not clear if this report has been submitted to UNESCO.

There was no discussion of promotion outside of Québec, and indeed, official engagement with the CDCE in regions outside of Québec has been low. Even former advocates for the Convention have expressed disappointment in its limited uptake at provincial and municipal levels—for example, former book publisher and member of the original Cultural Industries SAGIT Scott McIntyre describes the Convention as “irrelevant” in his home province of BC, and “invisible” in all of English Canada (McIntyre, 2015).

The government’s response to Nantel’s questions is similar to Canada’s explanation in its first quadrennial report on implementation to UNESCO, which was published in 2012. In the quadrennial report, Canada argued that it “was already implementing the Convention through a wide range of cultural policies and programs” (Canada, 2012, p. 46) at the time of ratification, and thus did not need to introduce new policies. Most of the programs that Canada cited as key to its compliance, such as the Canada Book Fund, Canada Music Fund, Telefilm Canada, and the National Film Board, were already in existence before the Convention was first drafted. Section 2.4 of the report, in which respondents were invited to discuss measures to protect cultural expressions that are under threat, was left empty (p. 38), suggesting that Canada did not feel that cultural development was a pressing concern within its own borders.

Canada’s business-as-usual relationship with the CDCE is unsurprising given the tendency of UNESCO to focus on the nation as a sovereign unit of negotiation, and thus concern itself primarily with a diversity of expressions among states globally. While the CDCE contains some provisions encouraging states to promote diverse expressions within their borders (articles 7–11), UNESCO’s focus (and thus the CDCE’s focus) has always been on transnational cultural flows (Burri, 2013). The Convention’s wording surrounding domestic requirements is weak, compelling states to “endeavor to create” an environment conducive to diverse cultural expressions (article 7). UNESCO relies on self-reporting to measure compliance with the Convention, and there are no clear standards for compliance or tangible repercussions for states that fail to enact sufficient domestic policies. Thus, the CDCE’s influence is truncated in many policy contexts at the nexus of human rights, sustainability, and diversity (De Beukelaer & Pyykkönen, 2015), and even autocratic states “might consequently consider signing up to the Convention a relatively unproblematic exercise” (Craufurd Smith, 2007, p. 35). Furthermore, the Convention’s binary of “developed” and “developing” states maintains

divides along former colonial lines (De Beukelaer & Pyykkönen, 2015) and can overlook fissures that occur domestically, even within developed states.

3.3. Conclusions: Assessing the impact of international standard-setting on Canadian broadcasting policy

Alasuutari (2015, p. 167) pointed out that the coupling between the “ceremony” and substance of a state’s relationship with international agreements is often loose. On the one hand, states that sign onto international agreements may fail to make real reforms in spite of their obligations. But the opposite can also be true: global changes in policies and shifts in attitudes toward major issues can impact actual practices within a country, without any substantive changes to national legislation. This is the likely impact of the CDCE within Canada: while it is not clear if any cultural policies exist specifically in response to the Convention’s requirements, there is some evidence that acceptance of global norms surrounding diversity, as well as Canada’s formal ties to the Convention, do have the ability to guide domestic cultural policies, albeit in subtle ways.

A product of a confluence of geo-political factors leading up to its development, the codification of diversity in the CDCE sets a normative standard for cultural policy as it was understood by selected international actors in the early 2000s. Further developments in cultural policy and conceptions of diversity can now be assessed in relation to this document. While debate may arise about Canada’s use of the document—and by extension its substantive impact on cultural policy—it nonetheless represents a tangible standard for the definition of diversity and the state’s obligation to its cultural sectors. In other words, the CDCE is a normative standard-setting document, upon which further discussions of cultural policy and diversity can be measured.

In Canada, the CDCE can set a standard for cultural diversity within top-down, federally based cultural policies, with a strong bend toward a productive form of diversity involving the economic protection of domestic audiovisual industries. While the CDCE itself contains some provisions for supporting marginalized voices internationally, the radical social justice-oriented conceptualizations of diversity previously embedded in the NWICO discussions do not exist in Canadian CDCE discourse. The dominance of this top-down conceptualization for the CDCE is evident in its invocations in House of Commons debates, within the Standing Committee on Canadian Heritage, and within the

Department of Heritage's plans and priorities documents—all of which place a strong emphasis on existing federal programs with no reference to CDCE-imposed obligations to marginalized voices.

Despite the instrument's strong emphasis on broadcasting, its actual impacts on domestic policy beyond support for existing policies are imperceptible. Former chairperson of the CRTC Jean-Pierre Blais was intimately familiar with the CDCE, having been Assistant Deputy Minister of Cultural Affairs at the Department of Canadian Heritage from 2004–2011. In this role, Blais was responsible for legislation, policies, and programs related to broadcasting, the cultural industries, and copyright—including assisting the Canadian delegation with the UNESCO CDCE. While chair of the CRTC, Blais described his objectives for broadcast policy as “similar to the spirit of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression” (CRTC, 2013c). However, as chapter 8 discusses, the convention's soft wording means that even highly instrumental approaches to cultural diversity cloaking nationalistic or capitalist objectives can be reimaged as measures designed to support the Convention's principles.

Furthermore, when opposition caucuses invoked the CDCE in the House of Commons, the ensuing debates centred on maintaining existing broadcasting policies, and were never in support of radical or emancipatory forms of diversity. Canada's enthusiastic support for the Convention's overarching objectives provided fuel with which opposition members could unite and vigorously hold the governing party to account, but only insofar as it provided a marker to qualify perceived movements “backward” in promoting established national interests dating back to the Massey Commission (1951) or sooner. Even in this it was rarely successful, as UNESCO obligations proved insufficient to compel the government to change or rescind policies counter to Canada's interpretation of the Convention, such as the defunding of the CBC. However, they did play a role in illuminating fissures between the government's stated cultural policy objectives as codified in the Convention and its actual policy actions. In other words, the Convention represents a standard upon which developments in policy actions and understandings of diversity could be exposed and assessed.

The CDCE's impacts to counterbalance the WTO are easier to assess on a global policy level. While Canada has a long history of negotiating cultural exemptions in

trade, its explicit use of the CDCE in the CETA can form the basis for future bilateral trade negotiations. Furthermore, international law is not made solely through the WTO, and the organization does leave space for rule creation elsewhere.²⁹ Given the CDCE's near-universal support, the WTO is unlikely to entirely disregard its invocation in trade disputes. The most optimistic reading of the WTO-CDCE dynamic is that, over time, the CDCE could become a useful tool for the WTO in delineating the GATT and GATS agreements. As an added advantage, respecting the boundaries imposed by the CDCE may even help the WTO bolster its legitimacy as a governing body, by demonstrating that it is not entirely dominated by Western capitalist values all of the time (Pauwelyn, 2005).

²⁹ For example, in the high-profile “India etc. versus US shrimp/turtle case in 1998, the WTO ruled in favour of a measure protecting sea turtles in the US, stating that “[w]e have not decided that the sovereign nations that are Members of the WTO cannot adopt effective measures to protect endangered species, such as sea turtles. Clearly, they can and should” (World Trade Organization, 1998). The WTO's decision in this case shows that it is willing to consider alternative legislative frameworks in its own trade decisions—in this case, the US Endangered Species Act of 1973.

Chapter 4.

Creation and use of diversity in the Canadian federal policy realm

When we imagine history, we imagine a grand structure, a national chronicle, a closely organized and guarded record of agreed-upon events and interpretations, a bundle of ‘authenticities’ and ‘truths’ welded into a flexible, yet conservative narrative that explains how we got from there to here. It is a relationship we have with ourselves, a love affair we celebrate with flags and anthems, festivals and guns. (King, 2013, p. 3)

4.1. Introduction and structure of the chapter

With an improved understanding of the global political and policy forces that impact how diversity is understood and operationalized (Chapter 3), we now move to a focused discussion on the growth of diversity within the Canadian federal policy realm. Today, the notion of Canada as a tolerant and open society that celebrates diversity is an axiomatic part of the country’s domestic and global brand—one that belies a complex history involving both acts of repression and instrumentalization of difference in the service of specific national interests. This chapter unpacks the politics behind the accommodations that form the basis of our much-celebrated diversity policy framework, with a focus on the expediency of diversity for achieving certain political and economic objectives.

This chapter delineates the development of diversity policy within Canada, starting with official and unofficial policies of assimilation and cultural genocide, followed by a series of transitions culminating in what today can be best understood as a resource-based approach to diversity in equity policy and international relations. I roughly order Canada’s evolving approaches to diversity into four temporal phases:

1. Early Canadian nationalism and diversity: building a nation (up to the 1960s)
2. Early institutionalization of diversity: (1960s–1980s-ish)
3. Debating and entrenching diversity policies (1980s–1990s)
4. Diversity as strength, diversity as resource (1990s–present)

In each phase, I consider how Canada responds to or rejects calls for recognition and equality in service of the country's evolving and flexible economic (capitalist) or colonialist-nationalist objectives. I argue that diversity in Canada has historically been presented as both a problem and a solution (Day, 2000). On the one hand, cultural diversity has been a social fact since the country's early days, and has posed considerable challenges for the smooth execution of capitalist and colonial/national projects. But governing forces also present diversity itself as the solution to its own problem: once it became clear that erasure of difference was not going to be possible, certain kinds of difference were instead recast as productive contributions to the capitalist/colonist-nationalist project and mobilized to build unity and foster a distinct national identity while simultaneously diffusing radical claims to equality and constitutional reform. This it has done relatively seamlessly, while also ensuring that diversity politics explicitly benefit the English-speaking Anglo-Saxon majority.

This chapter provides only a brief summary of federal policy pertaining to diversity, and thus necessarily does some violence to the multidimensionality and complexity of the issue. In particular, it focuses on diversity as it pertains to nation building, multiculturalism, and management of Canada's homeland minority peoples (francophone Canadians and Indigenous Peoples). I have chosen this aspect of diversity because it represents the principle's most substantive articulation and mobilization in federal policy, and it also has been most directly mapped onto broadcasting policy (discussed in the next chapter). I do not explicitly include issues pertaining to gender equality, LGBTQ+ equality, rights for people with disabilities, or religious rights because these issues tend to be treated as human rights concerns rather than direct contributions to cultural diversity, particularly within broadcasting policy.

4.2. Early Canada and diversity: Building a Nation (up until the 1960s)

Some of the mythology surrounding diversity and policy stems from occurrences in Canada's early years as a nation, although at the time the notion of celebrating difference would have been unusual. British colonialists sought to manage francophone and Indigenous populations, and later also immigrant populations, to maximize economic prosperity and promote security in the face of American expansionism and internal divisions. One can find the seeds of diversity policy embedded in some early

accommodations of difference, although the purpose and reality of such accommodations—and instances of diversity erasure and cultural genocide—have been respectively massaged or erased from the mythology of Canada’s diversity policy canon. This section considers these diversity accommodations and erasures in the context of their role in supporting the colonial project, either by ensuring economic prosperity or providing physical security.

4.2.1. Indigenous Peoples

Early approaches to Indigenous Peoples can be roughly summarized as serving three goals: control over land and populations, economic prosperity (for the colonizers), and reaffirming positive notions of British justice. In later years, as the government campaign of cultural assimilation/genocide took shape, Indigenous culture was also co-opted as a key component of identity-formation in a nascent Canadian nationalism.

The current regime of Indigenous land and self-government rights can be traced to the Royal Proclamation that followed the Seven Years’ War in 1763, which stated:

And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds. (Indigenous and Northern Affairs, 2013)

The provision of lands to Indigenous Peoples served several functions. Most immediately, it secured an end to the First Nations-led rebellion in the Great Lakes region and allowed for British access to a crucial transportation corridor between Lake Ontario and Lake Erie (Indigenous and Northern Affairs, 2013). It also guaranteed colonial control over Indian reserves: while Indigenous Peoples were granted use of the lands, the king nonetheless claimed ultimate dominion over the region and prohibited the sale of land to anyone but representatives of the British monarch.³⁰ Furthermore, renewing the British relationship with Indigenous Peoples was an expedient economic manoeuvre because of Britain’s reliance on Indigenous trappers to support Canada’s fur trade, as well as a need to maintain Indigenous allies in case of aggression from the

³⁰ This set the constitutional basis for the treaty negotiation process.

Anglo-American colonies to the south. Finally, Mackey (1999) argued that Indigenous land rights assisted in diffusing the French-speaking population, thereby making them easier to control and assimilate into the British colonial project.

Over the decades, this early British “benevolence” toward Indigenous Peoples was held up as a mark of British (later Canadian) tolerance, sowing the seeds of a mythology marking Canada as a naturally enlightened land, particularly in contrast with its war-mongering neighbours to the south. In 1895, the *New York Times* reprinted an article from England’s *Westminster Review* describing Canada’s superior treatment of Indigenous populations: “The great fact stands boldly forth that Canada has never fought the Indians, and she will not begin to do so now. Never has Canada had an Indian war” (quoted in King, 2013, p. 26). Of course, this claim patently ignores the Red River Rebellion in 1869 and the North-West Rebellion in 1885.³¹ More importantly, this myth—combined over the years with the image of the benevolent Mountie—served an important role in disguising aggression toward Indigenous Peoples³² and “mak[ing] it appear that conciliation and forbearance were cornerstones of Canadian Aboriginal policy” (King, 2013, p. 26).

In practice, the government’s relatively tolerant attitude toward Indigenous Peoples had started to shift as the fur trade wound down—and with it, the crucial economic function of First Nations hunters and trappers. The colonial wars of the 1700s and early 1800s were also over by this time, and thus White authorities had no more

³¹ The Red River Rebellion (1869) and the the North-West Rebellion (1885) were Métis uprisings lead by Louis Riel. At the time, they would not have been considered “Indian Wars” because the Métis were not considered Indian people. However, during the 1885 North-West Rebellion there was also an affiliated First Nations Cree and Assiniboine uprising (Saskatchewan) opposing the Canadian government, which culminated in the Frog Lake Massacre in 1885. Thus, the claim that there has never been an Indian war on Canadian soil is untrue.

³² I refer to both physical and cultural violence. This chapter cannot do justice to the long history of physical violence cultural genocide endured by Indigenous Peoples at the hands of the Canadian state, including, for example, official policies of assimilation (paradoxically combined with the coveting of Aboriginal Peoples’ artefacts as “national treasures”), the Indian Act, the Indian residential school system, the land reserve system, the pass system, land appropriation and relocations, etc. For a nuanced history, see: Volume 1 of the Report of the Royal Commission on Aboriginal Peoples (1996); John S. Milloy on the residential school system (1999), Cole Harris on the reserve system (2011), the Truth and Reconciliation report (Truth and Reconciliation Commission of Canada, 2015), and Raven Sinclair on the “sixties scoop” (2007). For a short and passionate non-academic introduction, see Thomas King’s *The Inconvenient Indian* (2013).

need of Indigenous military allies.³³ Instead, the government embarked on an aggressive project of westward expansion requiring the annexing of more traditional Indigenous lands for colonial purposes, and set about the business of turning dispersed colonies into a unified nation. Augmented by shifting global attitudes toward difference³⁴ (Smedley & Smedley, 2005), the construction of Canada as the gentle Northern colony sits uneasily with the reality of explicit government attempts to eliminate Aboriginal Peoples from the 19th century onwards:

For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada (Truth and Reconciliation Commission of Canada, 2015, p. 1).

While attempts at cultural destruction are embedded throughout the government's approach to Indigenous Peoples, they are most explicitly visible in the *Indian Act* of 1876 and the residential school system (1831–1996). The *Indian Act* of 1876 asserted the special legal status of Indian Peoples within Canadian confederation. However, it also codified disparities in legal rights between Indigenous and non-Indigenous people, “with Indian people subject to penalties and prohibitions that would have been ruled illegal and unconstitutional if they had been applied to anyone else in Canada” (Royal Commission on Aboriginal Peoples, 1996, p. 236). For example, Indigenous people were not permitted to manage their own money or reserve lands, drink alcohol (Government of Canada, 1876), or access the court system to make a claim against the government of Canada (the latter was added in an amendment in 1927). Most relevant for the current investigation are the provisions seeking to assimilate Indigenous Peoples by way of sweeping powers afforded to government in dictating Indigenous governance structures, cultural practices, and education. These include clauses stipulating that:

- An Indian could not vote, graduate from university, or hold a position as a medical doctor, lawyer, Christian minister, or professor unless he became

³³ In practice, the British had betrayed their Aboriginal allies by abandoning their territorial claims south of the Great Lakes (“Indian country”) following the American Revolutionary War.

³⁴ This includes the emergence of the term “race” as a reference for social categories of Indians, Blacks, and Whites (Smedley & Smedley, 2005, p. 19), as well as the practice of phrenology and shifting beliefs about culture and civilization.

“enfranchised”—an act which required relinquishing Treaty status and Indigenous identity (Government of Canada, 1876, 86.1).

- A Status Indian woman marrying a non-Status man would become “enfranchised” and automatically lose her status (Government of Canada, 1876, 3.3.c).
- Potlatch ceremonies and Sun Dance ceremonies were forbidden, as per amendments passed in 1885 (Cole & Chaikin, 1990). In 1925, Indigenous dancing was outlawed entirely.
- Existing governance structures were replaced with band councils, with the government maintaining autonomy to override decisions or depose elected leaders (Truth and Reconciliation Commission of Canada, 2015).
- Reserves were under the supervision of federally appointed Indian agents, who ensured that government policies were carried out on reserve (Government of Canada, 1876).

Furthermore, an amendment to the act in 1884 added the requirement that Indian children attend government-sponsored residential schools to learn to write and read in English, a move which then-minister of Indian Affairs Frank Oliver predicted would “elevate the Indian from his condition of savagery” and “make him a self-supporting member of the state, and eventually a citizen in good standing” (Royal Commission on Aboriginal Peoples, 1996, p. 309). The explicit objectives of the residential schools were to remove Indigenous children from their families, weaken cultural ties, and indoctrinate them into the Euro-Christian Canadian culture. Siblings were separated; children were banned from speaking their native languages; and many children suffered from extreme neglect and/or physical and sexual abuse while attending the schools and living under government care (Truth and Reconciliation Commission of Canada, 2015). The impacts of the residential school system are long-standing, with many survivors and their children suffering residual impacts to this day.³⁵

Ironically, as the government embarked on a targeted campaign of cultural genocide, romanticization of the ideal Indian grew and Indigenous artefacts became integrated into official forms of national identity (Mackey, 1999). Throughout the 19th and well into the 20th century, settler Canadians commonly (and incorrectly) believed

³⁵ While it is beyond the scope of this work to document the horrors faced by victims of the residential school system, I encourage readers to engage with the detailed description provided by the 2015 Truth and Reconciliation Commission of Canada report.

Indigenous peoples to be dying out due to disease, alcohol abuse, and economic strife.³⁶ This led to government-sponsored initiatives to document the lives and cultures of what Thomas King (2013, p. 54) described as “dead Indians”: a simulacra made up of dispersed pieces of cultural debris—beaded clothing, war bonnets, feathered headbands, tomahawks, bone chokers, and face paint.

The most famous of these documenting exercises included the expeditions by (White) artists Paul Kane, Emily Carr, and Edmund Morris, who documented the Indian demise through paintings, written accounts, and artefact collection. Indigenous images were also appropriated for official expressions of Canadian identity: for example, the Dominion Memorial Sculpture, which includes images of Indigenous Peoples to represent Canada’s history, was placed in the Hall of Honour (House of Commons) in 1932 (Mackey, 1999). Even while Indigenous people suffered (and persevered) through an official government policy of cultural genocide, settler-Canadians mourned their imminent demise and learned to identify themselves in part through their cultural contributions; as Francis (2012) described, “having first of all destroyed many aspects of Native culture, White society now turned around and admired its own recreations of what it had destroyed” (p. 49).

In a turn that was unanticipated by colonial powers, Indigenous communities did not die out—in fact by the end of the First World War, populations had begun to rise. By the 1950s, Indigenous populations were growing at a rate of around 4% per year, outstripping the pace of the general population (Francis, 2012, p. 68). Indigenous groups also began to organize more concretely; despite a pass law system designed to prevent fraternization among tribes, regional alliances began to form such as the Allied Tribes of British Columbia (1916) and the League of Indians in Ontario (1918). These groups campaigned for land claims and aboriginal title (in the case of the Allied Tribes of BC), and to protect the rights and improve living conditions for First Nations (in the case of the League of Indians) (Library and Archives Canada, 2005; McFarlane, 1993).

³⁶ In reality, there were 127,000 officially designated Indigenous people living in Canada in the 1800s—a number that grew rapidly following the First World War (Francis, 2012). The myth of the dying Indian was fuelled by segregation of Indigenous and non-Indigenous populations (for example, the pass law system that banned Indigenous Peoples from leaving reserve). Settler-Canadians therefore had little contact with Indigenous Peoples.

The Métis

The Métis people, created by “country marriages” of French or British settlers and Aboriginal women, established their own communities throughout the 1800s, and developed their own identities and languages that were separate from French, British, or Indigenous culture. They did not hold official Indian status. The Métis played key roles as guides and labourers in the fur trade economy, and also produced much of the pemmican that became a staple of the fur trader diet (consisting of dried buffalo, fat, and berries). However, despite prominent Métis uprisings (notably the North-West Rebellion) and demands for recognition and rights, they are effectively invisible in Canada’s institutional diversity canon. This dissertation therefore acknowledges the unique cultural identities of and particular struggles of Métis peoples, but it does not discuss Métis rights and inclusion as a distinct pillar of the institutionalizing diversity policy. Instead, they are considered within the broader category of Indigenous rights.

While brief and incomplete, the history I have documented here demonstrates the crucial role that Indigenous Peoples played in the early formation of the Canadian state, and the ways in which facts and fabrications surrounding Indigenous Peoples have served as a partial basis for a series of mythologies that would later diffuse into Canada’s official diversity policies. In the years immediately following the Seven Years’ War, the settler relationship with Indigenous Peoples was one of expediency, deployed to support the fur trade, secure British sovereignty over territory, and diffuse the French-Canadian threat to British authority. As the fur trade ended and Canada grew instead through immigration and westward expansion, the government deployed aggressive policies of cultural assimilation (genocide) of Indigenous Peoples, even while extolling their ostensibly gentler approach to the “Indian problem” in comparison to their warlike counterparts to the south. Finally, Indigenous images and artefacts offered an exotic zest to official Canadian identity building, as articulated through government-sponsored expeditions to document the presumed endangered race of First Nations, and the use of Indigenous imagery in the Parliament Buildings in the early 20th century. For their part, Indigenous Peoples displayed strength resilience throughout these periods, and by the end of the First World War had begun to organize into counter-hegemonic political forces of their own.

4.2.2. Francophone Canada

The British approach to Francophone Canada was also instrumental—first as an attempt to assimilate a potentially problematic population, followed by a program of relative conciliation designed to secure necessary military alliances while maintaining colonial control over the territory. Later, Canada mobilized its dual British-French identity and position as a northern nation to mark its distinctiveness from the United States during the *Canada First* movement that followed confederation, a practice that diffused into 20th century discourse venerating the merits of British-French diversity.

Following the Seven Years' War, the British victors sought to transform Québec into an English-speaking colony. The Royal Proclamation of 1763 promised to establish British law and representative institutions in Québec, in hopes of attracting English-speaking settlers and thereby diffusing the French-speaking population. When the English-speaking migrants failed to arrive, Britain abruptly changed course on its approach to the French problem: instead of attempting to integrate French-speakers into British society, they would instead seek the loyalty of Québec seigneurs (land owners) and high-ranking clergy in hopes of maintaining Québec's loyalty in the case of a military threat from increasingly aggressive Anglo-American colonists (Cook, Ricker, Saywell, & McNaught, 1963, p. 4). To these ends, the Québec Act (1774) expanded Québec's territory (including annexing part of an Indian Reserve), granted taxation rights to the Catholic church, opened appointments to governing councils to Roman Catholics, legally recognized the seigneurial system, and restored French civil law to the colony (Conrad, 2012, pp. 84–85). It did not, however, provide Québec with a representative assembly, sending a clear message that imperial interests would continue to prevail over regional claims. In this way, the Québec Act effectively set out Canada as a two-nation colony subsumed under British rule—a structure that has remained basically intact to this day.

Over the following decades, French-Canadians (*les canadiens*) in Lower Canada began to develop their own educated francophone middle class.³⁷ Frustrated by their own lack of power and subjugation to the English-speaking elite,³⁸ this new professional class became increasingly nationalistic in their rhetoric and used their own newspaper

³⁷ The middle class consisted of professionals and priests fleeing the French Revolution.

³⁸ These tensions eventually resulted in the Lower Canada Rebellion in 1838, in which a Patriote army—consistently mainly of Canadian *habitants*—were ultimately defeated by British troops.

(*Le Canadien*) to push for greater religious and legal rights. *Le Canadien* also rallied against immigration and the federal government's goal of Francophone assimilation, arguing that allowing too many newcomers would eventually Americanize the province, a fate that could be prevented by allowing French Canada to retain its distinct society (Knowles, 2016).

With war with the United States appearing more and more imminent, British authorities responded to the Francophone agitation by imposing a more conciliatory administrator who would at least partly appease the canadiens' demands in the interests of maintaining French-Canadian loyalty (Conrad, 2012), and honouring the role of the Catholic church as the self-proclaimed custodian of the conquered Québécois nation (Guindon, 1988). The British authorities were rewarded when war with the United States did eventually break out (the War of 1812), and the Catholic church, canadien elite, and habitants remained loyal to Britain for fear that American immigration would lead to a loss of land and religious rights. Interestingly, the war itself would later be extolled as the quintessence of Canada's multicultural accommodation, with English-speaking Canadians, French Canadians, and First Nations Peoples represented as "working together to turn back the tide of American aggression" (Conrad, 2012, p. 100).

For over 100 years, following the failed Lower Canada Rebellion (1837–8) and lasting until the Quiet Revolution of the 1960s, Québec nationalism took on a form that was "defensive in character, seeking to maintain rather than to change the status quo" (Gibbons, 2014, p. 51). In 1867, the British North America Act established French and English as the official languages of record and debate in the new federal Parliament and the Québec National Assembly. However, it did not provide any specification of the relationship between Francophone and Anglophone Canada, nor did it include any provision marking a special constitutional status for francophone-Canada. In large part due to the influence of the Catholic Church,³⁹ this lack of specification produced little visible agitation within Québec (Guindon, 1988), and no agitation outside of Québec.

³⁹ The Catholic Church's influence permeated all areas of social life in Québec, including politics, culture, education, and welfare. It contributed to suppression of Québec *patriots* because revolutionary ideas (such as the separation of church and state sought in the French revolution) were contrary to the social order the Church espoused. Furthermore, as custodian of the nation, the Church was able to downplay concerns about inequality by declaring that French Canadians had "a more noble mission than the accumulation of wealth" (Guindon, 1988, p. 105). Maintaining the social contract of confederation was therefore a relatively unproblematic endeavour.

Instead, Québec politicians focused on protecting the framework put in place in 1867. For a time, this granted the illusion that confederation was durable, providing a workable framework to govern a country characterized by considerable regional, geographic, ethnic, and linguistic diversity.

Canadian nationalism and the simultaneous erasure and celebration of Francophone-Anglophone difference

Following confederation, the Canadian nationalist *Canada First Movement* sought to develop Canadian nationalism and promote a sense of national purpose. For Canada First proponents, diversity impeded the nationalist objective and risked allowing for “the importation of old world quarrels, and the asperities of race, creed, of interest” (Berger, 2013, p. 63). According to Berger (2013), the movement sought to minimize the effects of ongoing British-French cultural conflicts by presenting both the British and the French as strong northern people and inventing sets of shared values and characteristics. A second major aspect of the movement involved differentiating these blended groups from Americans, which they portrayed as “the degenerate and decaying south” (Mackey, 1999, p. 43). The Canada First imperialists positioned Canada as superior to the US in part due to its harsh northern climate, which presumably kept out inferior races and allowed Canada to maintain a single shared race and set of traditions.

Paradoxically, Canada First simultaneously presented Canada’s tolerance of its French element as evidence of its benevolence and respect for diversity. The fact that the canadiens remained loyal to the crown during the War of 1812, they argued, could be traced directly to Britain’s lenience toward local French Canadian traditions (Berger, 2013; Mackey, 1999). This outward claim of equality is confusing given the movement’s attitudes to French Canadians, which it viewed as “lack[ing] the dynamic impulse which made for material progress” (Berger, 2013, p. 58). It also belies the movement’s formal attempts to remove official recognition of French outside of Québec, which it viewed as counter to establishing Canada as an independent and united nation under the British Empire (Berger, 2013).

The inclusion of the canadiens into the project of nationalism therefore accomplished two paradoxical objectives: presenting Canada as superior to the United States due to its *homogeneity* (i.e., its protection against “weaker” races), and its benevolence in the face of *heterogeneity* (i.e., by allowing the canadiens to maintain

some aspects of their cultures) (Mackey, 1999). In this way, Canadian imperialists absorbed certain forms of diversity into their nationalist project, under two conditions: 1) it would not threaten British imperial dominance; and 2) such tolerance could be mobilized to construct Canada as morally superior to the United States.

Concerns surrounding national unity continued throughout the later 1800s. By the early 1900s, British-Canadian authorities had concisely defined the problem of diversity as it would develop throughout the 20th century: that Canada might not ever *achieve* an identity, and would therefore fail to secure a sense of national unity (Day, 2000). Here, again, British Canada responded by presenting the French problem as a strength. In 1948, Vincent Massey wrote vaguely about the merits of anglophone-francophone diversity in his book, *On Being Canadian*. He begins his description of “the merits of diversity” by asserting that between British and French Canadians, “there are differences; Canada is the richer for them” (Massey, 1948, p. 19). He went on to praise Quebecers for their commitment to religion and family values, concluding with a plea that Canadians strive to learn both languages to assuage misunderstandings and animosities among the two groups.

For a piece titled “The Merits of Diversity,” Massey’s description of British-French dynamics provided little concrete evidence for how exactly Canada’s dual identity contributes to the nationalist project. In practice, Massey presented diversity as a threat to peace and a barrier to national unity. Moreover, the British nationalist vantage of the book also exposes its objective of convincing Anglo-Canadians of the value of the French-speaking minority: after pointing to Quebecers’ good old-fashioned values and superior ability to speak both French and English, Massey concluded by setting out Anglo-Canadians as the superior benefactors of cultural acceptance: “It is therefore the duty of men of tolerance and moderation to let their views be heard. Otherwise we leave the field to the extremist with his prejudiced mind and distorted thinking” (Massey, 1948, p. 21).

Canada’s early approaches to its non-conforming francophone populations involved a series of experiments to find a solution that best supported its colonial and (later) nationalist objectives. After failing to erase the *canadien* identity, the government moved on to a project of moderate accommodation in exchange for national security. Later, Canada held up its acceptance of francophone populations as a key defining

factor that differentiated it from its authoritarian neighbour to the south, presenting quaint old-fashioned francophone ethics as valuable to Canada and holding up Anglo-Canadian tolerance as an integral part of Canadian identity. In these ways, Canada harnessed its francophone minority population as a productive aspect of identity building in its broader colonial and nationalist project.

4.2.3. Immigration

Diverse immigration in Canada grew in the late 18th century, with the establishment of a free Black community in the Maritimes comprised of Loyalists (mostly escaped slaves) who had offered their services to the British cause during the American War of Independence.⁴⁰ In this and other approaches to immigration, Canada's historical approach was one of a White settler state that was typically hostile toward diverse newcomers, but eventually begrudgingly accepted some diverse immigration to support specific capitalist and colonialist objectives.

Harney (1988) cited five guiding objectives behind immigration policy from the 1890s: 1) filling out the population in order to discourage American expansion; 2) preventing heavy Asian immigration to the Pacific Rim; 3) economic development; 4) diffusing the threat posed by Québécois, Indigenous, and Métis populations; and 5) nurturing Canada's image as a land of opportunity benefitting from British institutions and tolerance, including state-sponsored democratic pluralism. From the early days, Canada's immigration policy reflected an attempt to balance achieving these objectives while also imposing racist immigration policies designed to minimize the impact of newcomers on "Canadian" ways of life and the country's Anglo-Saxon ethnocultural composition. As Woodsworth (1909) described it in his famous book, *Strangers At Our Gates*, Canada considered its problem to be creating unity amidst a flood of difference:

English and Russians, French and Germans, Austrians and Italians, Japanese and Hindus—a mixed multitude, they are being dumped into Canada by a kind of endless chain. They sort themselves out after a

⁴⁰ After the war, Loyalists were offered passage to and land in Nova Scotia. For Black loyalists, this offered access to a new world where they would be granted independence and citizenship. Due to the unexpectedly large number of displaced Loyalists entering Canada, corruption, inefficient procedures, and the relative unimportance of ex-slaves in comparison to White Loyalists, most did not receive their promised land and were left destitute (Walker, 2008). Many congregated in Nova Scotia's capital city, Halifax, forming what would later become Halifax's Africville community.

fashion, and each seek to find a corner somewhere. But how shall we weld this heterogeneous mass into one people? That is our problem. (p. 203)

Interestingly, Canada's first Immigration Act (1869) did not contain any provisions regarding what types of immigrants should be admitted or avoided. This laissez-faire philosophy did not last long: in 1872, the act was amended to prohibit criminals and other "vicious classes" of people; in 1879, the government released an order-in-council to prohibit paupers and destitute immigrants; and in 1885, parliament passed the Chinese Immigration Act to restrict and regulate Chinese immigration by way of a head tax (Knowles, 2016).

By the 1890s, newcomers from Canada's favoured regions of Britain and northern Europe were no longer sufficient to support the country's expansionist objectives. While Canada maintained a hierarchy of preferred racial groups for immigration, the need for agricultural labour compelled Minister of the Interior Clifford Sifton to expand recruitment programs to include suitable farmers and farm labourers with other ethnic or national origins (Knowles, 2016).⁴¹ For example, Sifton recruited Slavs from the Austro-Hungarian Empire, which he sold to the Canadian public as "good quality" immigrants who were sufficiently sturdy to manage difficult agricultural labour and defend the Prairies from American invasion; in Clifton's words, the Slavic immigrant was a "stalward peasant in a sheepskin coat, born on the soil, whose forefathers have been farmers for ten generations, with a stout wife and a half-dozen children" (quoted in Harney, 1988, p. 53). We see then that immigration policy at this time could be flexible while continuing to be racist: some formerly undesirable groups could be recast as non-threatening contributors to the Canadian project, such as agricultural-class labourers from southeastern Europe. At the same time, others—such as Chinese⁴² and Italian⁴³ labourers—could be continually excluded.

⁴¹ Sifton was explicit in his desire for agricultural labour specifically, describing non-agricultural immigrants (e.g., general labourers and mechanics) as: "people who congregate in cities, and cannot in any sense of the word be held to be persons who will become producers and citizens of a valuable class" (quoted in Knowles, 2016, p. 85).

⁴² Not everyone was convinced that including Slavs in allowable immigration groups was a good idea. In his influential work, *Strangers Within Our Gates*, J.S. Woodsworth bemoaned the "flood" of new settlers, arguing those from southeastern Europe were "not only of distinct races but also distinct civilizations" (1909, p. 198).

⁴³ For example, Sifton ordered that a railway car full of Italian labourers be returned to New York in 1898 (Knowles, 2016).

Sifton's philosophy of recruiting immigrants based primarily on agricultural background ended abruptly with the appointment of Frank Oliver as Minister of the Interior and Superintendent-General of Indian Affairs in 1905, after which the government released a series of policies aimed at making immigration much more restrictive. Major amendments to the Immigration Act in 1906 and 1910 gave the government broader power to exclude and/or expedite deportation for undesirable groups and those with specific ethnic, racial, or national identities (Knowles, 2016).⁴⁴ Later, during the Winnipeg General Strike in 1919, Canada released an Act to Amend the Immigration Act which banned those with conditions such as "constitutional psychopathic inferiority"⁴⁵ and "chronic alcoholism" (Knowles, 2016, p. 133), as well as immigrants coming from countries that fought against Canada in World War I and others deemed unlikely to assimilate or assume the duties of Canadian citizenship (Day, 2000). In 1923, the government amended the Chinese Immigration Act to ban almost all Chinese people from entry into Canada; it is estimated that only 15 Chinese people entered Canada between 1923 and the act's revocation in 1946 (Kelley & Trebilcock, 2010). Collectively, these amendments meant an end to Sifton's economically driven preference for agriculturalists and toward a new hierarchy privileging immigration from White Commonwealth countries, the United States, and certain parts of northwestern Europe.

Over the years Canada's policies for blocking undesirable immigrants took forms that were both overt and covert. Overt policies were designed to keep out particular groups in explicit ways, including the Chinese head tax and Chinese Immigration Act,⁴⁶ continuous journey regulations,⁴⁷ refusal to provide asylum to Jewish refugees escaping

⁴⁴ Targeted groups included: prostitutes, people with certain physical or mental illnesses, people with disabilities, people who relied on some form of public support within two years of arrival, and people from certain ethnic or occupational groups.

⁴⁵ Generalized as meaning those who are "forever socially maladaptable," meaning they are unable to fit in with other people or associations "for the mutual benefit of themselves and society" (Hulbert, 1939, p. 4).

⁴⁶ After the gold rush, the government wished to deter Chinese immigrants from entering Canada. To these ends, they imposed a tax on Chinese entrants—beginning at \$50 then rising to \$100, and eventually \$500. The Head Tax lasted until 1923.

⁴⁷ The government passed an order-in-council in 1908 to prohibit those who, in the opinion of the Minister of Interior, did not enter Canada directly from their country of birth or citizenship by a continuous journey. This was designed explicitly to target ships leaving from India, which often required stops to refuel en route.

Europe in 1939,⁴⁸ and forced removal of Japanese Canadians out of BC following the 1941 bombing at Pearl Harbour⁴⁹ (Coyle, 2017). More covert policies included discretionary requirements such as “climatic suitability” and “ability to assimilate,” as well as a freeze on almost all immigration during the great depression of the 1930s (when immigration was not deemed helpful for achieving Canada’s economic goals). These measures did not explicitly target a specific racial group, but were used by the government and immigration officials to block access for non-white applicants (Mackey, 1999).

After World War II, explicit displays of racism and anti-Semitism became less acceptable on the global stage, and Canada was forced to (mostly) abandon its “right stock” immigration overtones after signing the UN Charter in 1944. Immigration policy in the 1940s and 1950s was also shaped by the country’s improved economic outlook, which created an environment in which new arrivals could quickly become productive members in building the Canadian economy. During this time, Prime Minister Mackenzie King declared the need to expand Canada’s immigration strategy to ensure the country’s growth and autonomy, stating that, “the objective of Canada’s immigration policy must be to enlarge the population of the country. It would be dangerous for a small population to attempt to hold so great a heritage as ours” (quoted in Harney, 1988, p. 51). However, he tempered his remarks by promising to “relate immigration to absorptive capacity” since “the people of Canada do not wish to make a fundamental alteration in the character of their population through mass immigration (quoted in Harney, 1988, p. 54). On the one hand, post-war immigration policy did represent a shift from the 1930s immigration freeze and former increasingly strict policies to reduce the number and type of immigrants allowed into Canada. However, immigration policy in the 1940s and 1950s still aimed to maintain Canada as an Anglo-Saxon country, allowing for some ethnic,

⁴⁸ In 1939, the Canadian government (under Mackenzie King) turned away a boat with 900 German Jews seeking asylum in Canada. The ship was ultimately sent back to Germany, where it is estimated that approximately 250 of the asylum seekers did not survive the Holocaust. At the time of writing, the Federal Government is said to be working on an apology for this action (Canadian Press, 2017).

⁴⁹ The King government used the War Measures Act to brand Japanese Canadians as enemy aliens. They were forced into internment camps—and later, ordered to move east out of BC. They were not permitted to return to the coast until 1949. The Mulroney government apologized on behalf of Canada and offered compensation to victims in 1988.

racial, and national diversity only insofar as it would help achieve the country's economic objectives and would not threaten the British majority.

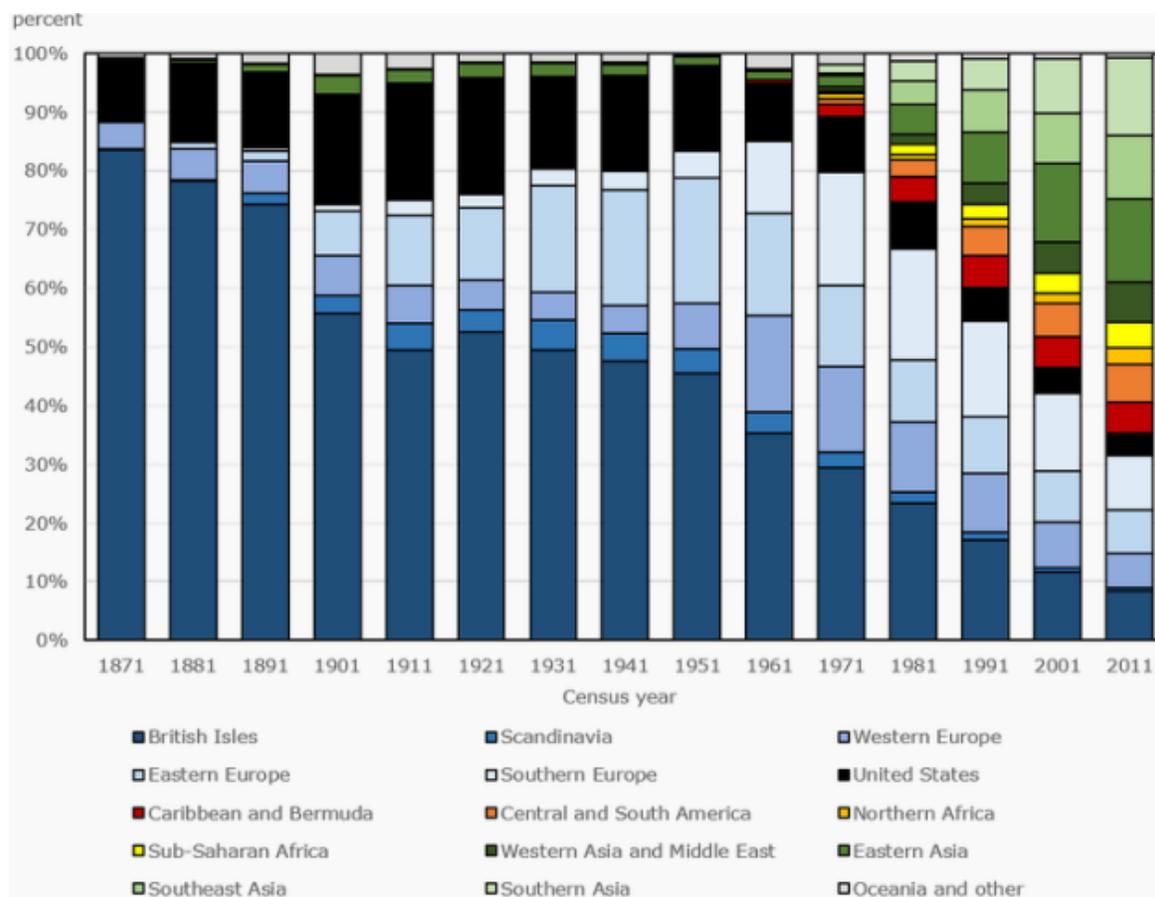


Figure 4-1. Distribution in percentage of the foreign-born population, by place of birth, Canada, 1871–2011

Reprinted from *150 Years of Immigration in Canada*, by Statistics Canada, 29 June 2016, retrieved from <https://statcan.gc.ca/pub/11-630-x/11-630-x2016006-eng.htm> Copyright 2016 by Statistics Canada.

First emergence of multiculturalism

The term “multiculturalism” was first used in a Department of Citizenship and Immigration annual report in 1956, in reference to the multicultural structure of the Canadian population. According to Kelley and Trebilcock (2010), several factors contributed to Canadians’ slowly developing comfort with diversity. The most obvious reasons were the rejection of Hitler’s policies, a growing awareness of the dangers of the notion of racial superiority, and global pressure to meet new global standards for accommodation and acceptance (see Chapter 3 for details on global policies surrounding racial politics). In World War II, White Canadian troops had also fought

alongside Indigenous, Chinese, Ukrainian, and Japanese-Canadian soldiers, all of which were accorded some respect among the veteran community. Finally, post-war Canada entered into a period of economic boom, which in and of itself mutes racial tensions that emerge during times of distress. At the same time, immigration policies retained some racist overtones as large numbers of immigrants of Italian, Portuguese, and Greek origins caused some panic among British- and French-Canadians, leading to renewed efforts to recruit newcomers from Britain and northern Europe to help “‘balance’ the flow” (Mackey, 1999, p. 66).

Overall, Canada’s early approach to immigrants included an explicit preference for Western-Europeans above all others, but demonstrated flexibility in incorporating diversity to meet explicit economic and nation-building objectives. The country did not place any particular value on diversity itself as a strength or resource at this time, although diverse labour was essential in supporting aggressive westward expansion and diluting other minority groups, such as Indigenous, francophone, and Chinese populations. In the 1940s, Canada dropped some of its most overt racist overtones, although the country was not yet ready to embrace multiculturalism and still sought to maintain its British character. Nonetheless, the reality of Canadian immigration did stimulate the conditions for future diversity policies as the country became more diverse, and minority groups began to organize and demand improved treatment and recognition.

4.2.4. National unity, cultural development, and Canada’s Royal Commissions on culture

In the 1950s and 1960s, the Federal Government convened four royal commissions to address the problem of cultural sovereignty and national unity in the face of American cultural imperialism and divisive forces within the country (notably, Québec separatism, cultural diversity, and geographic challenges). These were: the Royal Commission on National Development in the Arts, Letters and Sciences (the Massey Commission); the Royal Commission on Broadcasting (the Fowler Commission); the Royal Commission on Publications (O’Leary Commission); and the Royal Commission on Bilingualism and Biculturalism (the Laurendeau-Dunton Commission). This section briefly summarizes the main cultural impacts of the Massey Commission, Fowler Commission, and O’Leary Commission. I discuss the Laurendeau-Dunton Commission in detail in the next section, as it is the most crucial commission

impacting Canada's official policy of multiculturalism. This chapter does not address organic movements for cultural policy such as the Canadian Radio League—I address these topics in greater detail in Chapter 5, which focuses on broadcasting policy.

The Royal Commission on National Development in the Arts, Letters and Sciences (Massey Commission)

Following the Second World War, Canada faced several questions surrounding its approach to arts and culture. After witnessing the impacts of government-sponsored propaganda during the war, many Canadian arts groups began to ask about the role for government in promoting arts and culture. Canadian nationalists and the culture lobby also expressed concern about the lackluster status of Canada's cultural institutions, and the pervasive threat of continentalism. Furthermore, the relative underdevelopment of Canada's national culture became an international source of embarrassment following the Second World War, particularly as the country sought to bolster its profile internationally through global governance organizations including UNESCO (Druick, 2006). As a way of addressing these and other pressing concerns, Prime Minister Louis St-Laurent appointed the Massey Commission to investigate arts and culture in Canada. From 1949 until the release of its influential report in 1951, the five-person commission⁵⁰ was given the tremendous task of reviewing all of Canada's major cultural institutions.⁵¹ The commission's activities were based on the following premise:

That it is desirable that the Canadian people should know as much as possible about their country, its history and traditions; and about their national life and common achievements. . . . That it is in the national interest to give encouragement to institutions which express national feeling, promote common understanding and add to the variety and richness of Canadian life, rural as well as urban (Royal Commission on National Development in the Arts, Letters and Sciences, 1951, p. xi)

The Commission travelled the country to hold public hearings in sixteen cities in the ten provinces (Canada's territories were not represented). Overall, it held 224

⁵⁰ The commission was chaired by Vincent Massey, Chancellor of the University of Toronto. The other commissioners included Arthur Surveyor (a civil engineer from Montréal), Norman A.M. Mackenzie (President of the University of British Columbia), Reverend Georges-Henri Lévesque (Dean of the Faculty of Social Sciences at Laval University), and Hilda Neatby (Head of the History department at University of Saskatchewan).

⁵¹ Including the Canadian Broadcasting Corporation, the National Film Board, the National Gallery, the National Museum, the Public Archives, the Library of Parliament, the National War Museum, the National Research Council, and the system of aid for research.

meetings (114 of which were public), heard from over 1,200 witnesses, and received 462 briefs (Royal Commission on National Development in the Arts, Letters and Sciences, 1951, p. 8). In its final report, the commission recommend a large number of changes, including: the development of the Canada Council for the Arts (est. 1957), the development of the National Library of Canada⁵² (est. 1953), an expanded role for the National Film Board, continued regulatory powers for the CBC, and the development of improved funding mechanisms for research and graduate student development in the social and natural sciences.

The Massey Commission Report did not explicitly address the topic of cultural diversity; instead, its recommendations reified the primacy of a Canadian national culture characterized by liberal-humanist values, while also setting out the now-accepted expectation that the government engage in coordinated national cultural policy-making (Litt, 1992, p. 247). These values were generally well received by Canada's cultural lobby and members of the cultural elite at the time, and remain pervasive to this day.

However, the committee's recommendations were not universally popular because of their nationalist focus and disinterest in sub-national, private, and community-based artistic expressions. The report received sharp criticism from Québec Premier Maurice Duplessis, who viewed many of its recommendations as intruding into areas of provincial jurisdiction and interfering with Québec identity building. It was also generally despised by the private broadcasting sector, which, through the Canadian Association of Broadcasters, emphasized the importance of diversified ownership models for democracy and argued that the committee's centralized national approach to culture posed threats to individual freedoms and enterprise (Raboy, 1990). The recommendations also neglected alternative proposals for decentralized, community-based approaches to arts policy, as had previously been articulated by an arts community brief to the Special Committee on Reconstructions and Re-establishment (Turgeon Committee) in 1944⁵³ (Wagner, 1988). In later years, it was also critiqued for ignoring concerns surrounding Indigenous art and culture (Kallmann & Stewart, 2016).

⁵² Now Library and Archives Canada.

⁵³ The brief in question was submitted by 16 national arts organizations brought together by the Arts and Letters Club to lobby for federal support for the arts. Its main recommendation requested federal funding for the construction of community cultural centres across Canada; however, this suggestion found little traction at the Federal Government (Wagner, 1988).

The Royal Commission on Broadcasting (Fowler Commission)

In 1955, the government established the Fowler Commission to investigate the Canadian broadcasting system, with emphasis on the impact of the still-nascent television industry on Canadian society. The commission recognized several similar issues for Canadian broadcasting that previous royal commissions (e.g., the Aird Commission, 1929; and the Massey Commission, 1951) had raised for Canadian culture in general: namely, the impact of the country's immense geographical size and relatively small population, and its proximity to the United States. The Fowler Commission defined the problem as follows:

The choice is between a Canadian state-controlled system with some flow of programmes east and west across Canada, with some Canadian content and the development of a Canadian sense of identity, at a substantial public cost, and a privately owned system which the forces of economics will necessarily make predominantly dependent on important American radio and television programs. (Royal Commission on Broadcasting, 1957, p. 10)

The commission recommended that Canada retain its mixed public-private ownership model in broadcasting, but that broadcasters be held to certain standards of quality and public value in order to retain their licences. It justified regulation on the basis of understanding airwaves as public goods, and in light of the practical need for an external body to manage their use in order to optimize the system. It also recommended that a separate Board of Governors of Canadian Broadcasting be created, which would relieve the CBC of its dual role as both broadcaster and regulator.

The report formed the basis for the 1958 Broadcasting Act, although the act made a few changes by giving the federal Cabinet the power to issue broadcasting licences and having the CBC's board of governors report to Parliament instead of the new regulator. Crucially, the new Broadcasting Act also required Canadian broadcasting to be "basically Canadian in content in character" (quoted in R. Armstrong, 2016, p. 36). It also required broadcasters to meet certain Canadian content obligations, and declared that, in exchange, the regulator would restrict market competition in order to raise financial returns for broadcasters. These principles, which acknowledge Canadian content to be a programming *obligation* rather than a valuable resource for private providers, have had tremendous influence on the economic and social development of the Canadian broadcasting system.

The Royal Commission on Publications (O’Leary Commission)

The government established the Royal Commission on Publications in 1960 to examine the impact of foreign (mostly American) publications on Canada’s domestic periodical industry. The commission’s most significant recommendation involved banning magazines published abroad that contained Canadian advertising from entering Canada, and eliminating tax benefits for advertisers purchasing slots in foreign magazines but targeting Canadian markets (Stursberg, 2013). The move was vehemently opposed by the American magazine industry (*New York Times*, 1961a, 1961b), with Time Life managing director Edgar R. Baker claiming that the move would, “virtually without notice and certainly without compensation,” deprive Time Inc. of “a property interest valued at more than \$10,000,000” (quoted in Alden, 1961, p. 49).

Once again, this decision did not explicitly cite diversity concerns or support diverse cultural expression *within* Canada, but did support established normative values surrounding the importance of Canadian cultural protection to counteract impacts of the bigger and better-funded industry in the US. Crucially, the particular decisions taken by the O’Leary Commission would come to the forefront of cultural debates in the late 1990s as the driving factor behind Canada’s split-run magazine dispute with the United States (see Chapter 3, footnote 20).

4.2.5. Conclusions

While convened with different researchers and studying slightly different issues, the three royal commissions came to similar conclusions surrounding the primacy of a Canadian national identity and the role of cultural industries in supporting nation building. Their blindness to issues of diversity demonstrated that Canada had not yet explicitly recognized difference as a crucial piece of its nation-building project. However, the roots of what would eventually be woven into a national mythology surrounding multiculturalism are present in other policies, such as Canada’s (limited) accommodation of francophone and Indigenous cultures, and (reluctant) inclusion of immigrants from increasingly diverse corners of the world.

Early policies surrounding difference were explicitly and unabashedly instrumental, supporting Canadian nation building and security functions, or providing clear economic benefits to the budding nation. As we will see in the remainder of this

chapter, history has reimagined these instrumental objectives into a benevolent narrative that situates Canadians as perennially tolerant and open people who have always managed and embraced diversity as a key part of their national identity.

4.3. Early institutionalization of diversity, 1960s-1970s

The 1960s and 1970s brought significant shifts to federal policies for managing diversity, which responded to broader ideological shifts among the Canadian population and reflected a move toward American-style individual rights (embedded in the 1960 Canadian Bill of Rights). This chapter focuses on the diversity principle as it evolved in three major documents: 1) the 1960 Canadian Bill of Rights; 2) the six-part report of the Royal Commission on Bilingualism and Biculturalism (1963–70) and the government’s subsequent adoption of the Official Policy of Multiculturalism; and 3) the Trudeau government’s 1969 White Paper on Indian Policy.

4.3.1. The *Canadian Bill of Rights* (1960)

The Canadian Bill of Rights (CBR) was a landmark document as the country’s first federal law protecting human rights and civil liberties, which it guaranteed “without discrimination by reason of race, national origin, colour, religion or sex” (Government of Canada, 1960, p. 1). It was passed by Parliament under the Diefenbaker government in 1960, following a period of intense lobbying on the part of Canada’s social democratic party, labour organizations, the Co-operative Commonwealth Federation, and the liberal sectors of Bar Associations and churches (Egerton, 2004). According to Egerton (2004), the final straw for many proponents of the bill was the “repressive and authoritarian” behaviour of the Duplessis regime in Québec, including the Padlock Act⁵⁴ and Duplessis’s actions against Jehovah’s Witness restaurateur, Frank Roncarelli⁵⁵ (p. 6).

⁵⁴ The Padlock Act of 1937 made it illegal to propagate Bolshevism or Communism by any means. The Supreme Court overturned the law in 1957 as violating rights to free speech, and also because the law was not deemed to be within provincial jurisdiction. Significantly, one member of the legal counsel for overturning the law was Professor Frank Scott, a well-known civil libertarian academic who would later be influential in supporting the development—and later critique—of the Canadian Bill of Rights.

⁵⁵ Roncarelli was a wealthy Montréal restaurant owner and a member of the Jehovah’s Witnesses. He became known for furnishing bail on behalf of members of the Jehovah’s Witnesses arrested for distributing religious magazines without a permit. At the time, tensions between Jehovah’s Witnesses and the dominant Roman Catholic community were extremely high, and in retaliation for

The bill was a major component of Diefenbaker's electoral platform in the 1957 election, during which he repeatedly denounced the Liberal Government's poor record on civil liberties.

Prior to the passing of the CBR, Canada only protected civil rights through "ambiguities and uncertainties of the common law," with a few exceptions where the court would indirectly participate in protecting civil liberties (Dobkin, 1975, p. 168). The British North America Acts, which were the series of acts that made up the constitution of Canada until the Constitution Act of 1982, did not contain any protections for specific civil liberties. The CBR took an approach to individual freedoms that was similar to the United States Bill of Rights, and in so doing recognized the inadequacy of earlier indirect techniques to protect civil liberties (Dobkin, 1975). In particular, the bill's "recognition and declaration of rights and freedoms" section states:

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist *without discrimination by reason of race, national origin, colour, religion or sex* [emphasis added], the following human rights and fundamental freedoms, namely,

(a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;

(b) the right of the individual to equality before the law and the protection of the law;

(c) freedom of religion;

(d) freedom of speech;

(e) freedom of assembly and association; and

(f) freedom of the press. (Government of Canada, 1960)

The CBR was ground-breaking for diversity policy in its statement of egalitarianism, encoded in *freedom from* discrimination based on race, national origin, colour, religion, or sex (notably gender and sexual orientation were not included at this time). It also entrenched certain positive freedoms supporting diversity, including the

Roncarelli's part in supporting the illegal practice, Duplessis had the liquor licence for Roncarelli's restaurant revoked. The Supreme Court ultimately held that Duplessis wrongfully caused the licence revocation, and Roncarelli was awarded damages of \$33.1m. Professor Frank Scott was also a member of Roncarelli's legal counsel (see footnote 53).

right to equal protection of the law and the rights to freedom of religion and freedom of speech.

However, the Bill also reinforced the primacy of Christendom in Canada, which is visible in the preamble's description of Canada as essentially a Christian nation:

affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions. (Government of Canada, 1960)

The inclusion of this provision represented a continuation of Canada's historical cultural hierarchy: while the country would tolerate its peoples' right to practice whatever religions they chose, the ideal citizen-type was a practising Christian. As the normalized Canadian, it was therefore within the power of this Christian majority to bestow tolerance on the non-canonical other who would exercise his/her right to practice a different religion (or no religion).

Critiques of the CBR

Even before its passing, the CBR was heavily critiqued for its lack of teeth and minimalist nature. Celebrated constitutional legal scholar (and later Chief Justice of the Supreme Court) Bora Laskin referred to the draft of the bill as "disappointing in its approach, unnecessarily limited in its application and ineffective in its substance (quoted in Egerton, 2004, p. 8). Civil liberties commentators, most famously Laskin and civil libertarian Frank Scott, critiqued the decision to present the legislation as a statute rather than a constitutional amendment, which they argued offered little or no actual protection. Their concerns were twofold: 1) that the courts might not "give full effect to a document lacking in full constitutional status" (Dobkin, 1975, p. 169); and 2) that, as a statute, Parliament could modify the bill at any time, thus compromising its ability to act as a check-and-balance on governmental behaviour (Dobkin, 1975, p. 168; Egerton, 2004, p. 7).⁵⁶ They also argued that the bill was unambitious, protecting only very minimal rights and freedoms; or, as Tarnopolsky (1975) put it, it was "too dry and uninspiring" (p. 117) to produce any meaningful change.

⁵⁶ In practice, the British North America (BNA) Act gave Parliament and provincial legislatures almost unlimited power. At the time, judicial law making was firmly rejected by politicians, the media, and the public.

While Parliament did not attempt to alter the Bill of Rights, concerns surrounding its inefficacy were borne out on several occasions.⁵⁷ For the purposes of this investigation, perhaps the bill's most notable failure to support rights for equity-seeking groups was the 1973 case of the Attorney General of *Canada v. Lavell*. In this case, two Indigenous women—former Wikwemikong Band member Jeannette Lavell and former Six Nations member Yvonne Bédard—argued that Section 12(1)(b) of the Indian Act (the provision that revoked the Indian status of an Indigenous woman who married a non-Indigenous man) violated their rights to “equality before the law” and “without discrimination by reason of race, national origin, colour, religion or sex” (Government of Canada, 1960). In a 5-4 decision, the Court ruled in favour of upholding the Indian Act. Writing on behalf of the plurality, Justice Roland A. Ritchie made it clear that the Canadian Bill of Rights could not be used to overturn Parliamentary decisions or to challenge inequitable aspects of the British North America Act:

There cannot, in my view, be any doubt that whatever may have been achieved by the Bill of Rights, it is not effective to amend or in any way alter the terms of the British North America Act and it is clear from the third recital in the preamble that the Bill was intended to “reflect the respect of Parliament for its constitutional authority . . .” so that wherever any question arises as to the effect of any of the provisions of the Bill, it is to be resolved within the framework of the B.N.A. Act. (Supreme Court of Canada, 1973, p. 1358)

Ritchie later went on to reiterate the primacy of Parliamentary-created legislation over the Court's authority for judicial review, particularly because the Indian Act only impacts Indians:

To suggest that the provisions of the Bill of Rights have the effect of making the whole Indian Act inoperative as discriminatory is to assert that the Bill has rendered Parliament powerless to exercise the authority entrusted to it under the constitution of enacting legislation which treats Indians living on

⁵⁷ E.g., In *Curr v. The Queen* (1972), the Supreme Court determined that “the meaning to be given to the language employed in the *Bill of Rights* is the meaning which it bore in Canada at the time when the Bill was enacted” (Supreme Court of Canada, 1972, p. 889). This means that key considerations are rooted in historic meanings of key phrases—which restricts the ability of the Court to interpret the bill in accordance with meanings and values of the time. In *Bliss v. Canada* (1979), Stella Bliss was denied access to unemployment insurance benefits due to pregnancy, under a provision in the Unemployment Insurance Act. The Supreme Court ultimately ruled that denying Unemployment Insurance benefits because of pregnancy did not discriminate on the basis of sex or deny women equality before the law. Writing for the Court, Justice Ritchie argued that, “any inequality between the sexes in this area is not created by legislation but by nature” (Supreme Court of Canada, 1978, p. 184). The Court thus ruled that the Unemployment Insurance Act was a valid use of Parliament's authority to create legislation.

Reserves differently from other Canadians in relation to their property and civil rights. (Supreme Court of Canada, 1973, p. 1359)

Overall, the *Canadian Bill of Rights* was largely ineffective in broadening civil liberties and contributing to equality in praxis for equity-seeking groups in Canada. This was largely because of an unwillingness of courts to violate the supremacy of Parliament, as well as the bill's reduced legal status as a statute instead of a constitutional instrument. However, some content from the bill, as well as some of the lessons from its more influential cases, were later transplanted into and provided some teeth by the Canadian Charter of Rights and Freedoms in 1982.⁵⁸ While the Canadian Bill of Rights was itself ineffective at supporting diversity and protecting marginalized peoples from government oppression, it was effective in drawing attention to and normalizing the right to certain fundamental freedoms that would later become a significant part of Canada's diversity framework.

4.3.2. Royal Commission on Bilingualism and Biculturalism (Laurendeau-Dunton Commission)

In the 1960s, Québec began a series of rapid political and social realignments that became known as the Quiet Revolution, and Canada was forced to confront the reality that Québec would no longer peacefully acquiesce to the constitutional arrangement. The Quiet Revolution was about much more than linguistic rights, or even the development of an equal partnership between Québec and English-Canada. Then-Liberal MP René Lévesque articulated this clearly in 1963, stating:

[W]e must not mislead others into believing that biculturalism is a basic goal or value. It is infinitely more important to make Quebec progressive, free and strong, than devote the best of our energies to propagating the doubtful advantages of biculturalism. Moreover, if the French language is to be respected that will depend upon all vigour, on the economic and political importance of Quebec. This must become and must remain our first concern, by far out most decisive and constant preoccupation. (quoted in Jedwab, 2003, n.p.)

⁵⁸ E.g., provisions surrounding freedom of expression and freedom of religion were translated into the Charter's "Fundamental Freedoms" (section 2); certain legal rights, including the right to "life, liberty and security of person," was translated into "Legal Rights (section 7); the right to legal counsel was translated into rights surrounding "arrest or detention" (section 10); and the right to equality under the law was translated into "Equality Rights" (section 15).

The major aspects of the Quiet Revolution involved a (not-so-quiet) political division into federalist and sovereigntist factions, as well as a variety of social movements including the introduction of a social welfare system, union development, and effective secularization (Gibbons, 2014). Québécois cultural expression also flourished with support from the province and the state, contrasting the cultural homogenization occurring in English-speaking North America (Conrad, 2012) and setting the tone for Québec's influential participation in global cultural policy-making in later years (discussed in Chapter 3).

In 1963, the Pearson administration responded to the discontent in Québec by appointing a Royal Commission on Bilingualism and Biculturalism (Bi and Bi Commission). The commission would not address Québec's constitutional status but would focus on supporting the equal partnership between Francophone and Anglophone Canada. To these ends, the Bi and Bi Commission was tasked with investigating bilingualism within the Federal Government, reporting on the role of public and private organizations in promoting bilingualism and biculturalism, and making recommendations to help Canadians become bilingual. Both the commission and Pearson shared the view that Canada could respect the existence of the two founding cultures while working toward common objectives (Jedwab, 2003).

It is important to note that the commission's terms of reference did not include investigating the impacts of bilingualism and biculturalism on First Nations, Inuit, Innu, or Métis people, and they are thus effectively invisible in the commission's final reports. It is also worth noting that the 10-person commission included representation from various parts of the country; however, the team included only one woman (Gertrude Laing), and all 10 of the commissioners were White—a point that becomes particularly salient when observing the vantage of the final reports while discussing the role of other cultural groups (mostly in Book IV). Throughout the commission's discussions, participants presented a variety of competing images of Canadian identity: dualistic (bilingual/bicultural), unitary (American-style melting pot), multicultural, and Aboriginal (Temelini, 2007, p. 52). The commission refused to engage with the latter since it was excluded from the original terms of reference.

The commission released its report in six books between 1967 and 1970, which were intended for consumption by policy-makers and legislators, academics, and the general public. The essence of the reports can be summarized as follows:

Book I: The Official Languages (1967)

Book I, entitled *The Official Languages* (Royal Commission on Bilingualism and Biculturalism, 1967), introduced the primary problems surrounding linguistic and cultural parity. It drew a strong link between language and culture, arguing that language “is the most evident expression of a culture,” which “makes possible societal organization” (p. xxx). It described the problem of bilingualism and biculturalism as “inseparably linked” (ibid.) and defined its objectives as facilitating “the equal partnership of all who speak either language and participate in either culture, whatever their ethnic origin” (p. xxxix). It also discussed the importance of linguistic assimilation for new immigrants (p. 22) while supporting official language minority communities in maintaining their languages and cultures (p. 87). The most significant recommendations arising from this report were: 1) that both English and French be formally declared official languages of Canada, 2) the creation of an Official Languages Act (est. 1969) and establishment of a Commissioner of Official Languages (est. 1969), and 3) the creation of “bilingual districts” in areas where minority language communities make up a significant portion of the population.

Book II: Education (1968)

Book II: *Education* (Royal Commission on Bilingualism and Biculturalism, 1968) assessed the state of education in official languages and supports for official languages minorities in each province, and presented a series of recommendations designed to help “enable Canadians to become bilingual” (p. 4). Here, again, the commission drew a strong link between education and culture, stating that, “an adequate education in the mother tongue is one of the prerequisites for cultural development” (p. 269). The most significant recommendations from this book were that public education be provided in each of the official minority languages in bilingual districts, and that parents have the right to send their children to either the majority-language or official-language minority school. It also recommended that “the study of the second official language should be obligatory for all students in Canadian schools” (p. 302).

Book III: The Work World (1969)

Book III: *The Work World* (Royal Commission on Bilingualism and Biculturalism, 1969a) began by asserting the commission's interpretation of its mandate as including supporting the underlying social and economic aspects of equality among the two cultures, in addition to the language rights discussed in previous books. It contended that "official equality of language has very limited significance if it is not accompanied by equality of economic opportunity" (p. 3), and went on to cite a study indicating that francophones experienced a lower average income, lower levels of schooling, poorer occupational scales, and less ownership in industry than their anglophone counterparts. The book's accompanying recommendations set the groundwork for bilingualism within the federal public service and Canadian Forces, which is an objective that is in keeping with the commission's institutional interpretation of language reform. It also recommended that the government create "French language units" within the public service and the armed forces, in which French would be the primary working language. The book did not emphasize bilingualism within the private sector, likely because such recommendations would be extremely difficult to enforce.

Book IV: The Cultural Contribution of the Other Ethnic Groups (1969)

Book IV: *The Cultural Contribution of the Other Ethnic Groups* (Royal Commission on Bilingualism and Biculturalism, 1969b) was a last-minute addition to the Bi and Bi reports, which was added to address Canada's rapidly changing demographics in the wake of high levels of immigration. According to Harney (1988), the book was a response to immigrant uneasiness about the commission, with many minority communities citing fears that, "a deal was being cut without them" (p. 67). It also partly responded to the belief from new and established Canadians alike—particularly in the Western parts of the country—that Quebecers were merely a minority group grasping for greater power rather than a nation engaged in a quiet revolution for self-determination. In his diary at the time, Laurendeau (1991) described his shock at the vehemence they experienced when addressing French-language rights outside of Québec:

I have been extremely struck by the practical opposition to French of the majority of Anglophones we've met or whose texts we've read: a clear-cut refusal, or a refusal (except in Quebec) of the conditions that would make living in French possible in Canada. (p. 146)

The report itself indirectly addressed the tensions within non-British and non-French communities, while making it clear that Canada is essentially a country made of up British and French cultures. It noted that some people of non-British, non-French origin “categorically reject biculturalism” (Royal Commission on Bilingualism and Biculturalism, 1969b, p. 12), but subsequently reaffirmed the primacy of British and French cultures in Canada: “[i]t is thus clear that we must not overlook Canada’s cultural diversity, keeping in mind that there are two dominant cultures, the French and English” (Royal Commission on Bilingualism and Biculturalism, 1969b., p. 12–13). The report went on to affirm the link between language and culture, stating that third-language communities have the right to use their own languages and that “culture and the language that serves as its vehicle cannot be dissociated” (p. 13). However, it ultimately argued in favour of linguistic integration and cites limitations in the commission’s terms of reference to justify the decision not to extend its scope of recommendations to include third-language rights. The report thus set boundaries regarding the extent and permissible types diversity: while ethnocultural minorities would be permitted to preserve their cultures, Canada would not become fully pluralistic politically or linguistically. The report was also vague in setting out what kind of funding would be available to third-culture/language groups to support their cultural preservation and promotion.

Another major trope that is striking in Book IV was its continuation of previous discourses that rhetorically flip the nature of the discussion surrounding diversity on its head, moving pointedly away from a discourse of problem solving difference into one where diversity is harnessed as a productive resource of benefit to the majority communities. In a manner reminiscent of Massey’s (1948) description of the benefits of biculturalism, the report breathlessly extolled the advantages of diversity for the benefit of unconverted members of the dominant groups, provided these groups do their duty by integrating into broader Canadian culture:

The presence in Canada of many people whose language and culture are distinctive by reason of their birth or ancestry represents an inestimable enrichment that Canadians cannot afford to lose. The dominant cultures can only profit from the influence of these other cultures. Linguistic variety is unquestionably an advantage, and its beneficial effects on the country are priceless. We have constantly declared our desire to see all Canadians associating in a climate of equality, whether they belong to the Francophone or Anglophone society. Members of "other ethnic groups," which we prefer to call cultural groups, must enjoy these same advantages and meet the same restrictions. Integration, with respect for both the spirit

of democracy and the most deep-rooted human values, can engender healthy diversity within a harmonious and dynamic whole. (Royal Commission on Bilingualism and Biculturalism, 1969b, p. 14)

The discussion goes on to describe the presence of “other cultural groups” as “something for which all Canadians should be thankful” (p. 14). The report listed two reasons for which Canadians owe their diverse counterparts “a debt of gratitude” (p. 14): the way in which the presence of these diverse cultural groups ostensibly facilitates communications between Canada and the rest of the world; and the expression of unique cultures in popular traditions, arts, and letters—the latter of which the report describes as “an integral part of the national wealth” (p. 14). The contributions of other ethnic groups, therefore, represent productive forms of diversity that present valuable resources for the rest of Canada.

The most important recommendations included the extension and monitoring of fair employment and human rights legislation to include all Canadians regardless of ethnic or cultural origins. The commission also stated that the conditions for attaining citizenship and gaining the right to vote or hold political office should be the same for everybody, and private schooling options offering teaching in languages other than English and French should be permitted to continue, albeit without any centralized program for public financing.

On broadcasting

Of particular interest for this investigation is the strong emphasis that the Bi and Bi Commission placed on the media, specifically as it pertains to cultural minorities. Ethnic and third-language broadcasting was in its nascent stages, as the Board of Broadcast Governors (precursor to the CRTC) had received its first application for a third-language broadcaster in 1962 and was working through the question of how programming targeting specific ethnic groups would impact immigrant integration (discussed in Chapter 5) (Hayward, 2012). The commission recognized the important role for ethnic media, both in helping cultural groups to maintain their language and traditions as well as providing a crucial accessible link to Canadian society, while also providing a mechanism through which others may learn about a group’s culture and identity. In this way, the commission framed ethnic broadcasting as a *service* to the community, rather than a productive *resource*: it was expected to support newcomers in

maintaining cultural links and integrating into Canadian society, but not necessarily provide any tangible benefit for the broader Canadian cultural fabric.

The commission made three major recommendations surrounding the media: 1) that the CRTC remove restrictions on private broadcasting in third-languages, 2) that the CBC take a greater role in recognizing the role of third-languages in Canadian life, and 3) that the CRTC conduct research regarding the portrayal of other cultural groups in both radio and television broadcasting (p. X). However, the commission also dismissed claims for greater diversity on broadcasting boards, stating that, “such representation simply for the sake of representation is neither appropriate nor necessary” (Royal Commission on Bilingualism and Biculturalism, 1969b, p. 193). As I discuss in Chapter 5, this revelation on the part of the Bi and Bi Commission was influential in the creation of ethnic broadcasting policies in future years.

Books V (The Federal Capital) and VI (Voluntary Associations)

The commission’s final volumes, Book V (*The Federal Capital*) and Book VI (*Voluntary Associations*), were released as a single document in 1970 (Royal Commission on Bilingualism and Biculturalism, 1970). Book V examined the role of the federal capital as a symbol of the country, and recommended that it be designated as a bilingual area, with full linguistic equality embedded in all services. Book VI did not provide any specific recommendations, but asserted that “the benefits Canadians derive from belonging to voluntary associations must be roughly equal between Francophones and Anglophones” (p. 128). The report reiterated the importance of cultural sensitivity, equal partnership, and language report.

Summary of the Federal Government response

The most significant actual outcomes from the Bi and Bi Commission’s reports can be summarized as follows:

- Parliament passed the Official Languages Act in 1969 (amended in 1988 and 2005), and appointed official language commissioners.
- Parliament included minority-language education rights in the Canadian Constitution in 1982.
- New Brunswick declared itself as a bilingual province.

- All provinces in Canada offer minority-language education, with support of subsidies from the Federal Government (although second-language instruction is not compulsory everywhere).
- “Other” ethnic groups enjoy protection under fair employment and human rights legislation. Compliance is monitored by provincial and federal human rights commissions.
- The CRTC licenses ethnic and third-language broadcasters in regions across Canada.
- The Federal Government provides various voluntary associations with subsidies to support interpretation and translation services (see: Yalden, 2013).

Overall, the commission’s recommendations support goals that are both productive and non-productive in nature. Improvements to French-language rights and accessibility partially responded to the rising sovereigntist threat in Québec, and thus performed an important function for national cohesion. Supporting other ethnic groups also helped to dilute Québec nationalist claims, while providing fertile political ground for politicians seeking support from newcomers and disillusioned voters in the West. Supporting third-language broadcasting did not directly support specific nation-building or economic objectives, but after investigation was deemed to provide a relatively innocuous service to ethnic and third-language communities.

4.3.3. The Official Policy of Multiculturalism

Many mainstream accounts of the Bi and Bi Commission credit it directly with the development of the Official Policy of Multiculturalism; however, the commission never formally endorsed multiculturalism.⁵⁹ This misconception is likely a result of Prime Minister Pierre Trudeau’s own comments when introducing the Official Policy of Multiculturalism in the House of Commons on October 8th, 1971, during which he

⁵⁹ The commission actually officially endorsed official bilingualism and biculturalism, as it was defined in their terms of reference. The term multiculturalism is only used once throughout all six reports, at which point the commission dismissed the concept as outside of its mandate: “Among those of non-British, non-French origin, some accept official bilingualism without hesitation but categorically reject biculturalism. They consider Canada to be a country that is official bilingual but fundamentally multi-cultural. . . . Our terms of reference mention the ‘basically bicultural nature of our country and the subsequent contribution made by the other cultures’. It is thus clear that we must not overlook Canada’s cultural diversity, **keeping in mind that there are two dominant cultures, the French and the British**” [emphasis added] (Royal Commission on Bilingualism and Biculturalism, 1969b, pp. 12–13).

selectively referenced the Bi and Bi Commission's Book IV to provide support for the government's decision. Responding to activism from other ethnic groups and concerns about francophone separatism, the government extrapolated the Bi and Bi Commission's research surrounding cultural diversity and stance that other ethnic groups should be encouraged to maintain their own cultural identities and languages without fear of discrimination to support official multiculturalism:

It was the view of the royal commission, shared by the government and, I am sure, by all Canadians, that there cannot be one cultural policy for Canadians of British and French origin, another for the original peoples and yet a third for all others. For although there are two official languages, there is no official culture, nor does any ethnic group take precedence over any other. No citizen or group of citizens is other than Canadian, and all should be treated fairly. (Canada & House of Commons, 1971, p. 8545)

Trudeau went on to describe the policy of multiculturalism within a bilingual framework as assuring cultural freedom and breaking down discriminatory attitudes. He also echoed the commission's view that sharing cultural expressions among various groups would provide a richer cultural fabric for all of Canada. The government then pledged to support multiculturalism in four ways:

1. Providing resources to cultural groups wishing to grow and contribute to Canada.
2. Assisting people in overcoming cultural barriers to full participation in Canadian society.
3. Promoting creative interchange.
4. Assisting immigrants in acquiring proficiency in at least one official language.

The government placed responsibility for fulfilling these goals primarily with the Citizenship Branch of the Department of the Secretary of State. The policy received acclaim from both the NDP and Conservative parties.

Trudeau's remarks when introducing the policy articulate that while multiculturalism was partially about preserving individual (not necessarily group) rights for ethnic minorities, it was also meant to solve some long-standing Canadian problems, including "developing Canadian identity" and "reinforcing Canadian unity" (Canada & House of Commons, 1971, p. 8581). Both of these problems are intimately tied to concerns surrounding the growing Québec sovereigntist movement. The country was

still reeling from the 1969 and 1970 FLQ bombings and kidnappings,⁶⁰ and both the government and the public feared that there would be a general uprising in Québec if the government did not take strong action to control the movement. For his part, Trudeau rejected the prospect of a special constitutional status for Québec. Multiculturalism provided an avenue to dilute Québec's nationalist claims by allocating no elevated distinction for the francophone minority beyond that afforded by official bilingualism. Unsurprisingly, the policy was, and remains, extremely unpopular in Québec.

Politically, the rise of separatism in Québec was causing the Liberals to lose support in some of its previous strongholds. Former provincial Liberal cabinet minister René Lévesque had defected to become the leader of the sovereigntist Parti Québécois, which was established in 1968. For the Liberals, multiculturalism provided an opportunity to capture crucial ethnic votes in Ontario and among organized and vocal ethnic groups (especially Ukrainians) in the West, while also appeasing other Western Canadians who resented the Official Languages Act and strongly opposed biculturalism (Wayland, 1997). It also allowed Trudeau to position himself as responding to activism from visible minority communities, some of which were vocal in calling for greater recognition during the Bi and Bi Commission's research. In other words, the Multiculturalism Policy was effective in sending a message to those resentful of biculturalism that the government heard their concerns, and would not privilege the Québécois identity over their own. But at the same time, it did not preclude the government from engaging in future constitutional debates surrounding Québec's special status—discussions that did arise surrounding the Constitution in 1982, as well as the attempted Meech Lake (1987) and Charlottetown (1992) accords.

Multiculturalism also allowed the government and citizens alike to nurture the budding Canadian identity as bestowers of equality and tolerance upon its multicultural others. As in previous years, this myth of the tolerant Canadian would simultaneously differentiate Canada from its counterparts in the United States (Temelini, 2007) while also safeguarding the dominant groups of British and French origin as "typical"

⁶⁰ The Front de libération du Québec (FLQ) was a militant Québec sovereigntist movement founded in the 1960s. They conducted a number of attacks in the 1960s and in 1970. The most notable were the bombing of the Montréal Stock Exchange in 1969 and the kidnapping of British Trade Commissioner James Cross and the kidnapping and murder of Québec Labour Minister Pierre Laporte in 1970 (known as the "October Crisis").

Canadians. By enacting multiculturalism, these typical Canadians were granted the power to bestow multicultural others with acceptance and tolerance. It also fit well into Trudeau's foreign policy agenda, which included a significant cultural component and surmised that fostering diversity would make it easier for Canada to reach out to countries that might see themselves represented in Canada's mosaic (Potter, 2009), which would in turn also help reduce Canada's "excessive reliance" on US trade (Rushton, 2009). Finally, Trudeau's diversity policy in its early form required little substantive government investment, and in fact the government devoted few resources to supporting its multicultural objectives in the early years.

4.3.4. The Indigenous Response to Multiculturalism and the White Paper on Indian Policy

Indigenous people were generally excluded from research and debates surrounding biculturalism and multiculturalism. The Bi and Bi Commission expressly refused to include Indigenous issues in its reports, since it was not explicitly included in their terms of reference:

They speak of "two founding races," namely Canadians of British and French origin, and "other ethnic groups," but mention neither the Indians nor the Eskimos. Since it is obvious that these two groups do not form part of the "founding races," as the phrase is used in the terms of reference, it would logically be necessary to include them under the heading "other ethnic groups." Yet it is clear that the term "other ethnic groups" means those peoples of diverse origins who came to Canada during or after the founding of the Canadian state and that it does not include the first inhabitants of this country. (Royal Commission on Bilingualism and Biculturalism, 1967, p. xxvi)

Many Indigenous leaders were furious about their exclusion, and responded by demanding recognition and protesting their lack of inclusion in the Bi and Bi Commission and other discussions (Temelini, 2007). For Indigenous leaders, multiculturalism would do nothing to provide recognition of their land and treaty rights, recognize their group rights, or rectify the problematic aspects of the *Indian Act*. It is difficult to locate original and pointed articulations of Indigenous perspectives on the multicultural policy at the time, as Indigenous voices were almost entirely erased from the debate. However, the *Royal Commission on Aboriginal Peoples Report*, released in 1996, articulates that while Aboriginal leaders do not oppose multiculturalism in practise, improving Indigenous

participation in Canadian institutions (as promised of all other ethnic groups in multiculturalism) must not supplant their legitimate claims to self-government:

The Commission's proposals are not concerned with multicultural policy but with a vision of a just multinational federation that recognizes its historical foundations and values its historical nations as an integral part of the Canadian identity and the Canadian political fabric. (Royal Commission on Aboriginal Peoples, 1996, p. 176)

While Indigenous voices were excluded from the deliberations surrounding bilingualism and biculturalism and multiculturalism, at the time Aboriginal leaders were immersed in a parallel investigation surrounding the Indian Act. In 1969, the Government of Canada, under the leadership of the Minister of Indian Affairs and Northern Development Jean Chrétien, released a White Paper proposing a massive change in the way the Government would manage Indigenous communities. The White Paper proposed abolishing the discriminatory Indian Act and Ministry of Indian Affairs, and eliminating treaty rights and Indian Status. In exchange, the government would grant Aboriginal Peoples a "promotion" to full and equal Canadian citizenship (Government of Canada, 1969).

Indigenous communities did not buy this promise of equality, instead viewing the plan as a "thinly disguised programme of extermination through assimilation" (Cardinal, 1969, p. 1). Taken together, the official policy of multiculturalism and the withdrawal of the Indian Act would have dramatically changed the status of Aboriginal Peoples in Canada, potentially relegating them to a position of a simple multicultural other, indistinguishable from a multitude of other immigrant groups seeking recognition and cultural rights. They would retain the right to practise their cultures, but would be forced to give up many of the elements that made them distinct, especially their status and treaty rights. After massive protest, the government scrapped the plan in 1970.

From a diversity standpoint, the White Paper is interesting. It was presented as a fulfillment of the government's social justice objectives, with the particular goal of providing equality for Indigenous Peoples: "The government believes in equality. . . . It is determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race" (Government of Canada, 1969, p. 6). The rhetoric of the White Paper also extolls the government's newly found respect for diversity, and the benefits of Indigenous cultures for other

Canadians, stating that: “Canada is richer for its Indian component, although there have been times when diversity seemed of little value to many Canadians” (p. 1). The widespread Indigenous rejection of the White Paper demonstrates the limitations of equality and non-discrimination for resolving conflicts related to cultural diversity. Indigenous people were not interested in the kind of equality that came with Canadian citizenship and multiculturalism, but would instead continue to assert their rights as distinct and sovereign nations.

4.3.5. Conclusions: the early days of multiculturalism

The introduction of Canada’s official policy of multiculturalism was a touchstone decision in that it marked a decisive shift away from previous policies of erasure of certain kinds of difference and embraced difference and tolerance as core aspects of Canadian nation-building. However, while it embraced certain kinds of difference (cultural diversity, characterized by ethnic identity, religion, and exchange of cultural expressions), it also sought to draw boundaries around acceptable difference and erase ways of being Canadian that did not contribute to its nation-building project (Québécois sovereignty and Indigenous self-determination). While parts of Canada praised the newfound tolerance for different ethnic groups, the Federal Government steamrolled French-Canadian claims to provincial jurisdiction over cultural policy and undermined Québec’s special status within Canada, while also relegating questions surrounding Indigenous rights to an entirely separate policy process. In this way, the Canadian capitalist-colonial project was able to enjoy the reputational benefits of absorbing the critiques of certain groups (visible minorities) into its system, while sidestepping or ignoring more radical and inconvenient calls for major constitutional reform.

4.4. Debating and entrenching diversity policies (1980s–1990s)

By the mid-1970s, official multiculturalism was floundering as it experienced sharp criticism from both proponents and detractors of the policy. In 1976, the first report of the Canadian Consultative Council on Multiculturalism (CCCM) argued that without provisions to support language development among ethnic communities, multiculturalism would remain tokenistic in nature and doomed to effective failure: “Without language, cultural pluralism . . . emerges as truncated multiculturalism, confined to such aspects as

folk dancing, native costumes, special foods, embroidery, instrumental music or even folk songs with words which few can understand or are encouraged to learn” (Canadian Consultative Council on Multiculturalism, 1975, pp. 4–5). It also pointed out that many ethnic groups saw the multicultural days celebrated in schools as a trivialization of their cultures and more compatible with a melting-pot method of cultural integration than true pluralism. In its follow-up report in 1977, the council strongly recommended that the government develop federal-provincial agreements to facilitate third-language education in school (Canadian Consultative Council on Multiculturalism, 1977).

On the other hand, critics of multiculturalism viewed the policy as creating a dangerous “double consciousness,” in which immigrants who maintained loyalty to a country outside of Canada faced slower language integration and subjugation in ethnic ghettos (Harney, 1988; Thomas, 1992). They lamented the use of taxpayer money for a program that they saw as attempting to fundamentally alter the Western European character of Canadian society. For example, an article in Maclean’s magazine described Canada as being “in danger of having its old, familiar British North American culture half bludgeoned to death by the cast iron balalaikas of multiculturalism,” leaving the taxpayer to watch helplessly while, “in the name of ‘heritage’ programs, he pays for Polish and Swahili Canadians to be taught in Polish and Swahili in the supposedly all-Canadian public school” (quoted in Harney, 1988, p. 74).

These critiques created a new urgency for the government to frame multiculturalism as a productive policy that could benefit White Canadians. Considering both these critiques and the government’s need to frame diversity in a productive lens, this section examines three of the most important documents surrounding multiculturalism in the 1980s: the *Charter of Rights and Freedoms* (1982), the *Equality Now!* evaluation and report (1984), and the *Canadian Multiculturalism Act* (1988). It also considers Canada’s two (failed) major attempts at constitutional reform to better accommodate the different ways of being Canadian preferred by its homeland minority nations: the Meech Lake Accord (1987) and the Charlottetown Accord (1992).

4.4.1. Charter of Rights and Freedoms (1982)

In the late 1960s, the Liberal Government began research into patriation⁶¹ of the constitution, including the development of a new bill of rights. Following over a decade of research and one failed attempt (the Victoria Charter in 1971) it passed the Canada Act 1982, which enacted the Constitution Act, 1982. The inclusion of the new bill of rights—the Charter of Rights and Freedoms—was a major and hotly debated aspect of the Constitution Act. Besides setting out Canadians’ fundamental rights and freedoms, the government hoped the charter would provide a rallying point for a united pan-Canadian identity centred on the shared values of liberty and equality (Chevrier, 2007).

The charter provides a legal muscle to protect human rights and equality, and its constitutional status gives it a much greater punch than its precursor, the Canadian Bill of Rights. From a diversity standpoint, the charter provides two specific measures that protect equity-seeking groups:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (Government of Canada, 1982)

The charter also protects freedom of religion (section 2.a.); sets out English and French as the official languages of Canada (sections 16–23); and codifies Canada’s multicultural ideals (section 27). It provides a purview for judicial review and enhances the power of the Supreme Court of Canada, which frequently rules on contested constitutional matters.

In practise, the charter by itself is relatively weak as a framework for promoting cultural diversity. The protections provided under section 15 (listed above) protect individuals from discrimination for individuals based on personal characteristics. However, its wording surrounding multiculturalism is vague, stating that the charter “shall

⁶¹ Patriation would mean that British Parliament would no longer be needed to approve constitutional amendments.

be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians” (Government of Canada, 1982, section 27).⁶² This section can be read narrowly as simply an affirmation of multicultural ideals, but without supporting linguistic pluralism or any other enforceable programs that entrench equality between cultural minority groups and the country’s official language communities (Meyerhoff, 1994). In other words, while the charter provides multicultural communities with protection against certain forms of discrimination, it does explicitly include a right to culture.

The charter also focuses heavily on individual rather than group rights in a manner similar to the British and American models upon which it was based. Taylor (1993) argued that this individualistic vantage leads to an excessive focus on what he deemed “first-level diversity”; that is, diversity that acknowledges that there are different cultures that engage in different practices, and come from different outlooks and backgrounds, but all are nonetheless assumed to share common ideals about what it means to belong to Canada (p. 182). This, Taylor argued, is a problematic notion for French-Canadian and Indigenous populations that want acceptance of their *different ways of belonging* in Canada, which may involve living in Canada as members of their own sovereign nations. This way of being necessitates a focus on collective national goals designed to support the nation and its provision for self-governance and self-determination. The charter does not provide such space—and indeed, is inherently suspicious of collective objectives, unless they can be clearly subordinated to individual rights and provisions of non-discrimination.

Ultimately, Québec refused to sign the charter, although it is still bound by it and also has its own *Quebec Charter of Rights and Freedoms*. Aboriginal leaders were also angered that the charter did not enshrine their rights to self-determination, but for structural reasons did not have Québec’s capacity to loudly reject it; in fact, they had narrowly avoided being ignored in the charter altogether.⁶³ The government did later

⁶² Section 27 states that the charter “shall be interpreted in a manner consistent with the perseverance and enhancement of the multicultural heritage of Canadians” (Government of Canada, 1982, section 27).

⁶³ An initial draft of the charter in 1981 had removed Aboriginal rights entirely. After considerable lobbying, the charter drafters reinstated Aboriginal and treaty rights (Royal Commission on Aboriginal Peoples, 1996), albeit with a loophole protecting only existing rights: “The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate

take steps to gain support from Québec and Indigenous nations; however, as discussed later in this chapter, subsequent attempts to amend the charter to better meet the needs of the Québécois and (later) Indigenous Peoples in the Meech Lake (1987) and Charlottetown (1992) accords failed due to political miscalculations and resistance in the rest of Canada.

4.4.2. Equality Now! (1984)

While diversity had long been sold to Canadians as an economic benefit, a crushing recession in the early 1980s led the Trudeau government to once again use economic rationalizations in multiculturalism discourse. Previous discussions surrounding heritage preservation shifted abruptly to rhetoric surrounding the “benefits of difference,” and the ways in which nurturing a multicultural population would help Canada better serve external markets and improve its image abroad (Lewycky, 1992). This attitude was augmented with the ushering in of the Mulroney era in 1984, when the government announced it would embark upon a policy of “mainstreaming multiculturalism” (Lewycky, 1992, p. 374). In practise, “mainstreaming” involved initiatives such as a 1986 government-supported conference in Toronto focused on the benefits of multiculturalism for business (aptly titled “Multiculturalism Means Business!”).

It was in this context that the Special Parliamentary Committee on Visible Minorities released its well-known report, *Equality Now!*, which considered the structural aspects of multiculturalism policy including social integration, employment, public policy, legal and justice issues, race and the media, and education. The report called on the government to eliminate the structural barriers that prevent visible minorities from participating in Canadian society, stating that “opportunities are being denied because visible minorities are frequently believed to be from a different culture and it is believed that will not ‘fit’ the structures of public and private institutions in Canada” (Special Committee on Visible Minorities in Canadian Society, 1984, p. 1). It then immediately made a resource-based justification for improving equality, warning that “Canada will be the ultimate loser if we do not take advantage of the skills and abilities which visible minority Canadians have to offer” (Special Committee on Visible Minorities in Canadian

from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada . . .” (Government of Canada, 1982, section 25).

Society, 1984, p. 1). It described the situation as an underutilization of visible minority people as valuable economic resources:

[S]ome visible minorities were disproportionately unemployed, while others were employed but not in keeping with their qualifications. Some were in well-paid, high-technology positions but not in decision-making or management. Some were unemployed because of the non-assertive nature of their culture, while others were not participating because their aggressive business practices were deemed far outside the Canadian norm.” (Special Committee on Visible Minorities in Canadian Society, 1984, p. 4)

Overall, the report attempted frame the diversity and inclusion problem as both a social justice issue *and* a resource issue that hurts majority Canadians. The former is evidenced by a Charles Porter (1965)-inspired description of Canada as a vertical mosaic, with “some pieces raised above others; the surface is uneven” (Special Committee on Visible Minorities in Canadian Society, 1984, p. 5). But at the same time, the report attempted to get majority-Canadians on board by referring to inequality as an economic problem in which Canada is misusing valuable human resources that are crucial for the country’s development. This economic justification sought to show majority Canadians what was is “in it for them” should the new Multiculturalism Act succeed.

Like most research and discourse surrounding diversity at this time, Indigenous issues were considered peripheral; they were included to some extent under the concept of “race relations,” but not with any particular nuance. The only clear reference to Indigenous Peoples comes at the beginning, when the writers use the existence of multiple Aboriginal languages and cultures as evidence that Canada’s diversity is long-standing and an inherent characteristic of the country, stating that: “the make-up of the Canadian population has always been multicultural and multiracial. When Europeans first came to this area of the world there were over fifty Inuit and native indian [sic] cultures in existence” (Special Committee on Visible Minorities in Canadian Society, 1984, p. 3).

The report concluded with 80 recommendations for government covering a range of areas, such as social integration, employment, public policy, legal and justice issues, the media, and education. The most influential recommendation was for the introduction of a new *Multiculturalism Act* and the creation of a Ministry of Multiculturalism (Special

Committee on Visible Minorities in Canadian Society, 1984, p. 96). In its response to the *Equality Now!* Report, the government stated its full commitment to addressing the issues raised, and provided a point-by-point response to all 80 recommendations. It committed to introducing a Multiculturalism Act. The act, they stated, would “incorporate the commitment of this government to the removal of barriers to the full and equal participation of all cultural and racial groups in the social, political, cultural and economic life of Canada” (Government of Canada, 1984, p. 10).

Broadcasting and the Equality Now! Report

The *Equality Now!* Report considered media representation to be a key aspect of a good diversity plan, and included an entire chapter devoted expressly to the media. The report pointed out that the media play a crucial role both in demonstrating how society values visible minorities, and in creating links between majority groups and members of visible minority groups with whom they may never interact. It went on to point out that visible minorities are “practically invisible” in mainstream media (Special Committee on Visible Minorities in Canadian Society, 1984, p. 94).

The report provided 14 media-specific recommendations. The most important of these were:

- including a section in the *Broadcasting Act* that would require the CBC to “contribute to the development of national unity by promoting harmonious relations among the ethnic and racial groups which make up Canada’s population” (p. 139);
- re-defining “Canadian content” to include a dimension of Canadian multiculturalism;
- prioritizing hiring and promotion of visible minority persons in media organizations;
- supporting research into the attitudes of the majority toward visible minorities as they appear in advertising;
- requiring government (including crown corporations) to adopt a multiracial policy in advertising and communications; and
- ensuring visible minorities have equal access to technology, and that their concerns are represented in broadcasting. (Special Committee on Visible Minorities in Canadian Society, 1984, pp. 139–140)

The government responded to each of the suggestions and provided some details on research and other initiatives that would address some of the concerns – although ultimately not all suggestions were incorporated into federal or CRTC policy. However, many of the issues raised required action by non-governmental entities (such as the advertising industry and media firms), so government power to effect change was limited beyond encouraging certain behaviours. The most important action to arise from this discussion was a modification to the *Broadcasting Act* to refer to the broadcasting system's responsibility to respect and promote the dignity and equality of all individuals, groups, or classes regardless of race, national, or ethnic origin or colour.

4.4.3. *Multiculturalism: Building the Canadian Mosaic and the Canadian Multiculturalism Act, 1988*

In 1987, the Standing Committee on Multiculturalism released the report, *Multiculturalism: Building the Canadian Mosaic* (MBCM), which more clearly defined the goals of and approaches to official multiculturalism and set out the basis for the 1988 *Canadian Multiculturalism Act*. It began by stating in no uncertain terms that the 1971 multiculturalism policy was failing:

The multiculturalism Policy of 1971 is clearly insufficient and out of date. It does not have the ability to respond to the needs of today's multicultural society. There is a sense that this 15-year-old policy is foundering. It needs clear direction. (Standing Committee on Multiculturalism, 1987, n.p.)

In a manner similar to the *Equality Now!* Report, it went on to argue that the government has paid too little attention to issues related to multiculturalism and racial diversity in terms of health and welfare, justice, youth issues, women's issues, and trade. Newcomers, it argued, were particularly concerned about employment discrimination,⁶⁴ and mainstream institutions and society had not yet been "multiculturlaized" (Standing Committee on Multiculturalism, 1987, n.p.). It also argued that the government's multiculturalism budget, which was \$23.6m at the time the report was written, was insufficient to properly support diversity objectives. Like most work surrounding diversity

⁶⁴ The government had recently passed its *Employment Equity Act* in 1986, which requires employers to make sure women, Aboriginal Peoples, persons with disabilities, and members of visible minorities achieve equitable representation and participation in the workforce. The new act is not mentioned in the report. It would not have been clear at the time of writing what its short- and long-term impacts might be.

at this time, the report had little to say about Indigenous communities beyond referencing their diversity as evidence of Canada's long-standing multiculturalism. However, it did ultimately recommend that the government give "special attention" to "creating an environment in which aboriginal self-governance can develop" (p. 39).

Unlike the *Equality Now!* Report, MBCM did not frame the diversity problem in terms of economic benefits for majority-Canadians. This is likely because the Standing Committee believed the problem of multiculturalism to already be solved in terms of its acceptance by the general Canadian public. Besides relieving the committee of the obligation to sell multiculturalism to Canadians, this belief also meant that the government's heavy lifting in terms of supporting multiculturalism was already complete. If multiculturalism was accepted and entrenched as a key part of Canadian values and identity, then all the government need do to achieve equality is support the accepted ideology through the creation of policies:

[T]he Standing Committee on Multiculturalism is convinced that multiculturalism is an accepted public policy and that the ideal of the concept must be reflected in the political ideology of the government so that a multiculturalism ethic permeates all structures of society. The Standing Committee on Multiculturalism distinguishes between a demographic, symbolic and structural multiculturalism. Demographically, Canada has always been a multicultural country, but multiculturalism has not always been reflected in the symbolic or structural aspects of Canadian society. (Standing Committee on Multiculturalism, 1987, p. 27)

The report went on to set out the key aspects of a Multiculturalism Act. In this way, it both defined—and then solved—the problem of diversity. Once the government enacts the *Multiculturalism Act*, it will have effectively solved the problem of diversity, and it will then be up to Canadians to simply respect the new policy. As Day (2000) argued, through this "rhetorically compelling confusion between a non-existent history of harmonious coexistence and a package of toothless legislation, the reader is led to believe that the Canadian government is on the high road to achieving unity within an ancient and problematic diversity" (p. 23). Once the new act entered into force, Canada would be free to focus on other pressing social and economic problems.

Broadcasting in Multiculturalism: Building the Canadian Mosaic

The MBCM Report included some suggestions related to the Canadian media. The most important were:

- including multiculturalism as a policy objective for the CRTC; and
- requiring the (proposed) Department of Multiculturalism to advocate for fair and equitable representation of minorities in the media, including programs to sensitize the media to the needs of minorities and minority-lead initiatives to achieve fair coverage.

Both of these recommendations have been generally upheld. Multiculturalism and inclusive employment are not included in the CRTC Act; however, multiculturalism is an objective listed in the *Broadcasting Act*, which is the document that the CRTC uses to guide its governance of the broadcasting system. Furthermore, the Department of Heritage (which is responsible for multiculturalism) does partake in multicultural advocacy vis-à-vis the agencies it oversees, such as the CBC, the CRTC, the National Film Board, and Telefilm.

The Multiculturalism Act, 1988

The *Multiculturalism Act's* preamble justified its existence via reference to several pieces of Canadian legislation, including the *Constitution of Canada*, *Official Languages Act*, *Citizenship Act*, and the *Canadian Human Rights Act*. It also referred to the development of the act as a part of its compliance with its obligations under the United Nations, with reference to the *International Convention on the Elimination of All Forms of Racial Discrimination* (1969) and the *International Covenant on Civil and Political Rights* (1966). In short, the act:

- promotes cultural and racial diversity and the freedom of Canadians to preserve, enhance, and share their cultural heritage;
- views multiculturalism as a fundamental characteristic of Canada;
- promotes equitable participation in all aspects of Canadian society, including equal treatment under the law;
- encourages Canada's institutions to be respectful and inclusive of diversity;
- recognizes constitutionally granted Aboriginal rights; and
- reaffirms English and French as the only official languages, but allows for the use of other languages. (Government of Canada, 1988a)

The *Multiculturalism Act* is different from the 1986 *Employment Equity Act* in that it is a persuasive rather than regulatory document. Employers covered under the *Employment Equity Act* have to create an employment equity plan and are monitored by

audits. The *Multiculturalism Act* does not have these hard provisions. The monitoring department (right now, the Department of Heritage) can suggest best practices, provide resources, subsidies, and programs to support multiculturalism, monitor the practices of various government and government-sponsored agencies, and engage in activities to promote multiculturalism. It does not, however, have a regulator's hard power to fine or otherwise punish parties deemed to be not adequately in compliance with diversity policy—and indeed, it can be difficult to measure real compliance with the act.

Multiculturalism, and particularly the *Multiculturalism Act*, has also been generally rejected in Québec. Some French Canadians view multiculturalism as a threat to their position as an official linguistic and cultural community, and argue that it undermines their claims to self-governance and sovereignty. Multiculturalism is also viewed as a federal overstep into cultural policy, which is generally a provincial responsibility. At various times, Bloc Québécois members have moved to amend the *Multiculturalism Act* so as to not apply to Québec.⁶⁵

Nonetheless, the *Multiculturalism Act* holds considerable standard-setting power in the Canadian political and social landscape. It formalized the government's commitment to equality of participation, and over the last few decades, multiculturalism has become a key aspect of Canadian identity building. It has also led to the creation of numerous programs to support diversity and inclusion, including school curricula celebrating diversity and a plethora of multicultural festivals held across Canada.

4.4.4. Diversity and Constitutional Reform

By the late 1980s, Québec still had not formally endorsed the Constitution of Canada. Then-Prime Minister Brian Mulroney responded with two separate attempts at cultural reform aimed at supporting a separate, collective rights-focused way of being within Canada for Québec and (later) Indigenous Peoples. The first attempt at constitutional reform involved the negotiation of the Meech Lake Accord in 1987, and the second was the Charlottetown Accord in 1992.

⁶⁵ Most recently, in 2013, BQ member Jean-François Fortin introduced Bill C-553, which would have amended the Canadian Multiculturalism Act to exclude Québec (Fortin, 2013).

Constitutional Reform I: the Meech Lake Accord, 1987

Provincial-federal negotiations for the Meech Lake Accord began in 1987, with a focus on strengthening provincial powers and formalizing Québec's status as a "distinct society" within Canada. In particular, the accord would have added the following text recognizing Québec's special status:

2.1. The Constitution of Canada shall be interpreted in a matter consistent with:

(a) the recognition that the existence of French-speaking Canadians, centered in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and

(b) the recognition that Quebec constitutes within Canada a distinct society. (Meeting of First Ministers on the Constitution, 1987, p. 372)

To some extent, this recognition of special status for Québec was symbolic in that the document went on to state that this recognition would not derogate "from the powers, rights or privileges of parliament or the government of Canada" (section 4, p. 37). However, the accord did include other provisions to decentralize federal power, including providing all provinces veto power over major constitutional reforms and guaranteeing the provinces the opportunity to "negotiate" with the government on issues regarding immigration and aliens (a particular concern in Québec). The accord was popular in Québec and was ratified by the Québec National Assembly. It was also initially popular in the rest of Canada, although its popularity waned following highly publicized critique by former Prime Minister Pierre Trudeau, who attacked the accord as leading to the end of the federal project and capitulating to provincial pressure (Bronskill & Bryden, 2014).

However, it was ultimately the Conservative Government's failure to consult with Indigenous Peoples that led to the accord's downfall. Indigenous leaders opposed the accord because of its failure to include any consideration of Aboriginal rights to self-determination. In response to Indigenous critique, Manitoba MLA Elijah Harper filibustered the legislature to prevent a referendum vote. Following Manitoba's lead (albeit for different reasons), Newfoundland Premier Clyde Wells and opposition leader Tom Rideout subsequently cancelled the vote in Newfoundland, arguing that to hold a vote would be pointless since the accord was already dead following its failure in

Manitoba (Hillmer, 2015). The accord's failure was a crushing defeat for the Mulroney Conservatives, but a significant win for Aboriginal leaders, who had demonstrated their refusal to be left out of debates surrounding constitutional rights and group-identity rights.

Constitutional Reform II: the Charlottetown Accord, 1992

In June 1991, the House of Commons appointed a new Special Joint Committee of the Senate and the House of Commons, which would provide research and recommendations for "a renewed Canada" (Special Joint Committee on a Renewed Canada, 1992, p. vii). In total, the committee received 3,000 written submissions from the public, held 78 public meetings, and heard testimony from 700 individuals (p. xi). In an attempt to avoid the same fate as the Meech Lake Accord, this time the committee's terms of reference explicitly required them to seek participation from Aboriginal Peoples.

In its final report, the committee noted four specific challenges to inclusion under the current legislative regime: 1) making Québec a full partner in the Canadian Constitution; 2) including Aboriginal Peoples as equal partners; 3) including Western and Atlantic Canada in national decision-making; and 4) more adequately reflecting the gender balance and "genuine diversity" of Canadian society (Special Joint Committee on a Renewed Canada, 1992, pp. xiv–xv). The report concluded with a draft of potential constitutional amendments, which became the basis for the Charlottetown Accord in 1992. The committee recommendations included an extended "Canada Clause," which was ultimately removed from the Charlottetown proposal, but which would have required interpretations of the Constitution Act to acknowledge the role played by Canada's founding peoples:

We acknowledge that we are deeply indebted to our forbearers:

the aboriginal peoples, whose inherent rights stem from their being the first inhabitants of our vast territory to govern themselves according to their own laws, customs and traditions for the protection of their diverse languages and cultures;

the French and British settlers, who to this country brought their own unique languages and cultures but together forged political institutions that strengthened our union and enabled Quebec to flourish as a distinct society within Canada; and

the peoples from myriad other nations, scattered the world over, who came to our shores and helped us greatly to fulfill the promise of this fair land. (Special Joint Committee on a Renewed Canada, 1992, p. 106)

This radical declaration was dropped from the final Charlottetown Accord, although a truncated *Canada Clause* did remain that required the constitution to be interpreted in a manner consistent with the special rights of Indigenous Peoples, Québec's status of a distinct society, and Canada's commitment to racial and ethnic equality (Consensus Report on the Constitution: Final Text, section 2.1, a–e). The Charlottetown Accord sought to build on the diversity provisions already included in the Constitution Act, 1982 by providing space for group rights and different ways of being within the Canadian constitution; it approached this task by accommodating some of the self-governance and nationalistic ambitions of Québec and Indigenous groups. In particular, the accord included changes to the division of legislative powers by providing the provinces jurisdiction over culture (section 29), forestry (section 30), mining (section 31), and tourism (section 32). It also required the government to negotiate with the provinces on issues related to immigration. It sought to assuage Québec's appeals for an equal partnership within Canada by guaranteeing the province no fewer than 25% of seats in the House of Commons.

The accord also included a range of enhancements to Indigenous rights, including a whole section on First Peoples (section IV). It sought to provide Indigenous Peoples with a right to self-government (section 41), although bands would still be subject to the charter. It also greatly enhanced Indigenous rights to representation in the Canadian federation, including guaranteeing requiring Aboriginal representation in the Senate; consultation when selecting Supreme Court justices; parliamentary consultation to consider Indigenous representation in the House of Commons; and representation in First Ministers' Conferences for any agenda items directly impacting Aboriginal Peoples.

While Indigenous leaders supported the accord, Quebecers felt that it did not go far enough in ensuring that confederation would be a partnership between Québec and "the rest of Canada" (Conrad, 2012, p. 263). It was also extremely unpopular in Western Canada, where grievances surrounding Western alienation and a perceived centralization of power in the Ontario-Québec region were coalescing around the new

right-wing Reform Party⁶⁶—many members of which would sooner have seen Québec leave Canada than receive special constitutional status. The accord was brought to a national referendum on October 26, 1992, and failed with 54.3% of voters in opposition. The highest rates of opposition were in the West (British Columbia, Manitoba, and Alberta), followed by Québec, Saskatchewan, the Yukon, and Nova Scotia.

The accord's failure marked a decisive end to Brian Mulroney's political career and a dark period for the Conservative Party of Canada. The ensuing nationalist fervour in Québec also played a role in the (very narrowly unsuccessful) Québec sovereignty referendum in 1995.⁶⁷ Most importantly, no government has attempted such an ambitious constitutional reform since 1992. The Charlottetown Accord thus marked Canada's last attempt at major constitutional reform to accommodate its homeland minority populations.

Canada's policy framework for diversity as it existed at the end of the early 1990s has remained relatively unchanged for the last 25 years, although slower progress has generally continued in terms of entrenching and normalizing rights for Indigenous Peoples and visible minorities. What did change, however, was the extent to which Canada sought to leverage its new diversity policies for purposes related to economic development and international image building. It is this transition that we now turn to, as we consider the ways Canada has made use of diversity for branding and resource development in the later days of the 20th century to the present day.

⁶⁶ The Reform Party was formed in 1987 under the leadership of former Social Credit Alberta Premier Preston Manning. The new Party's objective of leveraging Western resentments and determination to play a role in setting that national agenda is apparent in its 1988 campaign slogan, "The West Wants In." The Reform Party would soon become a home for Canada's social conservatives, who rejected many of the "liberal" moves toward diversity and inclusion: multiculturalism, bilingualism, feminism, and secularism (Conrad, 2012, p. 264).

⁶⁷ The 1995 Quebec Referendum was the second attempt to proclaim national sovereignty for Quebec. Parti Québécois leader Lucien Bouchard argued that the federal government had abandoned constitutional reform, and that federal policies were to blame for high levels of unemployment. Quebec Sovereignty was not popular with First Nations in Quebec, who suggested that they might stage their own referendum should the "oui" side win. In the end, Quebec voted to stay in the Canadian confederation by a remarkably narrow margin of 49.42 percent voting for sovereignty, and 50.58 percent rejecting the proposal.

4.5. Diversity as strength, diversity as resource (1990s–present)

By the early 1990s, Canada's diversity policy framework was essentially entrenched, and the myth of Canada as a perennial space for liberalism and openness toward difference was becoming increasingly internalized as a key (if slightly revisionist) piece of Canadian history and identity in much of the country. Studies indicate that Canadians on the whole show strong and increasing support for immigration, multiculturalism, and social integration (Soroka & Robertson, 2010), with younger Canadians showing greater comfort with intercultural identities and a tendency toward a more global outlook on culture (Government of Canada Policy Research Initiative, 2009). The multiculturalism program itself also received positive evaluations; a summative evaluation covering the periods of 1999 to 2004 found that the program appeared to be successful in achieving its goals (although there were concerns about clarity and measurability of outcomes), funding recipients generally expressed high levels of satisfaction with the program's design and management, and there is a continued need for such a program (Evaluation Services Corporate Review Branch, 2006)

For its part, Canada has carefully cultivated images of multiculturalism characterized by stability, peace, and compassion, which it presents to both its own citizens and the world. For example, a brief entitled "Facts on Canada," released by the Canada Information Office (2001), begins with the bold statement: "Canada is internationally recognized as one of the most tolerant, open and democratic countries in the world—a dynamic mosaic of multiculturalism where people live and work together in harmony" (n.p.). More recently, Canadian Minister of Foreign Affairs Chrystia Freeland referenced Canada's diversity policies as a mechanism to differentiate Canadian politics from the politics of the United States, and to present Canada as a crucial leader on the international stage, stating:

[B]y embracing multiculturalism and diversity, Canadians are embodying a way of life that works. We can say this in all humility, but also without any false self-effacement: Canadians know about living side-by-side with people of diverse origins and beliefs, whose ancestors hail from the far corners of the globe, in harmony and peace. We're good at it. Watch how we do it. (Freeland, 2017, n.p.)

Such images tend to erase ongoing critiques of multiculturalism, both from right-wing Canadians who view multicultural programs as a misappropriation of government funds and the promotion of special interest groups,⁶⁸ and those on the critical-left who argue that multiculturalism depoliticizes the realpolitik of difference while simultaneously normalizing the unmarked, yet dominant, Anglo-Canadian core culture (Mackey, 1999). This cleansing of dissent is perhaps not surprising: diversity as a workable policy framework is reliant on a belief in unity around it.

This section considers how Canada has leveraged its diversity policies both as a resource in foreign policy and a domestic resource to benefit the economy.

4.5.1. Diversity as resource: foreign policy

By the mid-1990s, the government was actively promoting diversity and cultural policy as unmitigated successes and an important way in which Canada could advance its interests in international affairs. In 1995, the Department of Foreign Affairs and International Trade (DFAIT) listed the “projection of Canadian values and culture” as the third pillar of the government’s overall foreign policy. The report went on to provide several reasons why projecting Canadian culture in particular was valuable for Canada’s security and economic prosperity:

- Promoting Canadian values of human rights and rule of law abroad would help safeguard peace and stability globally (thus protecting peace at home).
- Canada’s educational system, cultural diversity, and cultural industries exports are crucial for Canada’s economic success.
- Canada’s cultural diversity (including anglophone, francophone, and diverse others from across the globe) open up access to a range of foreign markets.
- If Canada does not clearly project a defined image of what it is and what it represents, it is “doomed to anonymity” on the international scene.
(Department of Foreign Affairs and International Trade, 1995)

⁶⁸ For example, Reform MP Charlie Penson voiced his opposed to Bill C-53, *an act to establish the Department of Canadian Heritage and to amend and repeal certain other acts*, on the grounds that using it used tax dollars to support multiculturalism policy. The bill, he stated, “entrenches multiculturalism, bilingualism and the financing of special interest groups” (Canada & House of Commons, 1994).

Each of these items demonstrates the extent to which Canada's diversity and national prosperity are interlinked. Cultural diversity represents a crucial resource for the country's future prosperity by assisting in stabilizing international markets, providing lucrative exports, facilitating trade relations, and ensuring Canada has a distinct identity that it can promote internationally to help gain traction as an interesting and effective trading partner. Thus, Canada has turned its dubious colonial history into a strength that it has harnessed to support prosperity as it is defined in a capitalist system.

By 1998, DFAIT had followed-up on this report with the development of a public diplomacy program. The program received \$8 million per year from 2000 to 2005, to assist with "raising Canada's profile" in the international sphere (Aronczyk, 2013, p. 123), with an emphasis on supporting arts and cultural initiatives as well as academic programs. This provided an added avenue of financial support to a range of cultural endeavours representing the performative side of diversity: film and book festivals, scholarships, commemorative celebrations, and international student exchange programs. In its 2003–2004 report on plans and priorities, DFAIT articulated the importance of the program to raise global awareness about Canada as an "innovative, technologically sophisticated, stable, culturally diverse and tolerant society, and as a trusted ally and partner" (Department of Foreign Affairs and International Trade, 2003, p. 52). It argued for long-term support for such initiatives as a key part of the department's coordinated "branding" strategies.

While the DFAIT program was phased out by the Conservative Government in the following years,⁶⁹ Canada turned its attention to major global events surrounding diversity and culture. It played a leading role in the development, ratification, and promotion of the 2005 UNESCO CDCE. As discussed in Chapter 3, participation in CDCE negotiations provided significant benefits for Canada. Most directly, it enabled the country to secure its economic interests by providing a legal arm to protect its cultural industries from international trade. But it also provided a crucial space for Canada to leverage its international reputation for diversity and tolerance in order to take a

⁶⁹ Despite the program's ostensible success, Canada continued to struggle in attracting foreign investment. According to some accounts, this is because Canada itself was not well-differentiated: it was seen as too civil, too pluralist, too liberal—or, as one report commissioned by DFAIT stated, Canada was viewed abroad as "very vanilla" (quoted in Aronczyk, 2013, p. 116). The cultural mandate is reported with decreasing frequency in subsequent DFAIT reports.

leadership role in a major global discussion about cultural industries, human rights, and culture. In this way, Canada was able to exploit its diversity policies for both economic and diplomatic purposes: economically, Canadian cultural industries (particularly screen industries) would continue to benefit from a toolkit of measures to protect them from foreign competition. Diplomatically, Canada was able to publicize and enhance its reputation as a bastion for diversity, tolerance, and human rights.

4.5.2. Diversity as resource: labour policy

Canada's *Employment Equity Act* was first enacted in 1986, and received significant amendments in 1995 to include almost all Federal Government departments and agencies. The purpose of the act is to achieve workplace equality, such that:

no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences. (Government of Canada, 1995, p. 1, section 2)

The act, which applies to both private- and public-sector workers, requires employers to implement employment equity by identifying and eliminating barriers faced by certain groups, and to make reasonable accommodations to ensure persons in designated groups are represented in each occupational group in an employer's workforce (section 5, p. 5). This includes establishing an employment equity plan with measurable objectives and filing annual reports detailing progress to the Federal Government (section 18, p. 10–11). However, visible minorities remain underrepresented in management positions (Jain, Horwitz, & Wilkin, 2012), particularly in screen industries (Cukier, Yap, Miller, & Bindhani, 2010; Davis, Shtern, Countanche, & Godo, 2014; Fleras, 2011b). As of November 2017, women still only earn 86 cents for every dollar earned by men (Government of Canada, 2017). The income gap between visible minorities and majority-Canadians is even higher, and has remained relatively stagnant for the last decade: visible minorities earn 26% less and Indigenous Peoples 25% less than majority Canadians (Monsebraaten, 2017). In spite of Canada's framework of policies for diversity, it is clear that women and visible minorities still face considerable challenges in achieving high-status jobs and economic parity in Canada.

There are several strains of practitioner and academic literature related to the organizational benefits of diversity in the workforce. The main arguments favouring diversity for managerial reasons include improving a firm's ability to attract and maintain high quality employees (Greening & Turban, 2000; Jayne & Dipboye, 2004; Robinson & Dechant, 1997); enhancing group creativity and innovation (Cox & Blake, 1991; Richard, McMillan, Chadwick, & Dwyer, 2003; Robinson & Dechant, 1997); improving marketplace understanding (Cox & Blake, 1991; Robinson & Dechant, 1997; P. Schmidt, 2004); and saving costs associated with high employee turnover, absenteeism, and lawsuits for sexual, race, and age discrimination (Cox & Blake, 1991; T. Miller & Del Carmen Triana, 2009; Robinson & Dechant, 1997).⁷⁰ Critical scholars (Liff, 1999; Litvin, 1997; Noon, 2007) have critiqued this managerially driven agenda, arguing that it can trivialize ethnic identity, essentialize differences, and overlook the real negative impacts of some social group characteristics on employment outcomes. This, they have argued, generates a discourse that denies the value of social justice arguments, and leads to false claims that posture diversity as “depoliticized.”

In their study on the discursive constructions of equity and diversity in Canada, Cukier et al. (2017) uncovered an abrupt shift in discourse surrounding diversity in the Canadian public sphere from themes surrounding social justice and ethics to a focus on the “competitive advantage” of diversity. This shift, they argued, occurred rather abruptly in 1990, and set in motion a series of trade-offs that had significant implications for workplace inclusion. The authors found that employment equity annual reports released between 1986 and 1990 framed the issue as a legal requirement related to inequality, under-representation, and discrimination. However, after 1990 the reports shifted from ethics- and compliance-based language to discourses focused on diversity management and competitive advantage, and showed a “substantial reduction” in direct references to racism, sexism, and discrimination (Cukier et al., p. 1054). This, they argued, threatened the entire basis of workplace diversity policy as a means to combat inequality:

When these struggles disappear from the discourse, at stake are the extensive efforts made by earlier anti-discrimination movements . . . as the focus on individual differences makes the language of competitive advantage inadequate to address problematic realities of inequalities and

⁷⁰ For a detailed review of literature on workplace diversity, see: (Wendy Cukier et al., 2017)

limits its impacts on attitudes or beliefs that could advance workplace inclusion. (Cukier et. al., p. 1054–5)

The study also found that discourse surrounding the representation of Aboriginal Peoples and persons with disabilities faded after 1990, while the voices of managers, consultants, and academics replaced those of advocacy groups, grade unions, and government representatives in legitimating the discourse. The researchers concluded that in the Canadian context, there is evidence that companies embrace diversity because it is trendy, even while substantial gaps remain between the rhetoric and practices of inclusion (as evidenced by staggering statics of continued pay inequality). Thus, workplace commitment to diversity is limited in its capacity to bring about social change—and runs the risk of fading away as the managerial rhetoric of diversity falls out of fashion.

4.5.3. Conclusions: Diversity as resource

This section explores two key areas in which Canada has been increasingly using its diversity policy frameworks as a resource, both as a soft-power initiative to improve economic outcomes and its position on the world stage in foreign policy, and also through managerial discourse in the workplace that attempts to sell diversity as an economic benefit to corporations and the next step in the capitalist project. On the surface, such discursive shifts and their translation into policy may not appear problematic—and in fact some scholars have argued that economically and socially focused approaches to diversity may, in some instances, be able to successfully coexist (Barnes & Ashtiany, 2003; Maxwell, 2004; Tomlinson & Schwabenland, 2009).

Such optimistic approaches may downplay the potential for a tangible watering down of diversity's social justice-oriented objectives. The way the government, public and private employers, and private citizens understand diversity shifts as the story of what diversity is and what it stands for is disassembled and recollected under the logic of capitalism and nationalism. Thus, instead of clearly exposing the multitude of historical and structural injustices that contribute to the ongoing injustices faced by those sharing certain group identities, Canada's capitalist and colonialist system is instead able to endogenize some of the critiques that it faces and re-emerge stronger with a façade of care for social justice (Boltanski & Chiapello, 2005).

Diversity itself is often framed as a *competitive* category, best defined as a *product to be managed* rather than a *principle to be upheld* (Aronczyk, 2013). It is divided into productive and non-productive categories, which are used to set the parameters for debate. Productive diversity includes those categories that support the country's overarching capitalist and colonial objectives, including limited forms of workplace diversity deemed to increase economic returns, and the depoliticized, aestheticized aspects of creative cultural expressions (food, festivals, songs, and dance) that are harnessed in the project of Canadian identity building and leveraged to support diplomatic and trade objectives internationally. Furthermore, the selective absorption of certain kinds of diversity allows the country to downplay—or even foreclose on—justice-oriented activism for real diversity objectives, as Canada presents itself as a bastion of tolerance and is rarely called to account for unsolved questions regarding constitutional reform and persistent problems of social and economic injustice faced by certain groups.

4.6. Conclusion

This chapter traced the diversity principle in Canadian policy discourse from the early days of British colonial rule to the present, arguing that diversity as a policy objective has always been deployed in a flexible and partial manner in service of specific economic and nationalist objectives. I have also illustrated how this instrumental view of diversity has evolved over the decades, with a confluence of political and economic factors leading to present-day intensification of the divide between resource-based and social justice-oriented diversity objectives and practices.

In the early days, diversity objectives involved mitigating the threat of divisions within the country, ensuring economic prosperity, and protecting the budding nation against American encroachment. Later, the policy of multiculturalism appropriated convenient aspects of difference to win political support from minority populations and suppress the sovereigntist threat from Québécois and Indigenous national interests. More recently, diversity has served a role for Canada in enhancing its economic performance and building its reputation on the world stage by providing a soft-power avenue for global influence and giving the country an international reputation as a leader in tolerance and social justice.

Today, the performative aspects of diversity (creative expressions, equity policies, and international diplomacy efforts) have transformed the institution into a competitive product that can be managed and exploited. This is apparent not just in the domestic political objectives discussed in this chapter, but as discussed in Chapter 3, is also visible in Canada's exploitation of its role at UNESCO to promote a self-interested resource-based approach to diversity focusing on the economic viability of domestic cultural industries. Canada's new diversity institutions, as they have evolved in both domestic and global policy realms, are far from their roots in social justice activism from ethnic/cultural minority, Indigenous, and francophone populations. What we're left with is a politics of recognition that does not necessarily encompass claims for redistribution. Diversity's absorption into Canada's capitalist and nation-building projects risks purging it of its radical-democratic critique, rendering it a floating signifier devoid of potential for promoting social change.

Chapter 5.

Tracing diversity in Canadian broadcasting policy

An analysis of the diversity principle, as it has been mobilized in both global and Canadian institutional spaces (chapters 3 and 4), demonstrates that, as a policy objective, diversity has frequently been deployed in a flexible and partial manner in service of productive political, economic, or nationalist objectives. Chapters 3 and 4 also demonstrate that diversity objectives are not static, but instead evolve over time in response to myriad global and national political objectives; activism and lobbying from non-governmental organizations, businesses, and individual citizens; and broader geopolitical trends and changes in societal values. Crucially, diversity is not institutionalized uniformly: while a range of external factors frequently influence conceptualization and use of the diversity principle (including its use in other institutional spaces), it emerges and reemerges in unique forms in different institutional, geographic, economic, and political environments.

Given this complexity, this chapter considers the diversity principle as it has developed in one institutional realm: Canadian broadcasting policy, as regulated and monitored by the CRTC. I present a model depicting the ways in which the CRTC interpreted and supported diversity over the years. I developed this model through extensive process tracing incorporating the domestic and global policy objectives described in chapters 3 and 4 as well as a targeted assessment of the genealogy of ideas imbedded in Canadian broadcasting policy specifically. While using such a model risks reductionism, it provides a necessary function by allowing me to organize and draw necessary boundaries around a huge quantity of information in an inconsistently defined policy arena.

I find that, over the years, the commission interpreted the complex policy space surrounding diversity across a few different broad themes: A) cultural variety and liberal equality, which encompasses policies designed to ensure national unity, security, and social cohesion; B) consumer choice, which is reminiscent of US-style broadcasting objectives, and focuses on putting the consumer in charge of making their own news and entertainment decisions; and C) sectoral diversity, which includes debates about the

appropriate degree of ownership diversity in private broadcasting, as well as the type and extent of appropriate supports for public and community-based broadcasting sectors. Each of these themes can be further divided into several policy topics, as follows:

- D. Cultural variety and equality
 - X. Supporting Canadian cultural expression
 - XI. Supporting bilingualism and biculturalism in the broadcast system
 - XII. Creating space for Indigenous cultural expression
 - XIII. Representing and supporting equity-seeking groups
- E. Consumer choice
 - XIV. Facilitating consumer sovereignty in selecting broadcast options
 - XV. Ensuring the system provides adequate genre and program diversity
- F. Sectoral diversity
 - XVI. Supporting private-sector ownership diversity
 - XVII. Supporting local and community broadcasting
 - XVIII. Determining the appropriate role and supports for public broadcasting

This complex policy space juxtaposes the interests of a huge range of stakeholders, including private citizens as well as for-profit and not-for-profit domestic and foreign media firms, advocates of digital innovation, and a variety of organizations speaking on behalf of public, sectoral, or equity-seeking group interests. While the gamut of stakeholders typically agrees that supporting diversity is important, they do not agree on how diversity should be defined, or what the appropriate role for policy should be to achieve it. Stakeholders concerned with specific diversity topics often speak at cross-purposes with those interested in other areas,⁷¹ and stakeholders interested in the same diversity topics may hold opposite views on whether diversity is best mobilized in service of economic or social-justice objectives, and consequently also how diversity should be achieved⁷² (Blake, 2011).

The objective of this chapter is to present this conceptual model, which I revisit in Chapter 8, as an analytic tool to consider the use and evolution of the diversity principle in the CRTC's LTTV proceedings. Each diversity topic I describe represents one tip of a large and complex policy iceberg, each with its own unique history comprising a set of

⁷¹ For example, stakeholders supporting a unified Canadian identity are often at cross-purposes with Indigenous groups seeking cultural sovereignty or other cultural minorities seeking to support groups (Blake, 2011).

⁷² For example, stakeholders disagree on the ideal permissible amount of vertical integration in media industries, with some stakeholders expressing concern about the oligopoly power of Canada's largest firms and others arguing that these firms protect the domestic market from foreign encroachment (Blake, 2011).

official and unofficial policy actors embedded in specific social, economic, and political histories. My intent is not to detail these issues and their histories, as the history of Canadian broadcasting policy is already well documented (e.g., Armstrong, 2016; Raboy, 1990; Salter & Odartey-Wellington, 2008; Vipond, 1994). Instead, I provide a brief introduction to each topic, which I supplement with a more detailed timeline providing a history of major developments in Canadian broadcast regulatory history. The resulting contribution is a reconceptualization of existing literature surrounding diversity, and an analysis of the emergence and development of the main ideas and objectives eventually redeployed in broadcast diversity policy-making.

5.1. Diversity as cultural variety and liberal equality

Concerns surrounding diversity as cultural variety and liberal versions of equality form the basis of much broadcasting diversity policy, and are most closely connected with the normative policy goals discussed in chapters 3 and 4. In broadcasting, goals connected with strengthening Canadian cultural sovereignty, nationalism and tolerance manifest in a variety of policy objectives, including concerns for cultural variety and equality, support for a distinct Canadian cultural expression, support for self-expression by francophone and Indigenous communities, and support for historically marginalized groups (e.g., ethnic minorities, women, and people with disabilities). As demonstrated in Chapter 4, many of these policy goals had little connection to diversity at the time of their development, instead emerging to promote Canadian sovereignty and national unity as an inclusive liberal-democratic state. It is important to note that over the years, the nationalist impetus for these policies has been downplayed in policy discourse, and these principles are now often invoked as supporting national and global diversity of voices.

5.1.1. Canadian cultural expression

This viewpoint has its origins in early nationalism and is embedded in Canada's oldest broadcasting policy discussions. Canadian broadcasters experienced market crises in the early 1920s, as American broadcasters bought into radio stations in Toronto and Montréal, and some large American broadcasters ignored ITU-imposed frequency allocations and used high-power stations to drown out Canadian signals. Given

Canada's enormous landmass and small population, few domestic investors, other than the Canadian Pacific Railway, had the economies of scale sufficient to build national networks. Furthermore, the Canadian government banned commercial broadcasting until 1925, which meant that lightly regulated American stations had greater opportunity to tap into diverse revenue streams. This, combined with larger domestic audiences, enabled American broadcasters to create more and higher-quality programming—upon which multitudes of Canadians quickly came to rely (Stewart, 1985).

The Federal Government responded to these concerns in 1928 by appointing a *Royal Commission on Radio Broadcasting* (the Aird Commission), which was comprised of Canadian loyalists dismayed with Canadian market failure and the US corporate annexation of radio. The commission was asked to address problems related to Americanization of Canadian airwaves, the poor quality of Canadian content, and complaints about advertising (Charlesworth, 1935). Specifically, it was tasked with determining how radio broadcasting could be most effectively done in Canada's national interests. It was the first of its kind to ask questions about who should own and control mass media, how media should be financed, and whether Canada should take steps to promote and protect its own media industries (Vipond, 2011). Its final report was premised on the notion of broadcasting as a powerful tool in “fostering a national spirit and interpreting national citizenship” (Aird, 1929, p. 6), and included a series of recommendations to bolster Canadian cultural expression on the airwaves.

Following the report's release, young Canadian activists Graham Spry and Alan Plaunt established a grassroots movement called the Canadian Radio League to garner public support for public broadcasting among Canadian groups (businesses, trade unions, farm associations, religious groups, and media, among others) and pressure the Conservative R.B. Bennett government to implement the report's recommendations. The campaign was partially successful insofar as it consolidated support for the creation of a national public broadcaster, which was established in 1932 (the Canadian Radio Broadcasting Commission). However, the CRBC's early days were rocky, leading observers (including Plaunt and Spry) to critique the national broadcaster for its low-quality programming and poor management (Vipond, 2011). In contrast to the Aird report's recommendation of establishing a national monopoly, the commercial sector was permitted to continue—establishing Canada's hybrid public-private broadcasting system, which remains in place to this day.

Many of the issues raised by the Aird Commission in 1929, as well as the accompanying nationalist action to promote a distinctly Canadian broadcasting system, still exist today. Those who support policy for Canadian “shelf space” assert that Canadian stories are unique, valuable, and often very popular when heard—but in the absence of protective measures, are easily lost amid enormous amounts of better-resourced American programming (Copps, 1999; Grant & Wood, 2004). Canada has a “cultural toolkit” of measures that it employs to ensure continued shelf space for Canadian cultural expression, including content and scheduling quotas, public broadcasting, spending rules, national ownership requirements, competition policy, and industry subsidies (Grant & Wood, 2004). While these measures are viewed by some (especially south of the border) as brazen industry protectionism (Balassa, 2008; U.S. Embassy, 2005) and a barrier to free speech (U.S. Embassy, 2005; US Mission to UNESCO, 2005), proponents (such as the cultural industries SAGIT that promoted the UNESCO CDCE) argue that they are justified in cultural industries because of the curious economics (Grant & Wood, 2004) that surround them (Standing Committee on Canadian Heritage, 2003a). Furthermore, new activist organizations and watchdogs have emerged in the spirit of the Canadian Radio League to lobby for Canadian national interests in the form of public broadcasting and cultural protectionism, including highly-visible and well-supported national groups such as *Friends of Canadian Broadcasting* (Friends of Canadian Broadcasting, 2018) and loosely-affiliated citizen groups such as *Public Broadcasting in Canada for the 21st Century* (PBC21, 2016).

The argument in favour of the cultural toolkit posits that cultural products are not interchangeable, even when they share similar characteristics. For example, one might point to the CBC-produced dramedy *Little Mosque on the Prairie*, which tells the story of a religious minority building a community in the Canadian Prairies, as offering a unique cultural contribution that would be unlikely to arise in the American social and political environment. However, even when Canadian products are popular, it can be difficult for products geared toward the small domestic market to recover costs (Salter & Odartey-Wellington, 2008) and a “cultural discount” can make it difficult to market Canadian-centric products abroad (Ritchie, 1997). Those in favour of measures to support Canadian cultural industries therefore see the cultural toolkit not as industry protectionism, but as a series of measures to level the playing field between Canadian industries and their bigger, better-resourced American counterparts. Stakeholders

interested in assured shelf space for Canadian products argue that without measures to protect Canadian content, Canadian media would increasingly resemble the American system and uniquely Canadian material would become sparse (Salter & Odattey-Wellington, 2008).

On the other hand, critics argue that cultural protectionism tethers creative workers to “the paternalistic attentions of politicians and bureaucrats,” leading to regulatory capture and cultural policies aimed at protecting the interests of industry producers and government officials (Acheson & Maule, 2006, p. 1149). Protections for Canadian cultural expression can be a trade irritant, particularly in relation to American producers, who view entertainment as a commodity good that should be traded on the free market. Furthermore, Canadian content provisions are often accused of facilitating low-quality programming that is artificially sheltered from much-needed global competition (Salter & Odattey-Wellington, 2008).

As table 5-1 demonstrates, the bulk of Canada’s cultural toolkit for broadcasting was developed by the end of the 1970s. Raboy (1998) argued that this degree of support for broadcasting’s social objectives was short-lived, with the 1980s marking “a shift from the political to the economic, and the eclipse of the traditional sociocultural objectives of broadcasting in Canada” (p. 95). In particular, Raboy pointed to the Applebaum-Hébert Report (Report of the Federal Cultural Policy Review Committee) as leading the charge in a gradual withdrawal of financial responsibility for public broadcasting (leading to cuts to the CBC from the 1980s onward), the privatization of TV production through the development of Telefilm, and the introduction of a number of new commercial cable channels.

This normative shift away from Canadian cultural objectives was also visible in the rollback of Canadian cultural production supports in the CRTC’s 1999 television policy, *Building on Success: A Policy Framework for Canadian Television*. The policy touted the success of Canadian broadcasting and advanced the premise that continued success required a regulatory framework prioritizing flexibility, diversity, and choice. To these ends, the policy made several major adjustments to its Canadian television cultural toolkit: abandoning requirements for minimum expenditures on Canadian programming, including entertainment shows as a priority genre, and including reality TV as a “drama” program under PNI requirements (CRTC, 1999a).

In 2007, an independent review found that the framework for supporting drama as set out in the 1999 *Television Policy* “had not been very effective” based on an overall decrease in viewership for Canadian drama and a 15% decline in expenditures by private conventional television stations between 2005 and 2006 (Dunbar & Leblanc, 2007, n.p.). The authors recommended that the commission investigate the requirement for incentives for specific programming genres, and study better mechanisms for incentivizing production and exhibition of Canadian content in certain genres. In 2010, the CRTC took a step back from its shift to flexibility and reliance on market forces, and reintroduced expenditure requirements for Canadian programming by conventional stations and networks, effectively reversing the most damaging aspects of the 1999 *Television Policy*. The commission did not undertake another major review of its policies for supporting Canadian cultural expression until the LTTV proceedings in 2013.

Table 5-1. Key policy events related to Canadian cultural expression

Year	Event	Summary
1920s		
1929	Release of the Report of the Royal Commission on Radio Broadcasting (“Aird Commission”)	Identified broadcasting as a crucial tool for nation-building and recommended the development of a national monopoly.
1930s		
1930–1932	Canadian Radio League established	Lobbied the government to implement the Aird Commission’s recommendations, particularly related to the development of public broadcasting.
1931	Supreme Court and the Judicial Committee of the Privy Council rule that broadcasting should be under federal jurisdiction	Puts the Federal Government in charge of this important nation-building tool, despite provincial jurisdiction over culture and education.
1932	Release of first Radio Broadcasting Act	Establishes the CRBC. Envisions the eventual Federal Government takeover of all radio.
1936	CRBC is disbanded and CBC created	The CBC is given a nation-building mandate.
1940s		
Late 1940s/early 1950s	Development of television	Television develops more quickly in the US, and many Canadians received unfettered access to American border stations. This led to questions about how Canadian television should be developed and regulated.
1950s		
1951	Massey Commission Report released	Supported at least partial government ownership of the broadcasting system, out of fear of Americanization. Viewed the CBC as a saviour for Canadian nationalism. Portrayed commercial culture and the mass media as a threat to cultural tradition and Canadian sovereignty. See Chapter 4.

1957	Fowler Commission Report released	Raised similar concerns to the Aird and Massey commissions about American cultural imperialism. Set out airwaves as public goods and recommended that broadcasters be held to standards of quality to retain their licenses. Formed the basis for the 1958 <i>Broadcasting Act</i> . See Chapter 4.
1958	New Broadcasting Act released	Declares that broadcasting should be “basically Canadian in content and character,” setting the stage for the first Canadian content regulations for television.
1960s		
1960	First private TV station licensed	CFTO-TV Toronto, which became the flagship for CTV. The introduction of private sector TV generally increased the number of American programs rebroadcast in Canada (Armstrong, 2016).
1960	First Canadian content requirements for TV come into effect	Implemented by the Board of Broadcast Governors. Required that 55% of all TV broadcasting be “basically Canadian in content and character” (Board of Broadcast Governors, 1988, p. 303).
1968	Canadian Broadcasting Act	Sets out the system as “effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada” (Government of Canada, 1988, p. 374).
1968	Directive to CRTC, re: Canadian ownership of cable companies	This was the first directive from the Governor-in-Council to the CRTC. Required that cable companies be Canadian owned.
1970s		
1970	CRTC begins to use regulations and policies to implement CanCon	The CRTC issues a press release saying it will not allow more than 40% non-Canadian programs on TV, and not more than 30% of TV programs to come from any one country outside of Canada (Armstrong, 2016, p. 44).
1971	CRTC releases “Canadian Broadcasting: ‘a Single System’: Policy Statement on Cable Television”	Sets out rules surrounding the use of simultaneous substitution to support Canadian broadcasters, as well as the relative priority of Canadian services.
1976	Bill C-58	Makes Canadian advertisements placed on US border stations ineligible for tax deductions. Aimed at keeping advertising dollars in Canada.
1976	CRTC releases its “commercial deletion” policy	The CRTC allowed cable companies to delete advertisements from US border stations and replace them with Canadian public service announcements. This practice was eventually banned amid outrage from American broadcasters.
1980s		
1982	Release of Applebaum-Hébert Report (<i>Report of the Federal Cultural Policy Review Committee</i>)	Recommends that the CRTC require private sector broadcasters to allocate percentages of their programming time, production, and revenues to original Canadian program production

1983	CRTC releases “priority programming” regulations	Binds industry development and Canadian content by setting minimums for Canadian drama, music, and variety shows and tying broadcast licence allocations to expenditure commitments.
1983	Establishment of Telefilm Canada’s Broadcast Fund	Recommended in Applebaum-Hébert Report to support independent producers.
1987	CRTC adopts first CanCon spending requirements for conventional broadcasters	CTV is first conventional broadcaster given spending requirements.
1988	Release of Caplan-Sauvageau <i>Task Force on Broadcasting Policy</i> Report	Calls for a removal of the CBC’s national unity mandate, an increase in Canadian content expenditures on private services, and some government support for the private sector in return for greater contributions to the objectives of the <i>Broadcasting Act</i> .
1989	Signing of Canada-US Free Trade Agreement	Canada negotiates an exemption for cultural industries, including broadcasting. Canada also re-writes the <i>Copyright Act</i> to require broadcast distribution undertakings (BDUs) to pay for retransmission of American signals.
1990s		
1994	NAFTA enters into force	Canada negotiates an exemption for cultural industries, including broadcasting.
1995	CRTC initiates Cable Production Fund	Designed to support the creation of Canadian programming in priority areas, such as drama. In 2010, merged into the Canadian Media Fund.
1996	Department of Communications disbanded	The Department of Canadian Heritage takes over broadcasting’s social responsibilities, while technical responsibilities (e.g., spectrum allocation) are allocated to Industry Canada.
1999	CRTC releases “Building on success—a policy framework for Canadian television”	Abandoned requirements for minimum expenditures on Canadian programming; designated entertainment shows as a priority genre; included reality TV as a drama program under PNI requirements.
1999	CRTC designates “priority” program	Included drama, music and dance, variety programs, long-form documentary, Canadian entertainment shows, and some locally produced content.
1999	CRTC issues new media exemption order	Makes a strategic decision to allow over-the-top services to evolve without regulation (CRTC, 1999b). The commission updated and expanded this exemption in 2012 (CRTC, 2012a).
2000s onward		
2003	Release of “Out Cultural Sovereignty” Report of the Standing Committee on Canadian Heritage (The “Lincoln Report”)	Heavy focus on Canadian cultural sovereignty and creating attractive Canadian programming: recognizes expensive nature of producing CanCon and therefore the need for stable long-term funding (Standing Committee on Canadian Heritage, 2003a).
2005	Canada ratifies the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions	The Convention affirms Canada’s right to use measures such as public broadcasting, content quotas, and subsidies to support its cultural industries in a globalizing environment. See Chapter 3.

2010	CRTC introduces “Programs of National Interest” designation	Applies to drama, comedy, long-form documentary, Canadian award shows. The previous exhibition requirement was also replaced with a spending requirement.
2010	CRTC reintroduces expenditure requirements for Canadian programming by conventional stations and networks	Reversal of 1999 “Building on success—a policy framework for Canadian television,” which had seriously impeded drama production.

5.1.2. Bilingualism and biculturalism

Chapter 4 discussed the long history of conflicts surrounding and accommodations for bilingualism and biculturalism within the Canadian constitutional framework, and it is from this political history that official policies surrounding bilingualism and biculturalism in broadcasting are derived. Raboy (1998) argued that broadcasting has presented a particularly interesting arena for airing Canada’s constitutional politics: on the one hand, there have been various federal attempts to instil equality in the historic partnerships between Canada’s two “founding peoples,” in part because of the need to negotiate challenges to political unity. These attempts at devising unity through diversity can be traced throughout a number of Royal Commission reports and recommendations (see table 5-2). At the same time, actual policy results have been (at best) much more mundane, and (at worst) highly partisan, as broadcasting was mobilized as a policy apparatus against Québec nationalism. In particular, two major issues continually bubble to the surface of bilingual and bicultural broadcasting policy debates: continual jurisdictional disputes over broadcast regulation between Québec and the Federal Government (Armstrong, 2010), and perpetually poor access to French-language programming outside of Québec (Hill+Knowlton Strategies, 2014d; Laurendeau & Dunton, 1970; Therrien, 1980).

Federal-provincial jurisdictional disputes over broadcast regulation began in the earliest days of broadcast policy when, in 1929, the Taschereau-led Québec government passed legislation allowing it to establish a new radio station and produce programming for already established stations. Three months later, the Aird Commission tabled its report on broadcasting, calling for a single system and putting broadcast regulation squarely under federal authority (Armstrong, 2010). The Québec government refused to accept the federal claim to jurisdiction over broadcasting, and passed legislation granting

it exclusive authority to licence radio stations in the province in 1931. In justification for the decision, Québec, with support from Ontario and New Brunswick, cited the allocation of provincial responsibility over “property and civil rights” and “matters of merely local or private nature in the province” within the British North America Act (BNA) (Armstrong, 2010). The Federal Government referred the question to the Supreme Court of Canada, which determined that, since radio waves could easily cross provincial boundaries, broadcasting was indeed a federal responsibility.

For Québec nationalists, federal broadcast policy is viewed as, at best, an unwillingness to recognize the distinctiveness of Québec, and at worst, a mechanism with which to meddle in Québécois identity building. For example, even while the *Royal Commission on Bilingualism and Biculturalism* conducted its research to facilitate the “equal partnership” between Francophone and Anglophone Canada (see Chapter 4), the Pearson government publicly used broadcasting as a strategic weapon against Québec’s growing nationalist movement (Raboy, 1998, p. 93), for example by including a clause mandating the CBC to create “national unity” in the 1968 *Broadcasting Act* (Government of Canada, 1988, p. 375).⁷³ Later, while both the *Task Force on Broadcasting Policy* (Canada, 1986) and the government report, *Canadian Voices, Canadian Choices* (Communications Canada, 1988) recognized the importance of serving anglophone and francophone communities as “different societies,” the 1992 Standing Committee Report (*The Ties that Bind*) reasserted the importance of maintaining federal authority over broadcasting (Standing Committee on Communications and Culture, 1992). In 1996, the Federal Government disbanded its department of communications and created the *Department of Heritage*, which was viewed by many in Québec as a form of federal regulatory creep into provincial jurisdiction over culture. In 2006, the Federal Government granted Québec the right to maintain representation at UNESCO—even though the recent 2003 Heritage Standing Committee Report (*Our Cultural Sovereignty*) had taken a strongly nationalist view toward cultural development (Standing Committee on Canadian Heritage, 2003a, p. 860) and the government continued to set aside Québec’s demands for jurisdictional control over broadcasting (Canada & House of Commons, 2007, p. 1393).

⁷³ This wording was removed following a recommendation by the Caplan-Sauvageau task force and in response to Bill C-136 in 1988.

Concerns about lack of access to French-language programming outside of Québec have also emerged time and time again in major royal commissions, including the Massey Commission (1951) as well as the Laurendeau-Dunton reports (1970) and the Therrien Report (1980). While technological advances in cable and satellite have improved access to French-language programming across the country, concerns remain about the cost of accessing French content that is not included in basic cable packages. The *Official Languages Act* mandates that federal institutions, including the CRTC, enhance and support the development of official language minority communities and foster the full recognition and use of both French and English in Canadian society (Minister of Justice, 1985). The CRTC recognizes its responsibility to improve the availability of content for official language minority (OLM) communities, and the commissioners meet with an Official Language Minority Discussion Group biannually discuss barriers and facilitate OLM participation in broadcasting policy proceedings (CRTC, 2013b, p. 11).

Table 5-2. Key policy events related to bilingualism and biculturalism

Year	Event	Summary
1929	First Québec-Canada jurisdictional disputes about broadcasting	Under the leadership of Louis-Alexandre Taschereau, the Québec government passed legislation that allowed it to establish a radio station and produce its own programs for other stations.
1931	Québec government gives itself licensing authority	The Government of Québec passed legislation giving itself exclusive licensing authority within the province. This leads to a Supreme Court challenge.
1931/ 1932	Supreme Court ruling on broadcasting jurisdiction	The Supreme Court of Canada and the Judicial Committee of the Privy Council of Great Britain ruled that broadcasting would remain under federal jurisdiction.
1932	Establishment of the CRBC	Set out a single national service in English and French, with audiences hearing exactly the same programming in the two languages. Took the view that there is only one audience made up of two language groups (Raboy, 1998).
1934 and onward	CRBC moves to “parallel services” in English and French	Done due to the refusal of anglophone audiences to accept the presence of French on their airwaves (Raboy, 1998). Process completed by 1941.
1949– 1951	Massey Commission proceedings and report	During the proceedings, Québec asserted jurisdiction over education and culture. Argued that there can be no unity without diversity (Raboy, 1990). Commission report found that CBC French-language services were inadequate outside of Québec.
1957	Fowler Commission (Royal Commission on Broadcasting) Report released	Like the Massey Commission, found that access to French-language programming was poor outside of Québec.

1958–9	Radio-Canada producers' strike	Producers at Radio-Canada wanted to be affiliated with the Confédération des travailleurs catholiques du Canada (CTCC), but this was never accepted by Ottawa. The strike galvanized Canada's two solitudes.
1960s	Rise of Québec nationalism and the Quiet Revolution	Began a political divide within the province into federalist and sovereigntist factions. See Chapter 4.
1961	Creation of Québec Ministry of Cultural Affairs (MACQ)	Designed to develop Québec cultural activities and institutions and to support French-speaking Canadian identity building.
1963	Pearson government publicly identifies broadcasting as a strategic weapon against Québec nationalism	In 1964, Secretary of State Maurice Lamontagne announced intentions to centralize federal cultural responsibilities in his office and create a cabinet committee on cultural affairs. He identified the CBC as a key player in facilitating "understanding, moderation and unity" (quoted in Raboy, 1998, p. 93).
1963–1970	Activities and release of reports of the <i>Royal Commission on Bilingualism and Biculturalism</i>	Drew a strong link between language and culture. Led to the creation of the <i>Official Languages Act</i> (1969) and the creation of minority-language education rights.
1968	<i>Canadian Broadcasting Act</i>	Set out requirement that that national broadcasting service operate in both English and French and included a national unity clause for the CBC.
1970s	Continued push from Québec to create its own communications system and policy	Québec started licensing its own broadcasters; eventually brought before the Supreme Court, which ruled in favour of federal jurisdiction (again) in 1977.
1976	Trudeau government asks the CRTC to look into coverage of the Québec sovereigntist movement on the CBC	Demonstrated the government's political expectations for the national broadcaster.
1980	Report of the Committee on Extension of Service to Northern and Remote Communities (the Therrien Committee), "The 1980s, a decade of diversity: broadcasting, satellites, and pay-TV."	Noted that alternative French-language service was only available in Québec and parts of Ontario, and recommended that the needs of French-speaking Canadians be taken into account, including by carrying French and English services on the same satellite.
1988	Caplan-Sauvageau task force (<i>Task Force on Broadcasting Policy</i>)	Recommended that the broadcasting system recognize the distinctive character of Québec, and that CBC English and French services be recognized as serving "different societies." Recommended increasing the CBC's French language budgets and removing its national unity mandate.
1988	Government releases <i>Canadian Voices, Canadian Choices</i>	Recognized that French and English language broadcasting operate under different conditions and may have different requirements. Reaffirmed the importance of having the operate CBC in both languages.
1992	Release of Standing Committee on Communications and Culture Report, <i>Culture and Communications: The Ties that Bind</i>	Looked for links between cultural identity, cultural diversity, political unity, and the communications system amid the crisis of Québec nationalism.

		Recommended the continuation of federal authority over broadcasting and telecommunications. Contrasted with Québec's calls for provincial jurisdictional power.
1996	Department of Communications disbanded	Creation of the Department of Heritage viewed in Québec as an unacceptable regulatory creep into provincial jurisdiction over culture.
2005	Québec is the first government to ratify the <i>UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions</i>	Québec was heavily active in negotiations from the start, using them as a space to affirm its cultural sovereignty on within a global institution (see Chapter 3).
2006	Québec and Canada sign an agreement that gives Québec the right to maintain government representation at UNESCO	Gave Québec an indirect role in negotiating federal cultural policies, including those related to broadcasting (see Chapter 3).

5.1.3. Indigenous cultural expression

To this day, Indigenous voices and concerns continue to be underrepresented and misrepresented in mainstream media, in part because of the tendency to use conflict frames⁷⁴ when reporting news, and also because most journalists are themselves unfamiliar with Indigenous communities (Fleras, 2011b). This translates into mainstream stories in which Indigenous Peoples are either romanticized as cultural icons in the great project of Canadian identity building (Mackey, 1999), or depicted as “problem people” (Fleras, 2011b, p. 215) in stories that omit discussion of the structural challenges imposed on these communities through Canada’s colonial past and present (Simpson et al., 2011).

From the early days of satellite development in the late 1960s, Indigenous communities have been highly active in projects and discussions surrounding their right to cultural sovereignty, in part through development of their own broadcasting systems (Roth, 2014). Following the launch of Canada’s first communications satellite (Anik A-1) in 1972, some Indigenous communities refused to receive southern signals for fear that they would disrupt their cultural traditions and pose a threat to linguistic autonomy (Roth, 2005). Some communities that did receive southern signals were frustrated with their abysmal treatment in mainstream broadcasting (Roth, 2014). With the support of their communities, Native communications societies responded to uneven south-north

⁷⁴ Conflict frames are journalistic devices that “emphasize conflict between individuals, groups, or institutions as a means of capturing audience interest” (Semetko and Valkenburg, 2000, p. 95).

communication flows by creating their own content—some of which they were eventually able to sell to southern public broadcasters—and lobbying for the development of a Native broadcasting policy to address the specific needs of Indigenous broadcasters serving rural or remote communities.

In 1980, the Therrien Committee responded to Indigenous activism by formally recognizing the importance of Aboriginal media for cultural development. The committee's influential report, *The 1980s: A Decade of Diversity*, included several assertions and recommendations surrounding broadcasting access and support in northern regions:

- Access to broadcasting and distribution systems is crucial to support Indigenous languages and cultures.
- Northern residents deserve better access to programming. This can be achieved through better use of new technologies.
- Indigenous Peoples in northern regions should be involved in CRTC decisions that impact programming in their communities.
- Northern Indigenous communities deserve fair access to their broadcasting distribution systems.
- The government should consult with northern Indigenous communities when establishing broadcasting policies that could impact their cultures and communities. (Therrien, 1980)

Combined with continued activism from Indigenous communities, the Therrien Report laid the political groundwork for a series of policy decisions to support the development of Indigenous broadcasting in the early 1980s. The most important of these included the development of the first *Northern Broadcasting Policy* and supporting *Northern Native Broadcast Access Program* (to fund broadcasting endeavours) in 1983, followed by the *Native Broadcasting Policy* in 1990 (CRTC, 1990b), which granted a special licencing category with considerable programming autonomy to Indigenous community broadcasters. The 1991 *Broadcasting Act* further enshrined Indigenous rights to broadcasting in Canada, instilling the broadcasting system with the responsibility to reflect the “special place of Aboriginal peoples” within Canadian society (section 3.d.iii).

Today, Indigenous broadcasting consists of one large national network (the Aboriginal Peoples Television Network, henceforth APTN) and several not-for-profit community-based broadcasters. The APTN was established with the expansion and re-

branding of the Indigenous network Television Northern Canada (TVNC) in 1998. The network receives 9(1)(h) mandatory carriage⁷⁵ nation-wide and additional funding through advertising revenues (Widdowson & Davidson, 2009), and is in the process of negotiating the launch of a sister network (All Nations Network) in the United States' cable market (Steinberg, 2016). Indigenous producers receive dedicated support through the Aboriginal stream of the Canadian Media Fund (Canadian Media Fund, 2018a), although programs produced by and featuring Indigenous Peoples remain scarce on mainstream television (Low & Nordicity, 2016).

While access to television has generally improved for remote First Nations' communities, the battleground for Indigenous cultural production is shifting to address ongoing problems related to broadband access in rural and remote communities. In urban centres, Indigenous youth show similar internet use patterns to other ethnic youth (Roth, 2014); however, internet service providers (ISPs) have historically not been required to develop infrastructure in rural or remote areas and there is little business case for them to do so. Over the years, initiatives to bring improved broadband infrastructure to these communities have faced multiple constraints, including funding challenges and ambiguous, fragmented government policies developed in centralized, urban-institutional environments (McMahon et al., 2011).

In well-connected places, the internet has been a useful outlet for Indigenous cultural expression. For example, the First Peoples' Cultural Council has an elaborate online language archive including downloadable drivers so Indigenous characters can be included in typeface, as well as language tutorials, games (FirstVoices, 2013), and language apps (Lavoie, 2011) to encourage young people to refine their skills. Isuma TV, a collaborative multimedia platform for Indigenous filmmakers and artists, offers media producers the opportunity to operate their own media websites to share their work. The platform, which uses icons and colour-coded language to ensure accessibility for oral cultures, currently carries over 5,000 Indigenous-made videos in over 70 languages from Indigenous communities in Canada and around the world (Isuma TV, 2015). On a local level, award-winning grassroots communications organizations such as Northern Ontario's Wawatay Native Communications Society make extensive use of

⁷⁵ Section 9(1)(h) of the Broadcasting Act allows the CRTC to require that certain services be distributed with all regulated subscription television services. It is used to support services that make exceptional contributions to meeting the requirements of the Broadcasting Act.

new digital platforms to offer local multimedia content including audio, photos, video, and text in English and traditional languages, while also offering an online streaming service so their radio broadcasts can be enjoyed across Canada (Wawatay News Online, 2015).

In an important decision in late 2016, the CRTC ruled that modern telecommunications services would henceforth be part of its universal service objectives for telecom due to their crucial role in securing “Canada’s future economic prosperity, global competitiveness, social development, and democratic discourse” (CRTC, 2016b). The ruling included a five-year \$500 million commitment to improve broadband in high-cost service areas, and was described by Indigenous broadband policy researchers and advocates First Mile Connectivity Consortium (FMCC) as a “big win for rural and northern communities,” with potentially “transformative” results (FMCC, 2016). However, the FMCC has cautioned that even with new financial supports, market forces alone will be insufficient to close the connectivity gap in many remote and northern communities, which will require the development of a long-term plan with tangible timelines and goals.

Table 5-3. Key policy events related to Indigenous cultural expression

Year	Event	Summary
1900s–1970s	Media coverage of Indigenous communities characterized by misrepresentations, absences, and stereotypes. Federal policy favoured assimilation and cultural genocide. Media are produced in the southern part of the country only (Roth, 2005).	
1950s–1960s	Aboriginal voices included through Northern CBC radio and community stations	CBC North expected to include some coverage in Indigenous languages.
1967	CB Frontier Coverage Program established	Introduces television to northern communities by providing videotapes from Southern broadcasts. Does not include locally produced television content.
1968–1981	First Peoples become more active in media debates, particularly surrounding Northern satellite priorities. First north-to-north intra-regional media experiments (Roth, 2005).	
1970s	Increased bottom-up activism surrounding Indigenous broadcasting	Spearheaded by Indigenous groups in response to poor representation in mainstream media. During this time, 13 native communications societies developed across the north.
1972–1973	Canada launches the ANIK A-1 satellite	The CBC begins delivering its southern TV service to the North. Some Indigenous communities initially refuse to receive television for fear of damage to local cultures.
1978–1992	Northern territories surveyed, and the first policy principles are developed for Aboriginal broadcasting. Development of first north-to-north interregional media. Native Communications Societies produce their own programming, some of which they sell to southern public broadcasters (Roth, 2005).	

1980	Releases of <i>A Decade of Diversity</i> (Therrien Committee Report)	Emphasizes northern Indigenous communities' concerns about the impacts of southern services on their languages and cultures. Recommends that the Federal Government support the development of Indigenous broadcasting. The CRTC publicly endorsed these recommendations.
Early 1980s	Native Communications Societies lobby for a Native Broadcasting Policy	Societies come together to lobby for a policy that will help enshrine their communications rights (Roth, 2005).
1981	Establishment of the Inuit Broadcasting Corporation	IBC was the first Indigenous language TV network in North America, broadcasting mostly in Inuktitut. The network showcases Inuit culture.
Early 1980s	CRTC licences the Canadian Satellite Telecommunications Company	Delivers southern-based programming into rural and remote (mostly northern) communities.
1983	Federal Government announces <i>Northern Broadcasting Policy</i> and the <i>Northern Native Broadcast Access Program</i>	Designed to support Indigenous production in television and radio in northern regions. Note that this government initiative did not include support for Indigenous broadcasting elsewhere in Canada.
1985	CRTC releases CRTC 1985-274 Northern Native Broadcasting	The policy release followed consultations with northern stakeholders. Notes that "continued development of native broadcasting will play an integral role in reinforcing the unique cultural and linguistic distinctions of Canada's native people" (CRTC, 1985).
1990	CRTC issues its Native Broadcasting Policy (CRTC 1990-89)	Defines "native" broadcasters and requires them to be non-profit; imposes some linguistic requirements; does not impose promises of performance as a licence condition (CRTC, 1990a).
1991	<i>New Broadcasting Act</i>	Enshrines the requirement that the broadcasting system recognize the "special place of Aboriginal peoples" within Canadian society (section 3.d.iii).
1992	Launch of <i>Television Northern Canada</i>	Designed to provide Indigenous Peoples with "access to a native-controlled broadcasting service dedicated to meeting their specific linguistic and cultural needs" (CRTC, 1991a). Expanded to become the APTN in 1999.
1992–present	Development of multidirectional media exchange and collaboration (Roth, 2005). Development of digital technologies bring challenges associated with access and the digital divide, but also provide new spaces for innovation in Indigenous content creation and sharing (McMahon, O'Donnell, Smith, Woodman Simmonds, & Walmark, 2010).	
1994	Federal Government cuts budget to the Northern Native Broadcast Access Program	Cuts amount to over 20% over three years (NIAMC, 2018).
1999	<i>Television Northern Canada</i> rebranded as the <i>Aboriginal Peoples' Television Network</i>	APTN was added to all specialty TV services, making it the first national public TV network for First Peoples. The APTN operates on a 9(1)(h) licence and receives funding through both advertising and a mandated per-subscriber fee paid to them by cable carriers.

2016	APTN begins negotiating for US carriage	The network plans to launch a similar American cable service, which would be called “All Nations Network” (Steinberg, 2016).
2016	CRTC designates modern telecommunications services as a universal service objective	Includes a \$500m fund to support broadband upgrades in high-cost services areas.

5.1.4. Voice for equity-seeking groups

As discussed in Chapter 4, multiculturalism and liberal tolerance are key building blocks for Canadian identity and economic development. In broadcasting, representation rights are uneven for different categories of equity-seeking groups, with the allocation of designated inclusion provisions following the same patterns established in the broader Canadian political sphere.

Upon receipt of the first third-language broadcasting application in 1962, the regulator struggled with how to best accommodate ethnic and third-language communities in the broadcasting system, and how to best manage concerns about the potential impact of ethnic programming on immigrant integration (Edwardson, 2004). Even after the entrenchment of ethnic programming (following a recommendation by the Bi and Bi Commission that restrictions be lifted in 1969), some observers continually rejected broadcasting targeting specific subcultural markets as creating “alternative broadcasting for alternative Canadians” (Thomas, 1992). Some argued in favour of mandatory affirmative action programs to ensure minorities are represented not only on screen and on the airways, but also in broadcast management and within the CRTC (Thomas, 1992). This account viewed multicultural inclusion as a key aspect of Canadian identity and nation building, wherein multiple cultures together are believed to contribute to a cohesive national identity (Mackey, 1999). On the other hand, alternative and third-language media that serve distinct groups are viewed as manipulative “special interest groups” that disrupt immigrant integration into the greater Canadian social fabric (Fleras, 2009).

Other observers have argued that simply including marginalized faces in mainstream media risks tokenizing these groups, and that marginalized voices benefit more from alternative media that focus on their unique needs and interests. Murray, Yu and Ahadi (2007) argued that mainstream media often brands multiculturalism “as song

and dance and celebration” (p. 8), thereby neglecting the inherently contingent and changeable nature of an individual’s ethnic identity (Brass, 1991). In contrast, media that are designed for specific cultural groups are more likely to cover news and issues that affect their communities (Murray et al., 2007, p. 8), and are also more likely to use familiar languages and storytelling techniques that may differ from the “European methods” that dominate mainstream media (Valaskakis, 1998). By offering equity-seeking groups an opportunity to express themselves, alternative media can help these communities promote their interests through alternative discourses (DeSouza & Williamson, 2006) while also offering crossover points for intercultural awareness and exchange (Fleras, 2009).

Ethnic minorities and Indigenous Peoples are indirectly granted representation rights through Canada’s official policy of multiculturalism (Canada & House of Commons, 1971) and the Multiculturalism Act (Government of Canada, 1988b). These values are reflected in the Broadcasting Act (1991), which requires that the Canadian broadcasting system reflect the circumstances and aspirations of Canadians, including Canada’s “multicultural and multiracial nature” and the “special place of Aboriginal peoples” in Canadian society (Section 3.d.iii). The CRTC enacts this expectation through provisions allowing for Aboriginal broadcasting (which receives some subsidies and market protection, as discussed in section 5.1.4) and third-language programming options (which are market-driven and do not receive any special protections). As of 2001, the commission also requires that all broadcasters file a corporate plan to improve cultural diversity and representation of visible minorities and Aboriginal Peoples on-air and in management positions, and to file annual reports with the commission detailing the actions they have taken to improve on- and off-screen cultural diversity (CRTC, 2001). However, it is unclear how—if at all—the regulator uses this data.

While the Broadcasting Act does set out an expectation for multicultural representation, the CRTC has tended to treat ethnic and third-language broadcasting as a market-based endeavour. Early broadcasters thus faced challenges in developing workable business models, in part due to the need to aggregate small markets, negotiate with broadcast distribution undertakings (BDUs) that did not wish to carry their

signals, and meet Canadian content requirements on low budgets.⁷⁶ Today, both ethnic/third-language broadcasters and mainstream broadcasters continue to aggregate and cultivate audiences based on a market-based response to identified changes in audience demographics, rather than through social justice-oriented diversity objectives. Despite ongoing problems in developing equitable representation in on-air and management positions (Cukier et al., 2010), the CRTC has few mechanisms for monitoring diversity in the broadcasting system and enforcing tangible objectives to improve representation.

Other equity-seeking groups, including women, LGBTQ+ people, and people with disabilities, are not granted special status in the Broadcasting Act and thus do not have any formalized positive rights for representation in broadcasting.⁷⁷ However, the *Charter of Rights and Freedoms* (Government of Canada, 1982) protects these groups by codifying the right to freedom from discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental and/or physical disability. This is enacted in broadcasting through an elaborate framework of policies housed across regulatory and professional associations,⁷⁸ which offer protections from certain kinds of negative broadcasting coverage such as content that promotes stereotypes,⁷⁹ unnecessarily lists details about a person's race, ethnicity, or colour in news stories,⁸⁰ or in any way glorifies violence against certain groups.⁸¹ Narrowcast specialty channels have emerged in recent years to target certain equity-seeking demographics, specifically OUTtv (targeting LGBTQ+ people) and the W Network (targeting women). These are market-based endeavours established by private media firms in response to the emergence of potentially lucrative market niches, and are subject to the similar requirements and expectations as other specialty broadcasters.

⁷⁶ For a detailed account of the history of ethnic and third-language broadcasting, see: Edwardson (2004); Fleras, (2011); Hayward (2012); and Roth (1998).

⁷⁷ The Broadcasting Act does state that the system should make programming *accessible* for peoples with disabilities as resources become available (section 3.1.p).

⁷⁸ Most are housed at the CRTC, Canadian Broadcasters Association (CAB), Canadian Broadcast Standards Council (CBSC), and Canadian Association of Journalists (CAJ).

⁷⁹ E.g., the Canadian Association of Journalists (CAJ) *Ethics Guidelines* (2011); CRTC Policy Framework for Canadian Television, (1999a).

⁸⁰ CAJ *Ethics Guidelines* (2011).

⁸¹ Canadian Broadcast Standards Council, CAB Violence Code (1993).

Table 5-4. Key policy events related to support for equity-seeking groups

Year	Event	Summary
1962	Board of Broadcast Governors announces its policy for third-language radio broadcasting	Permitted ethnic broadcasting if broadcasters would also provide listeners with information about Canadian history, politics, and society, and provide English or French instruction (Edwardson, 2008).
1969	Release of the <i>Royal Commission on Bilingualism and Biculturalism</i> Book IV (“The Cultural Contribution of the Other Ethnic Groups”)	Recommended that the CRTC remove restrictions on private third-language broadcasting and conduct research on the portrayal of other cultural groups in broadcasting (1969b, p. X). Dismissed calls for greater diversity on policy-making broadcasting board (p. 193).
1971	Federal Government adopts its official policy of multiculturalism	The government’s commitments to promote creative interchange and provide resources to cultural groups wishing to grow and contribute to Canada (Canada & House of Commons, 1971) are aligned with third-language broadcasting objectives.
1979	The CRTC licenses the first third-language TV broadcaster (<i>Multilingual Television Ltd.</i>)	Provided programming to Toronto’s ethnic communities; included 30% English programming, 10% French programming, with the remainder in two dozen other languages (Hayward, p. 207). The station struggled financially, in part because BDUs were reluctant to offer the service to consumers.
Early 1980s	Development of cable	Expanded capacity for specialty channels, including greater ability to licence third-language broadcasters.
1982	<i>Canadian Charter of Rights and Freedoms</i>	Charter protects equity-seeking groups from discrimination in broadcasting.
1984	<i>Equality Now!</i> Report	Provided a series of recommendations for supporting visible minority representation (described in detail in Chapter 4). Led to a modification to the <i>Broadcasting Act</i> to refer to the broadcasting system’s responsibility to respect and promote the dignity and equality of all individuals, groups or classes regardless of race, national, or ethnic origin or colour.
1984	Establishment of <i>Telelatino</i> and <i>Fairchild TV</i>	Launched early services in Spanish/Italian and Chinese, respectively. Marked an attempt to integrate ethnic media into the national market (Hayward, 2012, p. 208).
1984	The Special Parliamentary Committee on Visible Minorities releases its report, <i>Equality Now!</i>	Leads to a modification to the <i>Broadcasting Act</i> to refer to the broadcasting system’s responsibility to respect and promote the dignity and equality of all individuals, groups or classes regardless of race, national, or ethnic origin or colour.
1985	First <i>Ethnic Broadcasting Policy</i>	Sets out the commission’s approach to licensing third-language radio and television broadcasters. The policy foregrounds consideration of the community’s demographics and needs as well as the financial resources available for applicants and viability of the proposed services.

1988	<i>Multiculturalism: Building the Canadian Mosaic</i> Report of the Standing Committee on Multiculturalism	Recommended including multiculturalism as a policy objective for the CRTC and requiring the Department of Multiculturalism to advocate for fair representation of minorities in the media. Reflecting multiculturalism is subsequently included as an objective in the 1991 <i>Broadcasting Act</i> .
1988	<i>Canadian Multiculturalism Act</i> enters into force	Formalizes the government's commitment to equality of participation and has standard-setting powers for other government policies.
1991	<i>Broadcasting Act</i>	Requires the broadcasting system 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" (section 3.1.iii).
1993	CAB violence code created	Section 8 forbids broadcasters from airing programming that "sanctions, promotes or glamorizes violence based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability" (Canadian Association of Broadcasters, 1993).
1999	Major revisions to the <i>Ethnic Broadcasting Policy</i>	Updated to "provide more flexibility to the broadcasting industry and to streamline regulatory requirements" (CRTC, 1999c).
1999	CRTC 1999-97: <i>Building on success—A policy framework for Canadian television</i>	Calls for more equitable (non-stereotypical) portrayals of different cultural groups and discusses need for both staff and cultural products to reflect the diversity of Canadians.
2000	CRTC 2000-92 <i>Regulatory Amendments to Implement the Ethnic Broadcasting Policy and New Television Content Categories</i>	Simplifies the definition of "ethnic program," creates a definition for "third-language program," and establishes third-language programming requirements (CRTC, 2000).
2001	CRTC 2001-88: <i>Representation of Cultural Diversity Television—Creation of an Industry/Community task force</i>	Asks the Canadian Association of Broadcasters (CAB) to create a task force to identify "best practices" to improve representation in the broadcasting system and requires major broadcasters to take part in its activities. Requires licensees to develop and implement a corporate plan to improve representation of cultural diversity, to file this plan with the CRTC, and to provide annual reports to the commission explaining how it has enacted its plan (CRTC, 2001).
2002	Creation of category 2 special services (later renamed Category B services)	These are specialty TV channels which may be carried, optionally, by cable/satellite providers. They are not protected by format, and they are not guaranteed carriage rights. Includes pay TV and specialty services. Creating this licence Category Allows for new entrants.

2002	Canadian Association of Journalists releases its <i>Statement of Principles</i>	Includes a stipulation that race, ethnicity, or colour will not be mentioned in reporting a story unless it is relevant to the story. Prohibits the thoughtless use of stereotypes based on race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance, or social status.
2002	Canadian Broadcast Standards Council (CBSC) releases its <i>Industry Code of Programming Standards and Practices</i>	Stipulates that pay TV providers must comply with the Sex Role Portrayal Code for TV and radio programming, and that people from different ethnic groups (including visible minorities) must be represented in a diversity of roles.
2002	Update to <i>Canadian Association of Broadcasters (CAB) Code of Ethics</i>	Codifies support for human rights and mandates sensitivity to sex-role stereotyping.
2004	CAB Report, <i>Reflecting Canadians: Best practices for diversity in television</i>	Demonstrates an underrepresentation of Aboriginals and visible minorities on the air. Was a catalyst for the CRTC's 2008 Equitable Portrayal Code.
2004	CRTC 2004-96: <i>Improving the diversity of third-language television services</i> (CRTC, 2004)	Sought to enhance access to non-Canadian third-language services in response to increasing availability of these services over the internet, with certain distribution and linkage requirements designed to protect Canadian services (e.g., buy-through and must-offer requirements).
2005	CRTC 2005-104: <i>Revised approach to consideration of broadcasting licence applications proposing new third-language ethnic Category 2 pay and specialty services</i>	Attempts to make more ethnic programming available in under-served areas through changes to regulations for Cat 2 pay and specialty services. Also outlines risks that this expansion may have on existing analogue third-language programming and services (CRTC, 2005). New services had little or no local or national programming requirements and had very low Canadian exhibition requirements (generally around 15%).
2008	CRTC Equitable Portrayal Code	Broadened coverage "to overcome unduly negative portrayal and stereotyping in broadcast programming, including commercial messages, based on matters of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability" (CRTC, 2008b). Replaces the CAB's Sex-Role Portrayal Code.
2011	Canadian Association of Journalists <i>Ethics Guidelines</i> released	Requires that organizations attempt to include diverse interests, and that coverage avoids use of stereotypes based on race, colour, religion, sexual orientation, gender, or physical ability unless relevant to the story (CAJ Ethics Advisory Committee, 2011).

5.2. Consumer choice

These policies and practices involve maximizing choice for consumers, with an implicit assumption that the free market is best equipped to meet consumer demand.

Canada did not historically adopt purely market-based approaches to broadcasting because of the fear that commercialization would lead to Americanization of the whole system (Royal Commission on National Development in the Arts, Letters & Sciences, 1951). However, broadcasting policy has been slowly shifting toward market-based objectives since the release of the Applebaum-Hébert Report and the introduction of specialty television in the early 1980s. This shift accelerated following the Conservative victory in 2006, which brought with it a series of new recommendations and policies focused on fostering consumer choice through market competition.⁸²

I have divided the category of maximizing consumer choice into two topics: maximizing consumer sovereignty (focused on ensuring consumers are able to make their own choices about broadcasting) and maximizing the supply of programming in diverse genres and program types (ensuring consumers have the most broadcasting options possible to choose from). I explain each sub-topic separately, but due to their similar trajectories and deeply intertwined objectives, I provide one detailed timeline (table 5-5) to summarize the main policy events for both. Both topics were important considerations during the CRTC's LTTV proceedings and are thus also discussed in detail in Chapter 8.

5.2.1. Consumer sovereignty

Arguments for diversity based on consumer sovereignty have their basis in libertarian theory and social responsibility theory, including a belief in the importance of media and freedom of speech for democracy (Becker, 1945; Peterson, 1956). The key idea is that it is important for media to disseminate as many opinions as possible, allowing rational and critically thinking human beings to determine the truth. From this emerges a marketplace approach to broadcast regulation which posits that consumers are best equipped to determine what content is worth consuming, creating a system in which “the public interest determines the public’s interest” (Fowler & Brenner, 1982).

⁸² In 2006, the Federal Government issued a directive to the CRTC asking it to rely on market forces as much as possible in telecom regulation (Minister of Justice, 2006). In 2008, the competition policy review panel recommended that the government open both telecom and broadcasting to foreign competition (in its aptly-titled report, “Compete to Win”), and in 2012 Heritage Minister James Moore sent a letter to new CRTC Chair Jean-Pierre Blais requesting that the CRTC address consumer affordability and service complaints, and regulate broadcasting as little as possible.

Diversity is seen as best achieved through competition, removing barriers to entry, preventing monopolistic practices, and allowing competitive pricing (Fowler & Brenner, 1982), and the current system may be seen as being as adequately diverse as it is (e.g., Thierer & Eskelsen, 2008).

While Canada did not historically adopt a fully free-market approach to broadcasting, broadcasting policy began its subtle shift toward more market-based objectives in the 1980s. This shift was related to broader domestic and global trends toward free-market policies and a resource-based approach to diversity (see chapters 3 and 4). Broadcasting specifically was bolstered both by the release of the Applebaum-Hébert Report in 1982 and the development of additional broadcasting options through cable and satellite television. The Applebaum-Hébert Report was highly critical of what it viewed as heavy-handed bureaucratic interference in cultural industries, and recommended that the government *only* intervene in culture in cases of market failure (Federal Cultural Policy Review Committee, 1982). The CRTC's decision to license "narrowcast" specialty programming services—including some American services—came in response to lobbying from cable operators in the early 1980s, and offered new broadcasting options for consumers while reducing reliance on (and audiences for) public broadcasting. The years following have been characterized by a gradual withdrawal of fiscal responsibility for public broadcasting, greater privatization in television production, and the introduction of a wide range of cable and satellite-delivered TV (Raboy, 1998).

More recently, cable operators and broadcasters have framed arguments for increasing foreign direct investment in broadcasting in consumer-centric language, arguing that improved access to foreign funds and decreased restrictions on foreign content would allow the system to better respond to market demand and put power in the hands of consumers to choose from a broader range of options (Grant & Wood, 2004; Standing Committee on Canadian Heritage, 2003a). Since the development of over-the-top internet-based broadcasting services, neoliberal approaches to broadcast deregulation have also been discussed through a lens of populist inevitability positing that, in the age of media abundance, the consumer is king and traditional means for achieving specific social goals in the broadcasting system (quotas, genre exclusivity, certification criteria) are obsolete (Blais & CRTC, 2015).

5.2.2. Program/Genre diversity

Genre diversity became a major topic with the introduction of specialty TV in the early 1980s, which opened the door to new narrowcast specialty TV channels serving niche markets. Today, specialty TV is a billion-dollar industry, and is the fastest-growing part of the broadcasting system (CRTC, 2014).

There has historically been a tacit quid pro quo agreement between the CRTC and specialty broadcasters. Since the early 1980s, Category A (formally Category 1) broadcasters have enjoyed some form of genre exclusivity, meaning that the CRTC would only licence one specialty station per genre in a given market, and would always give priority to a Canadian entrant over an American-operated channel (even if the American channel was already established). In exchange, Category A specialty channels were often subject to stringent licence requirements, including higher exhibition quotas and strict language and program expectations. This left the CRTC with a difficult task of striking an adequate balance between supporting specialty TV's diversity goals and ensuring individual stations met their licence requirements (such as adhering to their nature of service definition and meeting various exhibition requirements), while also attempting to provide adequate breathing room for services to respond to changes in the marketplace.

Prior to LTTV, several observers noted that policies and licensing practices designed to promote genre diversity were underperforming on their diversity objectives (Killingsworth, 2005; Miller, 2013; Raboy, 1990; Vipond, 2011). Killingsworth (2005) argued that chronic underperformance is a result of an unrealistic regulatory environment: specialty services are offered artificial market protections to serve audiences a mix of cheap American and low-quality Canadian content, which neither adequately services diversity goals nor enables the station to thrive financially. Vipond (2011) also attributed the issues to unrealistic promises on the part of would-be broadcasters, which often propose grandiose plans for their new station and then apply for changes to their licensing requirements as soon as they are given permission to operate. For its part, the CRTC has had little ability to enforce compliance: its primary recourse to punish underperforming services is to revoke their broadcasting licences, a

punishment so harsh it is rarely used.⁸³ Furthermore, technological advances and the rise of over-the-top programming challenge both the reasons for and effectiveness of several measures designed to promote genre diversity, including genre exclusivity: content quotas are of questionable effectiveness in an on-demand television environment, and Miller (2013) argued that genre morphing away from the nature of service agreements has been occurring for years.

Table 5-5. Key policy events related to consumer sovereignty and program/genre diversity

Year	Event	Summary
1960	First private sector TV station licensed	CFTO-TV in Toronto. Offered consumers an alternative to the CBC.
1981	CRTC licenses the first pay-TV channels	The endeavour was a disaster, resulting in a series of bankruptcies and amalgamations by 1983. The commission had overestimated size of the Canadian market, and inappropriately based penetrations on experiences in the American marketplace.
1982	Release of the Applebaum-Hébert Report (<i>Report of the Federal Cultural Policy Review Committee</i>)	The report argues for a greater separation between the state and culture, positing that the state should only intervene in cases of market failure. It also recommended allowing entry of a range of new commercial cable-delivered TV stations. Its philosophy represents a shift toward a market and consumer sovereignty-based approach to broadcasting, rather than an approach based on meeting specific social objectives.
1983	Establishment of Telefilm Canada's Broadcast Fund	Used to facilitate development of Canadian content for the CBC and private stations. Represents a move away from public production toward a model of production as a for-profit industry.

⁸³ In 2002, the CRTC investigated Québec-based CHOI-FM following listener complaints regarding offensive material and sexist ad hominem attacks on the airwaves. The investigation showed that CHOI had failed to meet minimum French-language music requirements and requirements regarding the maintenance of logger tapes. After numerous warnings, including the issuance of a shortened licence renewal, the CRTC revoked the station's licence in 2004 (Armstrong, 2016). In 2011, the CRTC revoked the licence for Ryerson University's radio station (CKLN) following numerous regulatory violations and significant infighting among station members, which culminated in a seven-month lockout by the building manager (CBC News, 2011a). The station successfully applied for and was granted a new licence in 2014.

1983	CRTC announces hearings to consider the first cable-delivered pay TV services	The commission indicated its willingness to allow carriage of some non-Canadian specialty services, assuming they contributed to, and did not harm, the development of the Canadian broadcasting system. This non-competition provision is the genesis of what would later become the CRTC's genre exclusivity policy.
1984	First specialty TV services offered	New narrowcast programming was licensed to complement—but not compete with—existing services. Services were given genre exclusivity within their markets.
1984	Cable companies permitted to distribute some US specialty services	To be eligible, the services had to be in genres that did not compete with present or then-proposed Canadian services. Inclusion on the “eligible list” was not permanent; American services would lose their broadcasting rights if a Canadian service in the same genre won a licence later.
1988	Release of <i>Canadian Voices, Canadian Choices</i>	Recognizes the need for niche programming reflecting a variety of tastes and accommodating diverse audiences based on age, geography, ethnicity, and gender. Recommends the development of “alternative programming” (Communications Canada, 1988, p. 33).
1994	Creation of “nature of service” requirements for narrowcast services	CRTC prescribed nature of service as a condition of licensing for new narrowcast services “in order to foster diversity, and to ensure that specialty licensees adhere to their commitments to provide programming within a specific genre” (CRTC, 1994).
1996	Large cable expansion and informal use of a genre exclusivity policy	The CRTC grants 25 new cable licenses, but only licenses one service per genre (CRTC, 1996).
1997	<i>Task Force on the Implementation of Digital Television</i> report released	Recommends that Canada shift to digital TV to help protect the Canadian industry from the growing “grey satellite” market and be at the forefront of TV exporting nations (Minister of Public Works and Government Services Canada, 1997).
1999	CRTC 1999-97: Building on success—A policy framework for Canadian television	Advanced a premise that future success in Canadian broadcasting required a regulatory framework prioritizing flexibility, diversity, and choice for consumers. Its major policy suggestions were designed to move toward market forces driven by consumer choice.
1999	CRTC 1999-187 new media exemption (updated 2010)	Allows emerging over-the-top services to evolve based on market demand.
2001	Launch of over 200 digital channels	Many were unsustainable in a purely economic model, and others failed to deliver on promises surrounding Canadian content and social diversity objectives. The commission was lax in its monitoring, allowing services to “morph over time into almost unrecognizable commercial versions of their original agreements” (Druick, 2016).

2002	Creation of category 2 specialty services (later renamed Category B services)	Services did not receive any genre or market protection. They could be licensed in genres to compete with each other, but not with Category 1 services.
2008	The Federal Government's <i>competition policy review panel</i> releases its report, "Compete to Win"	Recommends relaxing foreign investment restrictions in both broadcasting and telecom, arguing that liberalization would bring "demonstrable economic benefit through increasing competitive pressure on all participants in the market" (Competition policy review panel, 2009, p. 47).
2012	Federal Government liberalizes ownership in telecom	Recommended by both the <i>Telecommunications Policy Review Panel</i> (Industry Canada, 2006) and the competition policy review panel (2009).
2012	Heritage Minister James Moore issues mandate-like letter to new CRTC Chair Jean-Pierre Blais	Requests that the CRTC address consumer affordability and service complaints and regulate broadcasting as little as possible.

5.3. Sectoral Diversity

Sectoral diversity entails ensuring a balance of private for-profit, public, and independent or community-based not-for-profit broadcasting in the Canadian system. Canada's hybrid broadcasting system has existed since the early days of broadcasting, although it was not formally recognized as such until the release of the 1968 *Broadcasting Act*. Today, each of these three major sectors has distinct organizational, regulatory, and funding structures. Each sector faces distinct challenges and pressures from passionate stakeholders.

Note that while community broadcasting is often considered a form of public broadcasting, I have included it as a separate category due to its funding structure. Community broadcasters in both radio and television outside of Québec typically receive little or no funding from the government, and instead tend to rely on funding from cable operators, public donations, advertising or sponsorship revenue, and (in some cases) one-time cash infusions provided as part of a tangible benefits package following a major industry acquisition. They are not-for-profit and have a mandate to serve the public interest, but are sufficiently distinct from the national public broadcaster and provincial educational broadcasters to warrant their own sectoral category.

5.3.1. Private broadcasting: Ownership diversity

Ownership diversity has been a major topic in recent policy discussions, representing the major point of debate in both the CRTC's 2007 proceedings on diversity of voices and 2010 vertical integration proceedings. Horizontal and vertical integration of ownership in Canadian media industries peaked around 2014, at which time the "Big 5" (Bell, Shaw/Corus, Rogers, Quebecor, and Telus) media companies accounted for 87% of all television revenue (CMCRP, 2017). Interestingly, the degree of concentration has since decreased slightly (down to 81.1% in 2016), which researchers from the Canadian Media Concentration Research Project attribute to the rise of Netflix and other OTT services (CMCRP, 2017).

Even though rates of concentration may be dropping slowly with the introduction of new internet-based entrants, Canada still has one of the highest rates of concentration in media ownership in the world (Winseck, 2011). For its part, the CRTC has favoured territorial monopolies for broadcasting services (enforced through genre exclusivity policies), and has instead focused on instilling arms-length managerial autonomy for editorial news-gathering ventures. In broadcasting mergers and acquisitions, the commission has occasionally required purchasing incumbent firms to first divest certain assets, but has always eventually allowed the merger or acquisition to proceed.

Political economist Dwayne Winseck (CMCRP, 2017) argued that there are four schools surrounding the advantages and disadvantages of media concentration. The first, which is dominant among Canada's largest media conglomerates (C. Bell, 2007) and right-wing think tanks such as the Fraser Institute, points to the rising number of traditional and new media channels as evidence that we are living in an era of unprecedented media abundance (Skorup & Thierer, 2013; Thierer & Eskelsen, 2008). Channelling Schumpeterian ideas, this view has argued that any dominance currently held by large media firms is only transitory, and thus media oversight should be shifted away from the designated regulator (the CRTC) toward the general principles of competition law (CMCRP, 2017). Furthermore, the economic power and synergies that exist in large consolidated companies are considered a strength that allows them to respond to niche demands in a way that would be impossible for smaller firms (Goodman, 2004); this, they have argued, makes industry consolidation a net benefit to

consumers, even if it means fewer smaller firms are able to survive. Winseck took a more cynical view, arguing that “rather than contributing to a genuine discourse about the relationship between markets, business and economics, their real goal seems to be aimed toward disarming governments from doing what they are supposed to do: govern in the public interest” (CMCRP, 2017, n.p.).

The second school quantitatively analyzes media content to determine how media ownership drives content, with a focus on the potential for owner-driven bias (CMCRP, 2017, n.p.). Researchers in this school have expressed concern about the direct and indirect impact that media owners can have on news and editorial content, either through a general neoliberal agenda or more explicit involvement in editorial decisions (Skinner & Gasher, 2005). Besides providing a narrow perspective, this structure can lead to a content bias based on class (Fleras, 2011b) as outlets that are successful in (and supportive of) a neoliberal status quo, and that seek to attract affluent audiences that are in turn attractive to advertisers, increasingly control the media environment. However, the evidence for this link is mixed. On the one hand, all of Canada’s major companies have cut journalistic and editorial staff in recent years, and there is compelling evidence that executives in at least one major company have used their roles to directly censor news stories that were considered unfavourable to business interests.⁸⁴ Overall, however, the CMCRP (2017) found that such research tends to be driven by the researchers’ ideological proclivities, with those on the left typically finding that consolidation reinforces a conservative bias while those on the right argue that it allows conglomerates to achieve laudable democratic and economic goals.

The third school is critical of wealth, power, and corporate concentration, arguing that historical power hierarchies are likely to re-emerge on the internet (Mansell, 1999; McChesney, 2013). This view is also underlined by concerns about a resource drain from news and entertainment industries, either due to the rise of new digital giants and online advertising, or because consumers are reluctant to pay for content. Consequently, some observers have called for subsidies to support news as a public good (Picard &

⁸⁴ In March 2015, the *Globe and Mail* reported that BCE president Kevin Crull ordered one of Bell’s major TV news programs, *CTV News*, to not air planned interviews with CRTC Chairman Jean-Pierre Blais on the CRTC’s recent LTTV decisions. While this event and Blais’s public reprisal of BCE received considerable media attention, Winseck (2015) argued that executive interference in BCE-owned news outlets reflects a broader pattern that has been occurring within BCE for many years.

Pikard, 2017). Some critics on both the left and right have converged under this viewpoint's concerns about the near-monopoly power of internet giants like Google, Amazon, and Facebook, characterized by concerns about the opaque ways in which these companies function (CMCRP, 2017).

Finally, the fourth school is premised on the idea that human communications systems have always oscillated between consolidation and competition, and posits that the technological transition has unleashed a “battle over the institutional ecology of the digital environment” (Benkler, quoted in CMCRP, 2013). Winseck argued that networked digital media might be more prone to concentration than traditional media since digitization may augment network effects and economies of scale—but that, at the same time, the internet also reduces barriers to entry for new players.

The topic of ownership diversity came to the CRTC agenda following several waves of industry consolidation from the 1990s to present day (see table 5-6), and was addressed directly in policy events such as the 2007 diversity of voices proceedings and the 2010 proceedings on vertical integration. The former began as an open call for public comments about general issues pertaining to diversity in broadcasting, for which the commission received many submissions calling for policy to limit industry consolidation and create meaningful measures to protect ownership diversity. As a result, the commission implemented new policies preventing companies from holding assets in more than two of three major media formats in a single market (TV, radio, and newspapers), and set caps on allowable post-merger market share for media companies at 45% in a single market (CRTC, 2008c). The 2010 vertical integration proceedings focused on the potential for anti-competitive behaviour on the part of large integrated firms that, “have both the opportunity and incentive to give undue preference by providing themselves with exclusive access, on various distribution platforms, to content that they control” (CRTC, 2011a). The commission's response was a series of measures to prevent large companies from self-dealing in their own content and offering some small protections for independent distributors and broadcasters (CRTC, 2011a).

While these policies offer some protections from increased levels of ownership consolidation, and one could argue that having them in place is, at the very least, better than not having any protections at all, they do little to ease current high levels of concentration. Furthermore, since the commission has made the decision not to regulate

emerging OTT media services, it does not play a role in managing market share for the new internet-based services like Netflix.

Table 5-6. Key policy events related to ownership diversity

Year	Event	Summary
1932	First <i>Radio Broadcasting Act</i>	Allows the continuation of private sector radio under the regulation and supervision of the CRBC.
1960	First private TV station licensed	CFTO-TV Toronto. Issues in a hybrid ownership model for television, including both public and private firms.
1968	<i>Canadian Broadcasting Act</i>	Removes the supremacy of public broadcasting and sets out the distinct roles for public and private elements of the broadcasting system.
1981	First pay-TV stations begin operations	While this first experiment was disastrous, it nonetheless marked the beginning of new private-sector opportunities.
1984–1996	Emergence of new media players and growth in broadcasting (including pay and subscription services): <ul style="list-style-type: none"> • Trend was toward greater television ownership diversity • Public broadcasting was prominent during this time (CMCRP, 2017). 	
1984	CRTC allows First Choice (now Movie Network) and Allarcom (now Movie Central) to restructure into regional monopolies	The CRTC hence adopted a non-competitive policy for specialty TV, involving licensing only one channel per genre in a given market.
1994–2000	First major wave of media acquisitions: <ul style="list-style-type: none"> • Rogers acquires Maclean-Hunter • Bell acquires CTV and the <i>Globe and Mail</i> • Quebecor acquires Videotron, TA, and <i>Sun</i> news • Canwest acquires Global TV and Hollinger newspapers (CMCRP, 2017). 	
2004–2004	Second major wave of media acquisitions: <ul style="list-style-type: none"> • CTVglobemedia acquires CHUM • CRTC requires CTVglobemedia to divest its City TV stations, which Rogers purchases • Astral Media buys Standard Broadcasting • Quebecor acquires Osprey Media • Canwest and Goldman Sachs buy Alliance Atlantis (CMCRP, 2017). 	
2007–2008	CRTC 2007-5 <i>Diversity of Voices</i> proceedings and CRTC 2008-4 regulatory policy	The proceedings focus on ownership diversity. CRTC 2008-4 prevents companies from holding assets in more than two of three major media formats in a single market (TV, radio, newspaper) and set caps on allowable post-merger market share for media companies at 45% in a single market (CRTC, 2008c).
2010–2011	CRTC 2010 vertical integration proceedings and CRTC 2011-601 <i>Regulatory framework related to vertical integration</i>	CRTC 2011-601 sets rules around self-dealing and provides some protections for independent distributors and broadcasters.
2010–2015	Third major wave of media acquisitions: <ul style="list-style-type: none"> • Canwest files for bankruptcy; TV assets purchased by Shaw • BCE re-acquires CTV 	

	<ul style="list-style-type: none"> • BCE attempts to purchase Astral Media (2012); initially denied by CRTC, but then permitted in 2013 • Bell divests several TV stations as a condition of its Astral acquisition; some are purchased by Corus, and others by VMedia (CMCRP, 2017).
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5.3.2. Independent community media/localism

Canada’s first campus radio station began at Queen’s University in 1922 (NCRA, 2009), although most campus and community radio developed as a response to social movements (especially the student movement) in the early 1960s (Raboy, 1990). Community access television evolved later in response to pressure from groups wishing to use TV for community development, although the commission posited that it had always encouraged distributors to offer a cable channel: “the concept of a special cable television channel devoted to community programming is almost as old as cable television itself. . . . Since its inception, the commission has encouraged the development of this idea through various guidelines and policies” (CRTC, quoted in Salter & Odartey-Wellington, 2008, p. 319). The requirement that cable operators support a community access station was formally entrenched in the CRTC’s 1975 regulations respecting broadcasting receiving undertakings (cable television), which required that companies provide a channel, studio space, and equipment for community use. In larger urban centres, companies also had to set aside money to operate the channel and provide programming. Programming was to be strictly non-professional, and could not contain any advertising (CRTC, 1989). Lithgow (2012) pointed out that there are today two distinct types of community television station: those with cable-company produced programming and those that do independent community production.

Advocates for local and independent voices see their role as filling gaps in public affairs coverage left by for-profit media (Skinner, 2014), and argue that a democratic broadcasting system requires opportunities for citizens to access and participate in the media. Community programming is seen as injecting much-needed diversity into Canada’s broadcasting system in part because it is not subject to either a profit-seeking or national-identity mandate. Community broadcasters are (ideally) less tied to advertisers for funding, and are able to innovate and take risks because they feel less pressure to appeal to mass audiences. This allows them to create and air programming that is tailored to the needs and interests of relatively small sub-communities, thereby fostering deeper community ties in a way that mainstream media and the internet do not

(Lithgow, 2012). Community stations provide important spaces for upcoming Canadian talent by offering airspace for new (often local) musicians and actors, and providing valuable professional skills-learning and subsidized training for programming volunteers. Overall, community broadcasters offer “a vital opportunity for expanding cultural citizenships well beyond the democratically feeble offerings of consumerism and into the kinds of capacities that encourage and engender public action” (Lithgow, 2012, p. 126).

Currently, however, the future of community television is uncertain. In 1997, the CRTC released BDUs from their obligation to operate a community channel, instead giving them the option of providing additional support to an independently administered production fund (CRTC, 1997): an allowance that Skinner (2014) argued is financially preferable. Community stations have also been permitted to offer limited amounts of local advertising since 2002 (CRTC, 2002), which provides much-needed support for cash-strapped channels but also compromises their emancipation from financial objectives. Unsurprisingly, some community stations are simultaneously becoming more professionalized as cable companies move toward formats similar to those of commercial broadcasters (Light, 2012). Community stations are also facing a crisis of relevance in a digital age characterized by lower barriers to entry for creators using internet-based services such as YouTube.

Stations operating in Québec, however, enjoy a slight exception to these challenges, since support for community television is much stronger there than anywhere else in Canada. Québec’s community broadcasting is connected to a multitude of social movements from the province’s Quiet Revolution in the 1960s, with community station goals including providing airspace for workers’ rights groups, feminists, Québec sovereigntists, and other interests typically underrepresented in mainstream media. The Québec government is the only provincial government in Canada to provide continual financial support for community broadcasters, which has strengthened the sector and allowed for greater organization and collaboration among stations (Light, 2012). Light (2012) argued that provincial support for community media is indicative of the relatively more important role of community media to Québec in comparison to other provinces. In particular, community broadcasting plays a role in assuaging Québec’s “double cultural domination,” in which Canada is dominated by media and industry from the US, and Québec by anglophone culture from within and

outside of the rest of Canada (p. 147). It can also provide a workaround for federal jurisdiction over broadcasting (Raboy, 1998).

Table 5-7. Key policy events related to community broadcasting

Year	Event	Summary
1922	Launch of first campus-community radio station	CFRC at Queen's University, which began as an experiment by engineering students.
1960s	Increased development of independent/community media	Emerged from social pressure from youth and oppositional movements embedded in 1960s politics. Stations begin to meet regionally to discuss challenges exchange ideas.
1960s	Québec government begins to fund community media	Part of the Québec nationalist movement, "as one way of occupying space in this sphere of federal jurisdiction" (Raboy, 1990, p. 185).
Late 1960s	National Film Board launches <i>Challenge for Change</i>	Inspired greater involvement in video production. Lithgow (2012) argued that it represented the origins of community TV.
1971	CRTC releases <i>Canadian Broadcasting "a Single System": Policy Statement on Cable Television</i>	Includes a provision requiring cable operators to offer a community channel (CRTC, 1971).
1975	CRTC's new cable regulations	Requires that cable companies provide a community channel, complete with studio space and equipment. States that: "the concept of a special cable television channel devoted to community programming is almost as old as cable television itself . . . Since its inception, the Commission has encouraged the development of this idea through various guidelines and policies."
1991	Broadcasting Act	Requires that the Canadian broadcasting system include community programs (section 3.1.i.iii).
1991	CRTC releases a community channel policy	Updates and refines allowances and expectations for community television (CRTC, 1991b).
1997	CRTC rules that cable companies would no longer be required to fund a community channel	Companies that do not wish to run community access stations are instead permitted to pay into an independently administered production fund (CRTC, 1997).
2008	Establishment of <i>Local Media Improvement Fund</i>	Response to public outcry of the demise of local television.
2002	Creation of the <i>Canadian Association of Community Television Users and Stations (CACTUS)</i>	Emerged from the CRTC 2002 proceedings on community TV. Represents the interests of groups that use cable-owned community channels and the few independent community stations.
2002	CRTC releases a new community media policy	Designed to improve public involvement (Skinner, 2014). Allows 12 minutes of local ads on community TV per hour (CRTC, 2002).

5.3.3. Public broadcasting

Supporters of public broadcasting argue that democracy requires the existence of a non-commercial, non-partisan media sector that can produce high-quality programming free from market pressures (McChesney, 2003). Drawing from the 2000 report of the World Radio and Television Council (titled *Public Broadcasting: How? Why?*), Buckley et al. (2008) roughly described the principles of public broadcasting as follows:

- universally accessible (both technologically and in terms of intelligibility of programming);
- targets diverse audiences and includes a diversity of genres and subjects;
- independent from both political and commercial influence;
- impartial;
- produces content that is likely to be ignored by other services;
- aims to innovate with content, genre, and technology;
- may develop national identity and culture; and
- may take part in standard-setting (Buckley, Duer, Mendel, & Siochrú, 2008).

Public broadcasting in Canada was born as the Canadian Radio Broadcasting Commission (CRBC) in 1932 (re-established as the Canadian Broadcasting Corporation, henceforth CBC, in 1986), which was designed to be an eventual broadcasting monopoly that would promote national unity and a regulator that would oversee the existing public-private hybrid broadcasting environment (Vipond, 1994). For the first 50 years of its existence, the CBC's primary objective consisted of promoting a national mandate, including prioritizing national unity. Even in the 1968 Broadcasting Act, the CBC retained a national unity mandate requiring it to "contribute to the development of national unity and provide for a continuing expression of Canadian identity" (Government of Canada, 1988a). This requirement was eventually removed in the 1991 *Broadcasting Act*, and today observers generally see the CBC's role as fostering Canadian talent and providing high-quality, well-funded news and entertainment programming that can be created and shared without the burden of adhering to a commercial advertising model (Grant & Wood, 2004; Rowland, 2013b).

Over the years, the CBC has experienced ongoing concerns related to its funding structure. Many of these concerns surround the broadcaster's financial stability and its need to pursue advertising: Is the public broadcaster truly able to operate in the public's interest if it is reliant on advertising dollars? Is it fair for a broadcaster that receives public subsidies to compete directly with private firms for advertising? Concerns about the CBC's funding structure and the for-profit aesthetic of its services have been raised time and time again in both government and CRTC reviews: in 1957, the *Royal Commission on Broadcasting* noted a lack of consistent funding as a threat to the CBC; in 1974, the CRTC raised concerns about the CBC's reliance on commercial practices and advertising during its first licence renewal; and in 1982 the *Federal Cultural Policy Review Committee* recommended that the CBC abandon commercial advertising altogether. Despite these continued concerns, substantive cuts to the broadcaster's annual federal funding in the 1980s, 1990s, and again in 2013 have required the public broadcaster to continue advertising and sponsorship on TV.

Raboy (1990) argued that the first major CBC funding cuts in the 1980s were partly a product of the political/economic climate of the era, but also coincided with a federalist victory in the first Québec referendum and therefore a removal of the CBC's immediate political benefit in promoting nationalism. The CBC later experienced its most significant budget reductions in the wake of an economic recession in the 1990s, when the Liberal Government cut funding by \$400 million, amounting to around 33% of parliamentary support and reducing the CBC's overall inflation-adjusted budget to half its size from the 1980s (Murray, 2001). It faced further cuts of around \$115 million under the Conservative Government (Rowland, 2013a) beginning in 2013, leading to the reintroduction of advertising on CBC Radio 2 (rebranded CBC Music) for the first time since 1975. In both the 1990s and in 2013, cuts to the CBC were made politically possible in part due to insufficient public outcry and lobby support for public broadcasting; while media watchdog Friends of Canadian Broadcasting expanded its lobby efforts on behalf of its members, it was unsuccessful in tapping into other social movements and groups active in cultural policy activism. At the time of writing, the CBC's annual parliamentary grant has been partially restored following a Liberal campaign promise of an additional \$150 million per year until 2020–2021 (Levitz, 2016). This move, too, is highly political in nature, representing a visible turn away from what

has been perceived as a Conservative-era war against journalism of which a battle with the public broadcaster was a part.

The CBC is simultaneously challenged with an extremely lofty mandate, which charges it with offering all things to all people: supporting the free-flow of ideas—regional diversity, cultural diversity, official languages, Canadian cultural identity, and multiculturalism/multiracialism—while also being universally available across the country. The Broadcasting Act (1991) stated that the public broadcaster should:

- (i) be predominantly and distinctively Canadian;
- (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions;
- (iii) actively contribute to the flow and exchange of cultural expression;
- (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities;
- (v) strive to be of equivalent quality in English and in French;
- (vi) contribute to shared national consciousness and identity;
- (vii) be made available throughout Canada by the most appropriate and efficient means, and as resources become available for the purpose; and
- (viii) reflect the multicultural and multiracial nature of Canada.

In addition, the CBC is expected to be a leader in meeting other requirements in the *Broadcasting Act*, such as providing accessibility for people with disabilities, reflecting Aboriginal cultures, and adapting readily to scientific and technological change. This vast mandate creates multiple, sometimes competing priorities for the public broadcaster, made more difficult to navigate by the potential for inconsistencies in parliamentary funding. In practice, funding constraints in the 1990s and 2000s made it impossible for the public broadcaster to live up to this mandate, when financial concerns led to staffing reductions and the closing of local newsrooms in the 1990s and 2000s (CRTC, 2007; Zerbisias, 2000) (note: it attempted to appease public outcry over the loss of regional programming by re-opening eight regional offices between 2011 and 2013 [CBC/Radio-Canada, 2013]).

Table 5-8. Key policy events related to public broadcasting

Year	Event	Summary
1929	Release of Aird Commission Report	Recommends development of a public monopoly over broadcasting in a similar manner to the UK's BBC.
1930–1932	Canadian Radio League established	Lobbied the government to implement the Aird Commission's recommendations, particularly related to the development of public broadcasting.
1932	First <i>Radio Broadcasting Act</i>	Establishes the CRBC; envisions eventual nationalization of all private sector broadcasting.
1936	<i>Canadian Radio Broadcasting Act</i>	Disbands the CRBC and creates the CBC.
Late 1940s	Development of television	First develops as a national (public) monopoly.
1951	Massey Commission Report	Recommends that television develop as a national medium through the CBC, to be funded through parliament (capital costs) and licence fees, commercial revenue, and grants (programming costs).
1957	Release of <i>Royal Commission on Broadcasting</i> (Fowler Commission) Report	Recognized a lack of consistent funding as a great threat to the CBC.
1958	<i>Broadcasting Act</i>	Redefines the CBC's corporate structure, and creates the BBG (CBC relinquishes its role as regulator).
1960	First private sector TV station licensed	CFTO-TV in Toronto; reduces audiences for CBC television.
1968	<i>Canadian Broadcasting Act</i>	Formally relinquishes national television monopoly plan and entrenches Canada's hybrid public-private broadcasting system.
1974	CBC's first licence renewal by the CRTC	Noted influence of marketing and commercial practices on the development of broadcasting, and their influence on the CBC.
1982	Release of Report of the Federal Cultural Policy Review Committee (Applebaum-Hébert)	Recommends that the CBC abandon commercial advertising and cease television production. Instead, the public broadcaster would purchase content from independent production firms.
1980s	Decrease in financial support to CBC	Raboy (1990) linked decrease in federal support to the CBC to changes in the political climate, particularly surrounding the Québec sovereigntist movement.
1988	Task Force on Broadcasting Policy (Caplan-Sauvageau) releases report	Recommends removal of the CBC's national unity mandate. Argues for stable and secure funding for the CBC.
1990s	Major cuts to CBC funding	Liberal Government cut CBC funding by \$400m, amounting to 33% of parliamentary support.
1991	<i>Broadcasting Act</i>	Substantial updates to CBC mandate: removal of national unity clause; requirements to better support diversity. Sets out relationship between the CRTC and the CBC.
2013	Major cuts to CBC funding	Conservative Government cuts \$115m from the CBC's annual grant.
2016	Liberal Government increases CBC budget	As part of an election promise, the government promised \$150m additional funding per year until 2021.

5.4. Conclusion

The CRTC's mandate to regulate the Canadian broadcasting system in the public interest is made extremely complex by the large number of distinct concerns surrounding the meaning of and policy solutions for facilitating diversity. Each of the topics areas discussed in this chapter have passionate supporters from private and not-for-profit or advocacy sectors, as well as independent demands from members of the Canadian public. Many of these areas are also hotly contested, with fervent supporters and detractors stating their case for seemingly opposite policy solutions. And all of this is made even more complicated by the CRTC's requirement to regulate based on the values and objectives articulated in a Broadcasting Act that is nearly 30 years old—and was developed before policy-makers could even imagine the role that digital technologies would play in altering the broadcasting environment.

It is interesting to note that the question of diversity in broadcasting has also evolved over the decades in a manner that is both similar to and different from discussion in the Canadian domestic and global policy spheres. This historical process-tracing indicates that the bulk of the policy framework for supporting broadcasting's social objectives were developed by the end of the 1970s, with some other areas (such as Indigenous broadcasting) developing slightly later in line with development in societal values. However, unlike diversity policy in the Canadian political and global realms, diversity in the Canadian broadcasting system is rarely articulated as a universal *strength* on which to rely for economic prosperity and cultural fertility. Instead, meeting diversity needs in broadcasting is framed as a balancing act in which adversarial stakeholders compete for *benefits* and *protections* for groups and causes that they perceive as deserving of support: third-language, Aboriginal, and OLM programming service their particular linguistic and cultural groups, with little expectation for cultural cross-over; community broadcasting is accepted as a loss-leader that appeases calls for community development; and public broadcasting is expected to meet the needs of all. On the other hand, advocates for private ownership diversity, genre diversity, and consumer sovereignty are more easily viewed as serving productive societal objectives by supporting a free-flowing marketplace of ideas in which many players compete to win public attention.

With a greater understanding of the historical complexity of the diversity principle, I turn now to an assessment of how the principle of diversity in Canadian broadcasting is currently evolving in a major CRTC policy proceeding: the 2013–2016 LTTV proceedings.

Chapter 6.

Process tracing

Over the course of the last three chapters, I have presented the development of the diversity principle in major global policy spaces, domestic Canadian political spaces, and in Canadian broadcasting policy specifically. Our attention now turns to the current state of diversity in broadcasting, with a focus on its manifestation in policy. To these ends, I have selected one specific set of proceedings within which to trace the development and use (or non-use) of the diversity principle: the CRTC's LTTV proceedings, which took place between 2013 and 2016.

This chapter provides process tracing of the LTTV proceedings. My objective is to create a detailed map of both the LTTV policy events and related influencing factors as they unfolded, and to aggregate the policy changes that arose from the proceedings. This is a data presentation chapter; I assess these results further in chapters 7 and 8. This chapter begins with an introduction to the proceedings, including an explanation of why I selected LTTV for this review and a brief contextualization of the political environment surrounding the relationship between the Conservative Government and the CRTC at the time of the LTTV. I then provide a detailed timeline of LTTV events, including both those directly related to the proceeding and other major policy events that impacted the environment in which the proceedings took place. I conclude with a summary of the major policy decisions that arose from the proceedings, with a very brief explanation of their impact on diversity objectives as articulated in the model developed in Chapter 5.

6.1. Introduction to the *Let's Talk TV* proceedings

CRTC Chair Jean-Pierre Blais first introduced the LTTV proceedings during a speech at the Université Laval in October 2013 (Blais & CRTC, 2013), and the commission launched a formal invitation to participate later that day (CRTC, 2013a). Blais described the proceedings' rationale as seeking guidance from Canadians on how to "reconcile the interests of citizens, creators and consumers as TV evolves, while respecting the objectives of the *Broadcasting Act*" (Blais & CRTC, 2013). In its formal

consultation invitation, the commission expanded its explanation to delineate broad objectives for television policy:

Canadians are entitled to an open, diverse and affordable television system that is responsive and forward-looking, a system that provides us with the best of what Canada has to offer alongside the very best international content. The CRTC will be holding a hearing in September 2014 to ensure that, moving forward, our television system achieves this objective. (CRTC, 2013a, p. 2)

The commission launched the proceedings with a request for input surrounding three key themes: programming (what do viewers think about what's on television); technology (how do viewers receiving programming), and the "viewer toolkit" (do viewers feel they have the information they need to make informed choices and find solutions to problems) (Blais & CRTC, 2013). By phase 3 of the proceedings, the commission had narrowed its focus to consider three public interest outcomes, facilitating a Canadian television system that would: 1) foster flexibility and choice for consumers in selecting programming services; 2) encourage the creation of "compelling and diverse" Canadian programming; and 3) empower consumers to make informed choices about television programming and packaging, and provide recourse mechanisms in case of dispute with broadcasting distributors (CRTC, 2014a).

The proceedings took place in three phases, each of which used different tools to elicit responses from industry stakeholders, civil society groups, and the general Canadian public. In brief, the timeline for the proceedings was as follows:

- Phase 1, 2013 October–2014 January: Collecting Input
 - 2013 October 24th: CRTC Chair Jean-Pierre Blais announced the proceedings
 - 2013 October–2014 January: Initial data collection (unstructured public input)
- Phase 2, 2014 February 28th–March: Structured online consultation
 - 2014 February 28th–March 14th: Public participation in "Choicebook" online consultation
- Phase 3, 2014 April–2016 December: Public proceedings and announcement of policy changes
 - 2014 April–September: Preparation for public proceedings

- 2014 September 8–19: Public proceedings held in Gatineau, QB
- 2014 September–2016 December: Post-proceedings follow-up, publishing of results, and implementation of policy changes

6.1.1. Why investigate the *Let's Talk TV* proceedings as a litmus for broadcasting diversity policy?

The LTTV proceedings are a useful indicator for major structural shifts in broadcasting policy, including changes in approaches to diversity. I selected these proceedings for several reasons:

The magnitude of the proceedings: Let's Talk TV was the first major investigation into broadcasting since the Standing Committee on Canadian Heritage released its last major report, *Our Cultural Sovereignty*, in 2003. The LTTV proceedings represented the first comprehensive broadcasting policy review that would consider the digital transition and shift to online viewing platforms.

The timing of the proceedings: The commission put its planned cultural diversity policy review on hold to conduct the LTTV proceedings. In its 2013–2016 three-year plan, the commission stated its intention to conduct research and review plans and reports on cultural diversity submitted by broadcasters, as well as its intention to review its ethnic broadcasting policies. It also discussed possibly following-up this research phase with a public fact-finding exercise and public consultation (CRTC, 2013b, p. 8). However, one year later, in its 2014–2017 plans, the commission stated that it had put the cultural diversity policy reviews on hold while conducting the LTTV proceedings. It articulated plans to re-evaluate the diversity review later, “in the context of the outcome of Let's Talk TV” (CRTC, 2014b, p. 4). This decision is important for two reasons: 1) it indicates that the commission expected the LTTV proceedings to directly impact its diversity policies and objectives; and 2) it meant that any future discussion on cultural diversity and rectifying issues related to inequality would necessarily have to take place within the framework of the LTTV decisions.

While the commission did begin a cultural diversity policy review following LTTV, at the time of writing it appears that the process was limited to one externally contracted study that provided a content analysis of visible minority representation on-screen in

Canadian television (see: Low & Nordicity, 2016).⁸⁵ The commission's discussed public consultations have not yet occurred, and it is not clear whether the commission has undertaken the review of the corporate diversity reports discussed in its 2013–2016 three-year plan (CRTC, 2013b, p. 8). At the time of writing, the CRTC has also not launched the anticipated review of its ethnic broadcasting policy, which has not been updated since 1999 (see: CRTC, 2014b, p. 4).

The structure of the proceedings: The CRTC emphasized LTTV's uniqueness as a "bottom-up" (consumer-driven) consultation. In his speech introducing the proceedings, CRTC Chair Jean-Pierre Blais emphasized the consumer-driven nature of the LTTV design, in stark contrast to the "top down" way the commission conducted proceedings in the past (Blais & CRTC, 2013). As I discuss in Chapter 7, it is crucial to consider the results of policy proceedings in the context of how the proceedings were designed and conducted, because consultation design and process have a significant impact on which voices are heard and considered in final determinations. This is particularly important when considering issues related to diversity, as consultation structures can often privilege well-established interests and magnify inequalities faced by historically marginalized groups and those holding unpopular or unconventional viewpoints. Considering the commission's decision to use the LTTV as a precursor to any evaluation of cultural diversity policies, the results of the proceedings could have significant impacts on the ability of certain groups to participate in both the broadcasting system and future broadcasting consultations.

The results of the proceedings: The LTTV proceedings led to sweeping policy reforms, including at least 27 distinct policy decisions within LTTV and precipitating the launch of at least two other standalone policy reviews. These decisions encompassed a range of objectives, including enhancing consumer rights (e.g., requiring cable companies to unbundle packages), altering the definition and practice of certain historical normative policy goals (e.g., changing the nature of Canadian content requirements), restructuring aspects of the television industry's business model (e.g., banning simultaneous substitution during the Super Bowl and ending genre protection),

⁸⁵ This review highlights the ongoing problems with diversity in the Canadian television system, finding that visible minorities, Indigenous Peoples, women, LGBTQ+ people, and people with disabilities remain highly underrepresented in Canadian TV. It is not clear if this review or the results received any follow-up from the CRTC.

and supporting accessibility for people with disabilities (e.g., requiring closed captioning for online linear platforms). The decision to prioritize the LTTV proceedings before completing a cultural diversity policy review is significant, as any future decisions related to cultural policy now must rest on the new policy foundation created by LTTV.

Political climate during LTTV

LTTV also presents a useful indicator of changes in government attitudes toward the CRTC's role as an arm's-length, quasi-judicial body. The LTTV proceedings represented a cornerstone of Conservative appointee Jean-Pierre Blais's tenure as CRTC chair, which began about a year before the official launch of the proceedings (June 2012) and ended shortly after the proceedings wrapped up (June 2017).

Blais worked closely with then-Heritage Minister James Moore in his previous position as a lawyer at Heritage Canada, and acknowledges that their close relationship likely led to a "cross-pollination of views" between himself and the Conservative Government (Raj, 2013). It is typical for governments to fill top positions with candidates deemed to be at least mostly ideologically compatible with their political objectives. However, when combined with the Conservative Government's recent history of overturning CRTC decisions under former Chair Konrad von Finckenstein⁸⁶ and alleged politicized commissioner selections⁸⁷ (Shtern & Blake, 2014), the commission's arm's-length status was already in question prior to Blais's appointment.

Concerns about the government's relationship with Blais arose after his appointment, when news agency the Wire Report publicized a copy of a mandate-like letter sent from Moore to Blais on Blais's first day of the job (June 18th, 2012). The letter, which the Wire Report obtained through an access to information request (Kyonka, 2013), began by welcoming Blais into the new position during a "challenging time for the

⁸⁶ Shtern & Blake (2014) detail four instances in which the government overturned CRTC decisions between 2006 and 2009, each of which related to telecom industries: one pertaining to internet-based phone services, one related to pricing for local phone services, one connected to the permissibility of non-Canadian entrants into the Canadian telecom market, and one related to usage-based billing for internet.

⁸⁷ In 2011, the government appointed lawyer and radio DJ Tom Pentefountas as CRTC vice-chair. Critics argued that Pentefountas was unqualified since he had little background in broadcast and telecom policy, and accused the government of using the posting to reward a friend with strong ties to Québec's conservative movement and personal ties to then-PMO spokesperson Dimitri Soudas (Blake & Shtern, 2014).

Commission,” and expressed confidence that Blais would be prepared for “the struggles ahead” (Moore, 2012, p. 1). It went on to set out “issues of mutual interest” between the CRTC and the government, including:

- enhancing consumer participation at the commission;
- addressing concerns related to affordability and quality of service;
- increasing consumer choice in programming options;
- lowering costs for consumers;
- regulating broadcasting “only to the extent necessary” (Moore, 2012, p. 1); and
- promoting competition, investment, consumer choice, and innovation in telecommunication.

Following the letter’s public release, broadcast policy scholar Dwayne Winseck solicited several expert opinions on its contents and precedence. While all of the experts agreed that the letter was unprecedented, they had mixed opinions about its appropriateness and ability to direct CRTC action (Winseck, 2014). Former CRTC chair Konrad von Finckenstein pointed out that the government’s requests should have taken the form of a directive to the commission rather than a more informal letter, but also noted that the language left the commissioners with considerable leeway in their actions. He described the letter as “useful,” stating that in his role as chair he would have welcomed such a letter, rather than deal with criticism when the government disagreed with the CRTC’s decisions (Winseck, 2014).

On the other hand, a respondent identified as an “anonymous former senior bureaucrat” stated that his/her view and the views from several anonymous communications law experts is that the letter “walks a fine line—likely inappropriate but not illegal” (Winseck, 2014). The respondent cited concerns about the arm’s length relationship between the CRTC and government, describing the letter as amounting to “setting policy by stealth” (quoted in Winseck, 2014). On the one hand, the letter was not binding, and it allowed the government to avoid the onerous and public process of issuing a formal policy directive to the commission. However, it could nonetheless guide the CRTC’s direction in a manner similar to—but much less transparent than—a directive, because it would be accepted by commissioners knowing that the government *could* intervene if their decisions contravened political objectives. As discussed above,

recent history had shown that the Conservatives likely *would* be quick to send back unwanted CRTC decisions. The government’s willingness to intervene in CRTC operations and the unprecedented mandate-like letter’s directive contents together raised real questions about the commission’s autonomy from government. It also presented a radical break from previous governments’ more hands-off relationship to the arm’s-length regulatory agency.

Whether due to the instructions in the letter or in pursuit of his own compatible visions for the Commission, Blais began to work toward the letter’s stated “shared objectives” early in his regime. By the following May, he had created the new post of CRTC Chief Consumer Officer and implemented a new consumer lens analytic tool to assess the impact of CRTC decisions on consumers (CRTC 2014a). As chapters 7 and 8 discuss, the primary considerations named in the letter also became dominant issues during the LTTV proceedings. For his part, Blais was sensitive to the claim that the letter had any influence on his actions. In an interview with the *Huffington Post*, he bristled at allegations that he was following government orders, stating: “What I’m doing now, I would have done whether or not that letter had been sent. That is what I profoundly believe in” (Raj, 2013). Blais’s assertion of self-direction may indeed be accurate, given the government’s careful selection of a friendly CRTC chair with shared objectives.

However, Blais himself developed a strong reputation as a no-nonsense captain with limited tolerance for dissent (Bradshaw & Dobby, 2016; Raj, 2013)—an attribute that was borne out most publicly in his clashes with and later firing of Ontario Commissioner Raj Shoan,⁸⁸ and contributed to the development of a work environment that Shoan and other commissioners speaking confidentially described as “toxic” (Bradshaw & Dobby, 2016; Dobby, 2015b, 2016; Dobby & Pellegrini, 2016; Perkel, 2016). This alleged centralization of power at the commission removed the check-and-

⁸⁸ Blais fired Ontario Commissioner Raj Shoan following an investigation finding that Shoan had harassed and humiliated senior public servant Amanda Cliff. However, the harassment finding was later overturned by the Federal Court, which found that Shoan had been denied “procedural fairness and natural justice” (Perkel, 2016), in part due to Blais’s “dual role” as both witness and decision maker in the investigation (Dobby, 2016). Documents released in court showed a simmering feud between Blais and Shoan prior to the investigation (Dobby, 2015b). Shoan had also accused Blais of interfering with commissioners’ independence (Dobby, 2015b) and had developed a reputation for penning dissenting responses to commission decisions, such as the commission’s 2016 decision allowing ethnic broadcaster OMNI TV to eliminate its daily newscasts (Canadian NewsWire, 2016).

balance provided by the existence of multiple commissioners serving different regions and appointed at different times. Blais's close ties with government combined with the centralization of power at the commission cleared the path for a politically charged CRTC to doggedly pursue a disruptive but government-approved consumer-centric agenda.

6.2. Detailed LTTV timeline and other relevant policy events

The LTTV proceedings and policy implementations took place over the course of more than three years, involving multiple phases of data collection and analysis, and resulting in over 27 policy changes impacting a multitude of different stakeholders. In order to best present the proceedings in appropriate detail and complexity, I first provide a brief textual explanation of each of the proceedings' sections, followed by a summary of the entire process in timeline format (figure 6-1).

6.2.1. Summary of LTTV three phases

Phase 1: Unstructured feedback

In phase 1, the CRTC solicited unstructured feedback from Canadians in relation to three broad areas: programming (viewpoints about what is on television), technology (viewpoints on how consumers receive programming), and the viewer toolkit (viewpoints on whether consumers are empowered to make their own programming choices) (CRTC, 2013a). Participants were offered several options to provide feedback: participating in an online discussion forum, hosting or participating in a "Flash!" conference (discussions hosted by stakeholders to discuss LTTV issues), or contacting the commission directly via phone, email, post, or fax.

In Phase 1, the commission received 1,320 comments from self-selected participants across the country as well as reports from over two dozen Flash! conferences. The CRTC's report detailing results from phase 1 shows that virtually all areas related to the current status and future of the broadcasting system are highly contested, with a plurality of respondents frequently holding polar opposite viewpoints on issues ranging from Canadian content rules, to reality television, to the CBC, cable packaging, costs, technology, and other topics (CRTC, 2014c).

Phase 2: Choicebook

Phase 2 was conducted by American consulting company Hill+Knowlton Strategies, and consisted of a structured online survey to solicit responses to selected diversity topics. The report included results from two separate groups of respondents: self-selected participants who sought out the survey online (these 6,000+ respondents were 70% male and younger than the average population) (Hill+Knowlton Strategies, 2014c), and a representative panel consisting of randomly selected members of the public (1,252 respondents) (Hill+Knowlton Strategies, 2014b). The survey consisted of a series of scenarios identifying polarized viewpoints on a few topics⁸⁹ and asking respondents to determine which viewpoint they most agreed with. It was designed to be accessible to the general public by putting complex policy issues into easily digestible language and offering respondents fixed responses.

The structure and analysis of phase 2 were problematic (discussed in detail in Chapter 7), and thus the value of the survey's results is negligible. Choicebook generally found that respondents held mixed views on most major policy issues, but overall tended to prefer options that they perceived as minimizing consumer costs (Hill+Knowlton Strategies, 2014a).

Phase 3: Public proceedings

Phase 3 was the most intensive part of LTTV. Thousands of self-defined stakeholder organizations and members of the Canadian public submitted comments based on various issues and, in some instances, proposed policy adjustments to meet certain objectives as presented in CRTC 2014-190 (CRTC, 2014a). This was followed by two weeks of public hearings, during which the commission heard presentations from and engaged in discussion with 110 respondents regarding the contents of CRTC 2014-190. Following the public proceedings, participants were invited to submit final comments highlighting any key points, responding to comments from other participants, or answering questions posed by the commissioners. Of the three LTTV phases, the

⁸⁹ The topics covered in Choicebook were: 1) Basic Subscription Services, 2) Local News, 3) Pick and Pay Options, 4) Sports Programming, 5) Access to US and International Programming, 6) Simultaneous substitution, and 7) Online Programming.

results of phase 3 were most often cited in the commission's subsequent policy responses.

6.2.2. Detailed timeline of LTTV

Figure 6.1 provides a detailed timeline of both the LTTV and the other relevant policy events that happened around that time. Items in bold refer to activities and occurrences directly related to LTTV, while items not bolded represent other activities and events that were not directly related to LTTV but had an influence on the regulatory or political environment in a manner that could impact the way the proceedings unfolded.

Timeline of the CRTC's *Let's Talk TV* Proceedings

Important events preceding the LTTV proceedings launch

2012

June

8th: Blais appointed Chair of CRTC

18th: Blais receives mandate letter from James Moore

July

18th: CRTC abolishes Local TV Improvement Fund (LTIF)

20th: CRTC requires TV providers to offer channels à la carte

August

31st: Blais announces creation of a new CRTC Chief Consumer Officer position

September

19th: CRTC denies BCE takeover of Astral

△ Bell requests Cabinet intervention to issue direction to CRTC; Minister of Industry Christian Paradis rejects this request.

December

14th: Supreme Court of Canada rules that the CRTC cannot make cable providers pay broadcasters for carrying their TV signals ("TV Tax" / fee-for-carriage)

2013

January

13th: Rogers buys *The Score* for \$171m

△ CRTC authorizes the purchase on 30 April 2013. Rogers immediately asks the CRTC to ease license requirements.

17th: Jim Flaherty (Minister of Finance) chastised by the Federal Ethics Commissioner for attempting to influence the CRTC

△ Flaherty had contacted the CRTC in an attempt to influence a decision regarding a radio station in his riding. The Federal Ethics Commissioner ruled that Flaherty violated Section 9 of the Conflict of Interest Act.

March

4th: Corus strikes deals with Shaw and Bell

△ Becomes a major player in Quebec's French language market.

15th: Peter H. Miller publishes a discussion paper on the CRTC's Genre Protection Policy

April

CRTC's three-year plan 2013-2016 released

△ Discusses launch of the *Let's Talk TV* proceedings, as well as reviews of the Cultural Diversity Policy, Ethnic Broadcasting Policy, and Native Radio Policy.

May

CRTC adopts and implements its "consumer lens analytical tool"

△ Intent is to assess and account for the impact of CRTC decisions on consumers

31st: Rogers shuts down CityNews Channel and parts of OMNI

△ Eliminates 62 full-time jobs

June

12th: Blais delivers a speech at the Banff World Media Festival, which announces an upcoming consultation on broadcasting

26th: Bill C-60 passes in parliament

△ Invokes concern regarding the CBC's arm's length status. Includes a clause that would allow the Prime Minister's Cabinet to approve the CBC's salaries, working conditions, and collective bargaining positions.

27th: CRTC approves BCE's acquisition of Astral

July

15th: Shelly Glover appointed Minister for Canadian Heritage and Official Languages

△ Takes over the position from James Moore, who becomes Minister of Industry

September

4th: Conservative parliamentary secretary David Anderson urges CRTC to take a "much more market driven approach" to regulating news and entertainment channels.

△ - Anderson's letter followed the CRTC's rejection of Sun News Network's request for mandatory carriage. Anderson argued that the CRTC should make all national news broadcasters available equally on OTA and cable networks offerings.

- Ethics commissioner Mary Dawson pledges to investigate, since parliamentary secretaries are considered to be public office holders under federal conflict-of-interest laws.

Let's Talk TV Phase 1: Collecting Input (October 2013- January 2014)

October

Early-October: Conservative speech from the throne announces plan to require TV package unbundling

24th: CRTC 2013-563 introduces the LTTV hearings and poses initial questions for discussion

△ Blais gives a speech at Université Laval introducing the proceedings.

November

7th: Privy Council Order-In-Council 2013-1167

△ Requires the CRTC to report on status of pick-and-pay by April 30th, 2014

14th: Glover asks the CRTC to look into pick-and-pay

20th: Federal government throne speech proposes unbundling requirement

22nd: Initial due-date for public comments

△ CRTC received over 3,100 responses

December

4th-21st: Harris Decima conducts phone study on behalf of the CRTC

△ This becomes the CRTC Quantitative Research Survey (n=801). Results published April 24th.

Dec 20: CRTC rules that BDUs must carry Category C news channels

2014

January

CRTC releases results of "Flash!" Conferences and requests for information

Responses by broadcasters etc. to OIC 2013-1167 (on pick-and-pay) with data

29th: Release of *Let's Talk TV: A report on comments received during Phase 1*

△ General discussion only - no data included

February

6th: Rogers makes 12-year deal with the NHL

LTTV Phase 2: Choicebook (February 28- April 2014)

February (cont.)

28th: CRTC officially launches LTTV Phase 2 (Choicebook)

△ Consists of an online questionnaire featuring scenarios for participants to rank. Open to the public, with a parallel study consisting of a randomly-selected control group.

March

6th: CRTC reprimands porn channels for a lack of CanCon and closed-captioning

9th: Pierre Peladeau announces his candidacy for the Parti Quebecois riding of Saint-Jerome

△ Refuses to divest his controlling interest in Quebecor. Peladeau is later selected as leader of the PQ from May 2015- May 2016.

14th: Last day for public participation in the CRTC Choicebook.

April

8th: David Keeble releases comparison study between US and Canadian Cable TV

△ Results indicate that Canadian services compare favourably to American offerings.

LTTV Phase 3: Public Proceedings (preparation)

April (cont.)

24th: Release of Choicebook results, titled *Let's Talk TV: Qualitative Research Report* ◀

△ Prepared by Harris/Decima on behalf of the CRTC.

The CRTC signals its plans to move towards pick-and-pay / skinny basic.

24th: Release of *CRTC 2014-190: Notice of Hearing - Let's Talk TV*

△ This is the official launch of the third phase. Announces hearings to begin in September 2014.

25th: CRTC opens LTTV phase-3

△ Posts 80 questions covering topics for the September proceeding.

May

1st: Release of more detailed CRTC Choicebook report

△ Includes separate reports for randomly selected panel of Canadians (n=1252) and self-selected participants in open online forum (n=6727)

1st: CRTC issues Notice of Consultation letters to actors requested to participate in the LTTV public hearings, upcoming in September

June - October: Phase three interventions

△ - Most stakeholder groups provided feedback at this point.
- In total, the Commission received 2617 documents. The breakdown included 153 interventions from companies, and 2397 interventions from individuals (see: Luka & Middleton, 2017).

June

CRTC issues procedural letters: notice of consultation

23rd: Bell Media announces plans to cut 5% of its workforce (120 employees) from TV operations

27th: Deadline for submission of interventions/comments/answers for September public proceedings

July

CRTC issues Commission Letters: Notice of Consultations (revised framework for TV)

Broadcaster data submission due for revenues, costs, and staff for local programming and OTA

14th: Deadline for translated versions of interventions/comments/answers for Sept hearings

August

21st: Release of CRTC 2014-190-3 - Notice of Hearing & Let's Talk TV Working Document for discussion

△ This is an important agenda-setting document that lays out the areas for discussion at the September hearings.

CRTC issues procedural letters: Request for disclosure of information

26th: Shaw and Rogers launch Shomi online streaming TV service

August-September: CRTC online discussion forum for public input

September

4th: CRTC releases aggregated data of revenues and costs associated with local programming

LTTV Phase 3: Public Proceedings (Proceedings, Sept 8-19, 2014)

September (cont.)

Sept 8- 19: Formal LTTV hearings

△ Included 120 presentations: 11 by individuals and 109 by companies and associations

8th: Release of CRTC 2014-190-4 *Let's Talk TV process for filing additional material*

8th, Day 1 of proceedings

△ Presentations by:

1. Lemay-Yates Associates Inc.
2. (none listed)
3. Éléphant, mémoire du cinéma québécois
4. The Competition Bureau
5. Ontario Ministry of Tourism, Culture and Sport
6. Zachary Kornblum (MBA/ Law student)
7. National Film Board of Canada
8. Telefilm Canada
9. Canada Media Fund
10. Shaw Rocket Fund

Google also presents, but its intervention is later removed from the record due to its refusal to provide the CRTC with required additional data.

9th, Day 2 of proceedings

△ Presentations by:

11. Irene Berkowitz (graduate student in Communication and Culture)
12. Québecor Média Inc., on its behalf and on behalf of Vidéotron s.e.n.c. and Groupe TVA inc.
13. Robert Dilworth (former audience researcher)
14. On Screen Manitoba
15. Public Interest Advocacy Centre, Consumers' Association of Canada, Council of Senior Citizens Organizations of British Columbia, National Pensioners Federation, Option consommateurs and Canadian Ethnocultural Council - Groups for the Public Interest
16. Union des consommateurs

10th, Day 3 of proceedings

△ Presentations by:

17. GroupM Canada
18. Bell Canada
19. Blue Ant Media
20. The Canadian Media Production Association
21. Friends of Canadian Broadcasting
22. Alliance des producteurs francophones du Canada
23. Union des Artistes, Société des auteurs de radio, télévision et cinéma and Association des réalisateurs et réalisatrices du Québec
24. Corus Entertainment Inc.

10th: Federal NDP accuse Harper Conservatives of interfering in the hearing process

11th, Day 4 of proceedings

△ Presentations by:

25. Insight Production Company Ltd.
26. Rogers Communications Inc.
27. L'Association québécoise de la production médiatique
28. Shaw Communications Inc.
29. Cogeco
30. (none listed)
31. Writers Guild of Canada
32. Canadian Cable Systems Alliance Inc.
33. Canadian Network Operators Consortium Inc.
34. (none listed)

12th, Day 5 of proceedings

△ Presentations by:

30. TELUS
- 31-34. (see previous day)
35. Canadian Broadcasting Corporation
36. (none listed)
37. Access Communications Co-operative Limited
38. RNC Media Inc. and Télé Inter-Rives ltée
39. Bragg Communications Inc., operating as Eastlink
40. Groupe V Média inc.
41. TV Nunavut Educational Broadcast Society
42. Allarco Entertainment 2008 Inc.
43. Stornoway Communications
44. Anthem Media Group Inc.

15th, Day 6 of proceedings

△ Presentations by:

43. The Walt Disney Company
44. Zazeen Inc.
45. MTS Allstream
46. Numeris
47. FourthWall Media
48. Rentrak Corporation
49. Independent Broadcast Group and OUTtv Network Inc.
50. Pelmorex Communications Inc.
51. Fédération nationale des communications
52. Le Conseil provincial du secteur des communications
53. Knowledge Network Corporation
54. Daryl Kinsman (private citizen arguing for OTA)

15th: Harper uses a high-profile speech to press for pick-and-pay options

- △ Election-style address to Conservative supporters making the return of Parliament. Also states that his government will oppose any tax on OTT services.

16th, Day 7 of proceedings

- △ Presentations by:

55. Saskatchewan Telecommunications
56. Hollywood Suite (group of four category B programming services launched in 2011)
57. FreeHD Canada Inc.
58. TekSavvy Solutions Inc.
59. Directors Guild of Canada
60. ACTRA National
61. Syndicat des communications de Radio-Canada
62. DHX Media Ltd.
63. Gusto TV
64. Gregory Taylor (post-doc at Ryerson University)
65. The Canadian Media Guild
66. The Antenna Guys / The HD Antenna Store
67. Youth Media Alliance

17th, Day 8 of proceedings

- △
68. Media Access Canada/Access
 69. Mireille Caissy
 70. Cindy Ferguson
 71. Vues & Voix
 72. John Rae (member of the disabled community)
 73. Regroupement des Aveugles et des Amblyopes du Québec
 74. Descriptive Video Works
 75. Canadian National Institute for the Blind
 76. Accessible Media Inc.
 77. NAC TV
 78. Quebec English-language Production Council
 79. Sabine Friesinger (founder of independent community TV channel, TVCI-Montréal)
 80. Canadian Association of Community Television Users and Stations
 81. St. Andrews Community Channel Inc.
 82. The Commissioner for Complaints for Telecommunications Services

18th, Day 9 of proceedings

- △
83. Stingray Digital Group Inc.
 84. Channel Zero Inc.
 85. 1395047 Ontario Inc. o/a Festival Portuguese Television
 86. Asian Television Network International Limited
 87. Ethnic Channels Group Limited
 88. Fairchild Television Ltd
 89. Odyssey Television Network Inc.
 90. Urban Diversity Forum
 91. Bob & Denise Morrison (private citizens and Broad Member of KSPS, the PBS station in Spokane)
 92. Unifor
 93. (non listed)
 94. Fédération des communautés francophones et acadienne du Canada
 95. (not listed)
 96. Forum for Research and Policy in Communications
 97. Small Market Independent Television Stations Coalition

19th, Day 10 of proceedings

△ Presentations by:

99. The U.S. Television Coalition
100. Impressions Soleil
101. Association of Canadian Advertisers and the Canadian Media Directors' Council
102. Documentary Organization of Canada
103. Entertainment One
104. TCPub Media Inc.
105. PBC21: Renewing Public Broadcasting in Canada for the 21st Century
106. Canadian Association of Film Distributors and Exporters
107. First Mile Connectivity Consortium
109. John Roman (private citizen)
110. VMedia Inc.

Netflix also presents, but its intervention is later removed from the record due to its refusal to provide supplementary data required by the CRTC.

LTTV Phase 3: Public proceedings post-proceedings and publishing results

September (cont.)

25th: C.D. Howe Institute releases report, *Let the Market Decide: The Case against Mandatory Pick-and-pay*

△ Argues that technology will soon allow viewers to choose everything they watch one program at a time. Questions continuation of CanCon production payments. Opposes forcing OTT services to subsidize CanCon.

29th: CRTC issues letter to Netflix and Google, re: refusal to disclose information

△ The Commission ultimately strikes their interventions from the record.

November

Commission issues instructions for submitting final comments

6th: Blais speech to the Vancouver Board of Trade

△ Makes it clear that the CRTC has no plans to regulate OTT services

6th: CRTC 2014-576 Prohibition of 30-day cancellation policies

△ This is the first policy decision released following the LTTV proceedings. Service providers will no longer be permitted to impose 30-day cancellation policies on consumers.

December

24th: CRTC sends letter to working group on set top box data

△ Requires a working group status report by 9 Jan 2015

24th: CRTC sends letter to working group on simultaneous substitution

△ Requires a status report by 9 Jan 2015

2015

January

Working groups for set top boxes and simultaneous substitution submit progress reports

29th: CRTC 2015-24: OTA transmission of TV signals and local programming

△ Requires conventional TV licensees to maintain OTA presence in order to retain certain privileges (e.g.: simultaneous substitution; basic service)

29th: CRTC 2015-25: Measures to address issues related to simultaneous substitution

△ Allows for continuation of simultaneous substitution, but introduces new consequences for errors. The CRTC also announces its intention to prohibit simultaneous substitution during the Super Bowl.

March

2nd: Bell releases Nanos research report claiming that Canadians support SimSub

△ Also filed a leave to appeal request to the Federal Court, claiming that the CRTC acted in error in its SimSub Super Bowl decision.

12th: Blais speech at the Canadian Club announces upcoming major changes to Canadian Content regulations and funding strategies

12th: Release of CRTC 2015-86: *The Way Forward -- Creating compelling and diverse Canadian programming*

△ Introduces changes to CanCon regulations and support, and announces the upcoming Discoverability Summit

12th: Release of CRTC 2015-88 *Broadcasting Order - Exemption order respecting discretionary television programming undertakings serving fewer than 20,000 subscribers*

△ Reduces regulatory burden for smaller programming services

12th: CRTC rules that mandated "terms of trade" are no longer needed

△ Opposed by the Canadian Media Producers Association and ACTRA; speculations about a court challenge.

15th: Release of *Broadcasting Notice of Consultation CRTC 2015-97, Call for comments on wholesale code*

19th: Release of CRTC 2015-96: *A World of Choice: A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*

△ Includes skinny basic / pick-and-pay requirements for broadcasters, among other changes.

20th: Corus Entertainment shares fall 11 per cent in response to the CRTC's ruling on pick-and-pay / skinny basic ruling (in CRTC 2015-96)

△ This was the most Corus stock had dropped in a single day since 2001. Its flagship channels, W Network at YTV, did not make it into the skinny basic package.

25th: Blais slams CTV for a lack of journalistic independence after President Kevin Crull forbids CTV from airing Blais's comments on *Ler's Talk TV*

△ Crull is fired two weeks later.

26th: Release of CRTC 2015-104 *Navigating the Road Ahead: Making informed choices about television providers and improving accessibility to television programming*

△ Sets out new TVSP Code of Conduct; identifies ombudsman; calls for improved access and accessibility for Canadians with disabilities

26th: Release of CRTC 2015-105 *Call for Comments on TV Services Provider Code of Conduct Working Document*

April

8th: Representatives from major media companies release first letter to CRTC supporting a set-top-box audience measurement system and coming up with an action plan

9th: 2016-134 *Notice of Consult, Review of Basic Telecommunications Services*

△ Not strictly part of LTTV. CRTC to review which telecom services are required for meaningful participation in the digital economy and the Commission's role in assuring services are affordable.

9th: BCE President Kevin Crull abruptly leaves the company. Crull is replaced by Mary Ann Turcke

△ Reports state that Crull was fired or forced to resign in the fallout of allegations of censorship, following his refusal to allow Blais appear on CTV in March

14th: CRTC faces challenges from the Canadian Media Production Association over its decision to remove the "terms of trade" requirement

29th: Application filed with the Federal Court shows tensions between CRTC Ontario Commissioner Raj Shoan and Chair J.P. Blais

May	<p>Rogers cuts OMNI TV daily newscasts in Punjabi, Mandarin, Cantonese and Italian</p> <p>△ The company's intention to cut these stations was not mentioned in its last license renewal, just months previously. Interested groups asked the CRTC to review Rogers's decision; the CRTC declined the request (with a dissenting viewpoint from Commissioner Raj Shoan).</p> <p>15th: <i>Broadcasting Notice of Consultation CRTC 2015-105-1 Clarification of Procedure on TV Service Provider Code of Conduct</i></p> <p>25th: Deadline for submitting interventions about the Television Providers Code of Conduct (see CRTC 2015-105)</p> <p>25th: Rogers and Shaw make Shomi available to all customers</p> <p>△ Competes directly with Netflix</p> <p>30th: Rogers and Shaw accidentally cut off David Letterman's last show early</p> <p>△ They ended the CBS before the show ended, when it went over its expected time. This raised the ire of viewers critical of SimSub</p>
June	<p>4th: Deadline for filing replies to <i>CRTC 2015-105-1: notice of consultation on Television Service Provider Code of Conduct</i></p>
July	<p>9th: CRTC issues <i>CRTC 2015-304 - Call for comments on amendments to the Broadcasting Distribution Regulations to implement determinations in the LTTV proceeding</i></p> <p>23rd: CRTC issues <i>CRTC 2015-330 Call for Comments on the proposed SimSub Programming Service Deletion and Substitution Regulations</i></p> <p>25th: CRTC issues <i>Broadcasting Notice of Consultation CRTC 2015-105-2 Request for Further Information, Call for Comments on TV Service Provider Code of Conduct Working Document</i></p>
August	<p>31st: SimSub Working Group submits report to the CRTC</p> <p>△ Sets out measures taken and notes next steps to address key issues in SimSub.</p>
September	<p>4th: Deadline for submission of interventions regarding proposed amendments to Broadcasting Distribution Regulations, as set out in CRTC 2015-304</p> <p>11th: Deadline for submission of comments on proposed regulations set out in CRTC 2015-330, simultaneous substitution service deletion and substitution regulations</p> <p>14th: <i>CRTC 2015-421 Notice of Consultation, Review of policy framework for local and community TV</i></p> <p>△ This is not strictly part of LTTV, but it builds on determinations made during the proceedings</p> <p>15th: Corus Entertainment shares drop by 11 percent (the most in a single day since 2011) as a result of the skinny basic decision</p> <p>△ This is the most Corus shares had dropped in a single day since 2011. Analysts expected Corus to be among the most significantly impacted by the skinny basic rules, as its flagship channels (W Network and YTV) did not make it into the skinny packages.</p> <p>24th: CRTC issues <i>CRTC 2015-438 Broadcasting Regulatory Policy - Wholesale Code</i></p> <p>△ See also the accompanying Information Bulletin CRTC 2015-440 and Distribution of the programming of licensed programming undertakings by broadcasting distribution undertakings, CRTC 2015-43</p>
October	<p>29th: Deadline for filing comments for the review of the policy framework for local and community television programming, <i>CRTC 2015-421</i></p>

November

3rd: CRTC Vice-Chair Tom Pentefountas announces his resignation, effective Nov 20th

△ Pentefountas's term was set to end on April 3rd

4th: Mélanie Joly takes office as Minister of Canadian Heritage

19th: CRTC issues *Broadcasting Regulatory Policy CRTC 2015-513 - Regulations to implement policy determinations regarding Simultaneous Substitution*

△ States that complaints and remedies will be determined on a case-by-case basis; subscribers to BDUs making an error may be eligible for compensation. Notes that it has not yet issued an order excluding the Super Bowl from the simsub regime.

19th: CRTC issues *Broadcasting Regulatory Policy CRTC 2015-514 - Amendments to Broadcasting Distribution Regulations to implement determinations on LTTV*

△ Includes:

- Skinny basic and pick-and-pay requirements;
- Eliminating genre protection
- Requirement for vertically integrated BDUs to offer independent services
- Provisions to improve accessibility for people with disabilities
- Ensuring adequate distribution of official language minority services (10:1 rule)

December

22nd: The SimSub working groups submits its second report to the CRTC

△ Reports on status of new measures to reduce errors and sets out next steps

2016

January

6th: Nordicity releases report suggesting cable unbundling will cost 15,000+ jobs and result in less funding for Canadian content

7th: Release of *Broadcasting Regulatory Policy CRTC 2016-1: The Television Service Provider Code*

△ CRTC announces the new mandatory code of conduct for television service providers. Purpose is to simplify TV service agreements for consumers.

12th: CRTC rules that Rogers's elimination of all daily newscasts at OMNI TV in May 2015 was not a violation of its license agreement

13th: Shaw sells its media arm to Corus for \$2.65 billion

25th: CRTC launches hearing on local TV; begins on Jan 26th

△ Follows publication of its working document on Jan 12. Not strictly part of LTTV but builds on the determinations from it.

25th: Rogers Media cuts its workforce by four percent

△ 200 jobs in radio, TV, publishing, and admin

February

3rd: CRTC issues *Broadcasting Notice of Consultation CRTC 2016-37: Call for comments on a proposed distribution order prohibiting simultaneous substitution for the Super Bowl*

16th: Blais delivers speech at the Canadian Club which slams industry entitlement

△ Blais promises to "keep tabs" on broadcasters to make sure they're living up to the spirit of the LTTV changes

March

1st: First day Canadian BDUs are required to offer either pick-and-pay or small TV packages

5th: Federal Court of Appeal grants Bell Media permission to appeal the ban on simultaneous substitution during the Super Bowl

23rd: During an interview, Blais tells consumers to "haggle" with BDUs to get a better deal on TV packages

△ Blais also stated that consumers might have to "go up the chain" into a BDU's loyalty program

24th: CRTC approves Corus's acquisition of Shaw's media holdings

April

24th: Joly announces Department of Canadian Heritage's cultural policy review

May

24th: CRTC launches hearing to evaluate implementation of skinny basic

△ Also states that ~100,000 people have signed up for skinny basic since March

June

15th: CRTC releases *CRTC 2016-224: Policy framework for local and community television*

- △ - Launches the Independent Local News Fund
- Requires a minimum requirement of 7 hours of news content for English language stations
- Allows broadcasters to divert some CanCon spending requirements to local news from community TV
- Creates a citizen advisory panels to ensure diverse on-screen representation

24th: Raj Shoan fired from the CRTC by federal cabinet order-in-council

Soon after, Shoan files application with federal court to overturn the order

August

19th: CRTC issues distribution order to stop simultaneous substitution during the NFL starting 2017.

△ Appealed by NFL and Bell to Federal Court of Appeal. See: CRTC 2016-334 and CRTC 2016-335

25th: CRTC decision loosens constraints that define a production as Canadian

△ Ostensibly gives more productions access to certain kinds of funding

September

1st: Commissioner for Complaints for Telecommunications Services has TV added to mandate

△ Came in wake of complaints about Skinny Basic; creates a single point of contact for consumers

1st: CRTC rejects CBC's request to extend its ability to play ads on Radio 2 and ICI Musique

△ Argues that the CBC failed to demonstrate continued investment in radio, and notes new government commitment to the CBC

3rd: Judge finds investigation of Raj Shoan was unfair; overturns his firing

7th: CRTC begins two-day hearing to review skinny basic TV packages

△ States that providers deemed to be failing to meet the 'spirit' of the rules may not have licenses renewed. The review was launched in response to complaints that providers intentionally made skinny basic undesirable, or buried details on their websites.

7th: Federal court dismisses Bell's appeal of the Super Bowl simsub ruling because the CRTC decision was not yet final

△ Court found "no evidence of procedural unfairness" on the part of the CRTC

November

3rd: Federal Court of Appeal grants Bell permission to appeal the CRTC's simsub Super Bowl ruling

△ Bell estimates it will lose 1/3 of its ad revenue for the game. The company had already sold ads as if it would receive a stay (with the appeal), but this was not granted by the court.

15th: Judith LaRocque hired as interim CRTC Vice-Chair on a 6-month contract

16th: Rogers and Shaw announce they will be shutting down Shomi

△ Decision is slammed by Blais

21st: CRTC cuts TV license renewal to 1 year so it can monitor implementation of pick-and-pay / skinny basic

△ This is an unusual move for the Commission



Figure 6-1. Full timeline of the LTTV proceedings

6.3. Policy Results of LTTV

This section summarizes the policy results of the LTTV proceedings. Table 6-1 includes a brief explanation of the policy change, direct CRTC policy references, and description of which (if any) broadcasting diversity categories are impacted by the decision.

My analysis is based in discursive institutional theory, which is a form of neo-institutionalism that calls attention to the role of ideas and interactive discursive processes in the policy sphere (Schmidt, 2015). I developed the “most relevant diversity issues” section based both on my own policy assessment and by reading the policy-maker, expert, and layman analyses found in 56 CRTC documents, 380 organizational intervention documents submitted by 127 different organizational stakeholders, 263 news articles (from a range of Canadian newspapers, representing all available discussion on LTTV accessible through the database Canadian Newsstream and the *Huffington Post Canada*), and industry reports. I used NVIVO to code source documents based on pertinent policy decisions and diversity topics, and subsequently ran a series of queries to help pinpoint patterns in diversity issues and regulatory decisions. This

section provides only a brief overview of the policy topics in relation to diversity issues; I undertake a more comprehensive thematic analysis in Chapter 8. For more detail surrounding my methods and their link to discursive institutionalist theory, see Chapter 2.

Table 6-1. Summary of all CRTC LTTV decisions

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Prohibition of 30-day cancellation policies</i>	CRTC 2014-190 CRTC 2014-576	As of January 2015, companies were banned from imposing 30-day cancellation policies for internet services, broadcast distribution services, and local voice services.	Consumer sovereignty: - This measure was designed to provide clarity to consumers and facilitate a consumer's ability to switch providers by preventing double billing when they cancel their services and move to another provider.
<i>Simultaneous substitution</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-25 CRTC 2015-329 CRTC 2015-330 CRTC 2015-513 CRTC 2016-37 CRTC 2016-334 and CRTC 2016-335	<ul style="list-style-type: none"> - Simultaneous substitution permitted on conventional TV. - Development of industry working group on how to improve substitution. - New sanctions put in place for broadcasters and distributors that make substitution errors. - Simultaneous substitution no longer permitted during the Super Bowl. 	<p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - Issue undertaken in response to consumer irritation with simsub errors. - SimSub during the Super Bowl precludes consumer access to high-budget American advertisements. <p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Simsub funds are used to support Canadian Content procurement and production. - Provides a disincentive for Canadian broadcasters to procure high-quality Canadian content, since most revenues are earned through American material. - Ties Canadian broadcasting schedules to those of major American broadcasters. <p>Genre and program diversity:</p> <ul style="list-style-type: none"> - Repealing simsub would lead to the end of a distinct Canadian rights market for US programming. <p>Localism:</p> <ul style="list-style-type: none"> - Simsub is used to support local television, including local news, information and analysis. <p>Bilingualism and biculturalism:</p> <ul style="list-style-type: none"> - In CRTC 2014-190, CRTC asked if elimination of simsub would have unintended consequences for French-language services.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Wholesale Code</i>	CRTC 2015-96 CRTC 2015-97 CRTC 2015-438 CRTC 2015-439 CRTC 2015-440	Revised and expanded the Wholesale Code to: <ul style="list-style-type: none"> - prevent measures that impede pick-and-pay or build-your-own-package options for consumers, or that impose packaging requirements and/or minimum penetration or revenue guarantees on BDUs; - enhance access to the broadcasting system for non-vertically integrated services (e.g., requiring BDUs to offer independent services in at least one package; requiring equality of treatment between independent services and vertically integrated services); - support fair negotiations of terms and conditions for programming services; and - require vertically integrated companies abide by the Wholesale Code as a regulatory requirement. 	Canadian cultural expression: <ul style="list-style-type: none"> - Supports discoverability of Canadian content by ensuring programming services are available to consumers. Ownership diversity: <ul style="list-style-type: none"> - Supports independently owned Canadian channels by ensuring fairness in negotiations with BDUs. Consumer sovereignty: <ul style="list-style-type: none"> - Ensures negotiations between TV providers and programmers are conducted fairly, thereby maximizing consumers' choice in discretionary services. - Ensures pick-and-pay and build-your-own-package options are available to consumers. Genre/program diversity: <ul style="list-style-type: none"> - Healthy wholesale market considered essential to support creation of diverse programming. Canadian cultural expression: <ul style="list-style-type: none"> - Healthy wholesale market as supporting the creation of Canadian programming.
<i>Measures related to ethnic and third-language broadcasting</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-96	<ul style="list-style-type: none"> - Elimination of buy-through requirement for third-language services. - BDUs required to offer on Canadian third-language service for each non-Canadian third-language service. - Streamlined licensing of ethnic and third-language services with one type of license for both Category A and B ethnic and third-language services and harmonizing licensing requirements. This entails a removal of access privileges for ethnic and third-language Category A services. 	Equity-seeking groups: <ul style="list-style-type: none"> - Policy changes could impact what services are available to consumers. Consumer sovereignty: <ul style="list-style-type: none"> - Consumers would not need to purchase a Canadian service before purchasing other options. - Elimination of buy-through requirements and unbundling enhances consumer choice in selecting Canadian and foreign services. Canadian cultural expression: <ul style="list-style-type: none"> - This may mean fewer subscribers for the major Canadian services. - Broadcasters will be required to offer a number of Canadian third-language services.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Creation of hybrid video-on-demand (VOD) service category</i>	CRTC 2015-86	<ul style="list-style-type: none"> - Amended and expanded the current Digital Media Exemption Order to include hybrid VOD services as a new type of exempt service. - New hybrid VOD services would be permitted to offer exclusive programming both online in a manner similar to current DMEO exempt services and on a closed BDU network. - New hybrid VOD services would not be subject to Canadian content requirements or requirements related to financial contributions to Canadian programming, as are normally imposed on VOD services. 	<p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - Encourages development of online services, providing new options for consumers to access content. <p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Commission's stated intent is to encourage broadcasters to make more Canadian content available online, and views Canadian content offerings as a potential distinguishing factor for the new hybrid VOD services. - New hybrid service would not be subject to Canadian content requirements or required financial contributions to Canadian productions.
<i>Change in Canadian content requirements</i>	Choicebook CRTC 2014-190-3 CRTC 2015-86	<p>-Private conventional television stations will have their exhibition requirements maintained at 50% for evening hours, with no minimum requirement at other times of the day.</p> <ul style="list-style-type: none"> - Overall daily exhibition requirements for most discretionary services will be set at 35%, with no specific evening requirement. - Exhibitions requirements will remain the same for services receiving mandatory distribution under section 9(1)(h) of the Broadcasting Act. 	<p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Fewer Canadian content exhibition requirements mean less specifically allocated shelf-space for Canadian content. <p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - CRTC's rationale was to create good quality CanCon that consumers choose to watch, rather than artificially supporting poor-quality content with quotas. <p>Genre / program diversity:</p> <ul style="list-style-type: none"> - Reducing overall CanCon requirements may result in fewer program reruns. <p>Ownership diversity:</p> <ul style="list-style-type: none"> - Allowing broadcasters to focus on fewer, high quality shows may put some producers and channels out of business.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Shift in Canadian content spending (CPE) requirements</i>	CRTC 2014-190-3 CRTC 2015-86	<ul style="list-style-type: none"> - English-language market CPE requirements will apply to all licensed services with over 200,000 subscribers, including those that do not currently have a CPE requirement. CPE amounts for these services will be based on historical levels of expenditure, with a minimum requirement of 10%. - Large private ownership groups can maintain group-based licensing approach and existing expenditure levels. - The CPE will not raise CPE requirements. - Independent programming services permitted to count third-party promotion of Canadian programs towards up to 10% of their CPE. 	<p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Embodies the shift from Canadian content rules to expenditure requirements. - Spending allowance for promotion places new emphasis on the marketing and discoverability of Canadian content.
<i>Use of local availabilities to promote Canadian shows</i>	CRTC 2015-86	<p>Change in permitted use of local availabilities:</p> <ul style="list-style-type: none"> - Previously, 75% of local availabilities were to be reserved for any of the following: promotion of Canadian programming services, promotion of the community channel, and/or unpaid public service announcements. - Under the new policy, at least 75% per day of local availabilities must be used to promote first-run, original Canadian programs. - The remaining 25% of local availabilities may be used by BDUs to promote their broadcast and telecom services. 	<p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - This shift embodies the commission's increased focus on marketing and discoverability of Canadian content. <p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - Rationale is that consumers will choose high-quality Canadian content if they are aware of its existence.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Launch of two Canadian Content pilot projects</i>	CRTC 2015-86	Both projects involve exceptions to the standard Canadian content program certification process to allow for certification of live-action drama or comedy programs based on: <ul style="list-style-type: none"> - pilot project 1: adaption of a best-selling Canadian-authored novel; or - pilot project 2: a production budget of at least \$2million per hour. To be eligible, projects must also employ: 1) a Canadian screenwriter, 2) at least one Canadian lead performer, and 3) a Canadian production company.	Canadian cultural expression: <ul style="list-style-type: none"> - These projects embody the commission's emphasis on supporting high-impact Canadian programming (programming that draws large Canadian and international audiences).
<i>End of terms of trade agreement requirement</i>	CRTC 2015-86	A terms of trade agreement provides a producer and broadcaster with basic obligations to ensure content is properly monetized and widely available. In 2007, the commission determined that terms of trade agreements would provide stability and clarity to producers and broadcasters, and subsequently imposed a requirement for Bell, Shaw, Corus, and Rogers to adhere to a terms of trade agreement in its relations with the CMPA. The policy set out in CRTC 2015-86 allows programming services to apply to remove terms of trade agreement requirements.	Canadian cultural expression: <ul style="list-style-type: none"> - Broadcasters feel that terms of trade restricts how much money they can recoup from productions they help finance, making them reluctant to underwrite unproven creative endeavours. - Producers often hold international rights, which means broadcasters buy content with little stake in its longer-term development. - Incentive is for independent producers to act as a project-to-project service industry. Ownership diversity: <ul style="list-style-type: none"> - Producers feel that regulatory enforcement is the only way to ensure producers are able to negotiate fair deals with large vertically integrated entities. - It is possible that little will change in practice, since broadcasters and producers now have experience negotiating and adhering to terms of trade agreements.
<i>Increase in dubbing credit</i>	CRTC 2015-86	Raised additional time credit for programs dubbed in Canada to 33% (raised from 25%). Response to concern that shift from focus on Canadian content quotas to content expenditures will negatively impact time credits for dubbed programs.	Bilingualism and biculturalism: <ul style="list-style-type: none"> - This issue mostly impacts the French-language market. - Dubbing allows English- and French-language programming to travel across language markets, providing a window into content from markets that would otherwise be inscrutable to non-speakers.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Amendments to policies surrounding news services</i>	CRTC 2014-05-24 CRTC 2014-190 Choicebook CRTC 2014-190-3 CRTC 2015-86	<ul style="list-style-type: none"> - Cable and satellite operators must place Canadian national news specialty services in best available discretionary packages that fit with their genre. <p>Modifications of licensing criteria set out in 2009-562-2, to:</p> <ul style="list-style-type: none"> - ensure services have demonstrated capacity to gather news and report on events nationally; - restrict license terms so that 95% of programming is drawn from categories that are relevant to news services: (1) news, (2)(a) analysis and interpretation, (2)(b) long form documentary, and (3) reporting and actualities; - require 16 hours per day, seven days per week of original programming; - require licensees to operate a live broadcast facility and operate news bureaus in at least three other regions; - require licensees to comply with CBSC codes: RTDNA Code of Journalistic Ethics, CAN Code of Ethics, Journalistic Independence Code; and - require licensees to maintain the ability to report on international events from a Canadian perspective. 	<p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Ensures a minimum capacity of news services to represent international issues from a Canadian perspective. - Services must demonstrate capacity to gather news and reports on events throughout Canada. <p>Localism/regionalism:</p> <ul style="list-style-type: none"> - Requires services to operate (collect news) at least four regions. No stated requirement for urban/rural/northern diversity. <p>Program diversity:</p> <ul style="list-style-type: none"> - Encourages content from high-cost programming formats, such as investigative journalism and documentary.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Measures to promote Programs of National Interest (PNI)</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-86	<p>The commission first introduced PNI requirements into the English-language market in 2011, followed by the French-language market in 2012 and CBC services in 2013. In CRTC 2015-86, the commission decided not to alter this policy, given that it had only been in place for a few years at the time of the hearings. However, the commission did create a three-part test to determine if a program should be designated as PNI:</p> <ul style="list-style-type: none"> - the program is expensive to produce, and carries a higher risk of being unprofitable; - availability of such programming is necessary to achieve the Broadcasting Act's objectives; and - without regulatory support, this programming would not be available to Canadians. <p>From henceforth, the commission will use this test to decide to initiate a policy proceeding, or to add or remove program categories from PNI in future.</p>	<p>Program diversity:</p> <ul style="list-style-type: none"> - Supports the creation of original programming that would not otherwise exist due to cost, such as children's and youth programming. <p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - Ensures there is a Canadian option available for certain kinds of high-cost high-risk programming.
<i>Expanding the exemption of services serving fewer than 200,000 subscribers</i>	CRTC 2012-689 CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-86 CRTC 2015-88	<p>Expands the exemption order that currently exists for third-language services with fewer than 200,000 subscribers to include all third-language services and other discretionary services with fewer than 200,000 subscribers. These entities may be exempt from the requirements of Part II of the <i>Broadcasting Act</i>.</p> <ul style="list-style-type: none"> - The exemption would maintain distinctions between third-language services and English- and French-language services (e.g., respective exhibition requirements). Otherwise, obligations would be the same across these services. - This would allow a greater number of services to register as exempt services, reducing the regulatory burden for small broadcasters and for the commission. 	<p>Equity-seeking groups and bilingualism and biculturalism, program diversity:</p> <ul style="list-style-type: none"> - This provision is designed to make it easier for new discretionary services serving niche audiences to launch. It does this by reducing the regulatory burden for these services. <p>Ownership diversity</p> <ul style="list-style-type: none"> - Provides a reduced regulatory burden to small market players; intention was to make it easier for broadcasters to launch new discretionary channels in French, English, and third-languages.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Extending BDU exemption order to include BDUs with fewer than 20,000 subscribers wishing to compete with licensed BDUs</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2014-445 CRTC 2015-96	Proposal to amend Broadcasting Order CRTC 2014-445 to allow exempted BDUs (BDUs with fewer than 20,000 subscribers) to enter markets already served by licensed BDUs. The commission decided to initiate a follow-up process to broaden the exemption order.	Consumer sovereignty: <ul style="list-style-type: none"> - The goal of this provision is to create greater competition, which would give consumers in these markets greater choice in TV providers. Ownership diversity: <ul style="list-style-type: none"> - Provides a reduced regulatory burden to smaller BDUs, enabling them to compete alongside large vertically integrated entities.
<i>Unbundling multiplexed services</i>	CRTC 2015-96	Previously, the commission required that multiplexed channels of pay services be offered together in one package, primarily as a way to prevent these multiplexed channels from competing with genre-protected Category A services. Since the commission is eliminating genre protection, it will also amend this rule so that pay services can offer their feeds individually to subscribers. Further, the commission will restrict future multiplexes by: <ul style="list-style-type: none"> - prohibiting pay services and mainstream sports from adding more multiplexed services, unless authorized to do so by condition of license; and - requiring other services wishing to offer multiplex channels to request authorization to do so. The requesting service would need to show that it is more appropriate to authorize another multiplex rather than license a new service. 	Consumer sovereignty: <ul style="list-style-type: none"> - The commission states that removing this regulatory barrier will provide more flexibility to subscribers.

<p><i>Changes to cable packaging: unbundling multiplexed services, pick-and-pay, pick-a-pack, and skinny basic</i></p>	<p>CRTC 2013-563 PCO Order-In-Council 2013-1167 CRTC 2014-190 Choicebook CRTC 2014-190-3 CRTC 2015-96 CRTC 2015-97 CRTC 2015-304 CRTC 2015-514</p>	<p>Multiplex unbundling:</p> <ul style="list-style-type: none"> - Pay services are now permitted to offer their feeds individually to subscribers (instead of in previously mandated multiplexed packages). - Future multiplexes will be restricted, except with special permission. <p>Pick-and-pay / Skinny basic</p> <ul style="list-style-type: none"> - BDUs will have to offer all discretionary services on both a pick-and-pay <i>and</i> small package basis by December 2016. - BDUs are required to provide a small entry-level service (“skinny basic”) for a cost of \$25 or less per month. This service must include local Canadian stations, services designated under section 9(1)(h) of the Broadcasting Act, and, where applicable, the community channel and provincial legislature. In addition, BDUs may include certain other channels in the basic package (non-local Canadian OTA stations; one out-of-province educational service; US 4+1 signals; local radio stations). 	<p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - Consumer can choose whether to continue purchasing large packages, or switch to a skinny basic and/or pick-and-pay model that will allow greater flexibility in selecting programming options. - Consumers will no longer be compelled to pay for channels they do not watch. - In 2016, the CRTC launched a public review into the new packages following consumer complaints about hidden fees and allegations that the new options ended up being more expensive than old packages (Sagan, 2016). Following the review, the commission reduced TV providers’ operating licences to one year (rather than the typical seven) so it could monitor implementation of the new packages (Lewis, 2016b). - Overall, the new options are not necessarily expected to reduce costs for consumers (Bradshaw, 2016). - Some commentators believe these options have the potential to reduce costs for subscribers; it is unclear if this is the case. <p>Program diversity:</p> <ul style="list-style-type: none"> - Some niche channels may struggle to maintain a sufficient subscriber base without the benefit of channel bundling (OUTtv & Danks, 2014). This could lead to a decrease in program diversity. - CRTC argues that it will spur innovation for services wishing to remain competitive. <p>Ownership diversity:</p> <ul style="list-style-type: none"> - Companies that are heavily reliant on television assets may experience greater financial challenges. <p>Equity-seeking groups:</p> <ul style="list-style-type: none"> - Ethnic and third-language services are also required to offer services on a pick-and-pay or small package basis. While this provides for greater consumer sovereignty in selecting services, services with small audiences are concerned about the viability of their business models without the support of large packages.
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Topic	CRTC references	Summary of policy change	Most relevant diversity issues
			<p>Bilingualism and biculturalism, equity-seeking groups, Indigenous voices</p> <ul style="list-style-type: none"> - The Commission will rely on section 9(1)(h) of the Broadcasting Act remains to ensure that under-represented groups have access to programming serving their needs <p>Canadian cultural expression</p> <ul style="list-style-type: none"> - Skinny basic packages give priority carriage to Canadian television services, particularly local and community stations and those supported under the 9(1)(h) section of the Act. - Potential loss of programming services could impact Canadian production by making it difficult for services to amortize costs across multiple services. This could decrease overall funding available for Canadian programming.
<i>1:1 linkage rule</i>	CRTC 2014-190-3 CRTC 2015-96 CRTC 2015-304 CRTC 2015-514	Category A discretionary services will no longer receive access privileges. BDUs must distribute at least one English- or French-language independent programming undertaking for every distributed service in the same language that the BDU itself owns.	<p>Ownership diversity and program diversity:</p> <ul style="list-style-type: none"> - This measure is meant to support independent services, which often offer niche programming that is targeted at narrower audiences. - This measure offers some protection to independent services as a group, but no one service will be guaranteed access.
<i>10:1 linkage rule</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-96 CRTC 2015-304 CRTC 2015-514	BDUs are required to distribute one licensed English- or French-language (minority language) service for every 10 majority-language French or English service it offers. BDUs may count exempt discretionary services as minority-language services for the purposes of the 10:1 rule. Over-the-air television stations are excluded from calculations for the 10:1 rule.	<p>Bilingualism and biculturalism:</p> <ul style="list-style-type: none"> - This decision updates the existing 1:10 linkage rule to account for the new consolidated discretionary service category. - The commission does not expect these changes to have a significant effect on the overall number of available OLMC discretionary services, but may allow greater flexibility to BDUs in differentiating their offerings.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Television service provider code of conduct</i>	Comments on phase 1 CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-104 CRTC 2015-105 CRTC 2015-105-1 CRTC 2015-150-2 CRTC 2016-1	The Television Service Provider Code of Conduct is a new code designed to govern the relationship between BDUs and subscribers. Its goals are to: <ul style="list-style-type: none"> - ensure providers notify consumers about changes in the genres and packaging of programming to which they subscribe; - foster more consistent customer service; - provide an industry-wide ombudsman, which would be a single point of contact for consumer complaints; and - establish a “cooling-off” period for customers with disabilities. 	Consumer sovereignty: <ul style="list-style-type: none"> - Most of the provisions included in the code relate to improving the relationship between consumers and BDUs, and ensuring consumers have adequate and accurate information as well as a space to voice complaints. Equity-seeking groups: <ul style="list-style-type: none"> - The code sets out trial periods for persons with disabilities so they can test equipment and services before committing to a contract.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Changes to described video requirements</i>	CRTC 2014-190 Choicebook CRTC 2014-190-3 CRTC 2015-104	<p>Implementation of a tiered approach to increase the hours of described video provided by broadcasters. The tiered requirements will reflect broadcasters' resources and size.</p> <ul style="list-style-type: none"> - By September 2019, broadcasters that are part of vertically integrated companies and those that are already subject to described video requirements will be required to provide described video for prime time programming, seven days a week (7–11pm) - All other non-exempt broadcasters will be required to provide four hours of described video programming per week by the fourth year of their next licence terms. - Broadcasters will no longer be required to provide two hours of described video for original programming. - Exempt broadcasters are not required to provide described video, although they are encouraged to do so. - Broadcasters must display a standard described video logo and air an announcement indicating that described video is available before the broadcast of the described program, and to make information available regarding the described programs. 	<p>Equity-seeking groups:</p> <ul style="list-style-type: none"> - These provisions support access to television services for people with disabilities. <p>Canadian cultural expression:</p> <ul style="list-style-type: none"> - There do not appear to be any specific Canadian content requirements for described video. - The removal of the requirement to provide two hours of described video for original programming could mean less described video available for original Canadian programming.
<i>Closed captioning for online linear platforms</i>	CRTC 2014-190 Choicebook CRTC 2014-190-3 CRTC 2015-104	Broadcasters are expected to provide closed captioning for non-linear online services when these services provide programming that have closed captioning on traditional platforms. Licensed broadcasters will report annually on the provision of closed captioning on non-linear online platforms.	<p>Equity-seeking groups:</p> <ul style="list-style-type: none"> - These provisions support access to television services for people with disabilities. These measures represent an attempt to ensure access is available on new digital platforms.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Accessibility of set-top boxes and remote controls</i>	CRTC 2014-190 Choicebook CRTC 2014-190-3 CRTC 2015-104 CRTC 2015-304 CRTC 2015-514 CRTC 2016-1	BDUs will be required to report annually on: the availability of set-top boxes and remote controls, and their accessibility features for customers; the penetration of accessible set-top boxes and remote controls; and the rate and successful resolution of accessibility-related questions they receive. In addition, the new Television Service Provider Code contains provisions for a mandatory trial period of 30 days for people with disabilities to try out accessibility equipment to determine if it meets their needs.	Equity-seeking groups: <ul style="list-style-type: none"> - These provisions support access to television services for people with disabilities.
<i>Working group on set-top boxes</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-86	The commission initiated an industry working group to examine issues related to a potential set-top box-based audience measurement system. The purported goals of the system are to help broadcasters make better decisions about programming and scheduling and better tailor packages to consumers, as well as to help the Canadian industry better compete with international and online video markets.	Consumer sovereignty: <ul style="list-style-type: none"> - Improved data on consumer behaviours could enhance choice and the audience experience by helping programming services make better decisions about programming and packaging. - However, consumer sovereignty over their data and concerns regarding consumer privacy are major concerns for any system that collects and exploits consumer data. Ownership diversity: <ul style="list-style-type: none"> - Vertically integrated companies may be at an advantage, since they can share the data collected from their own boxes with their own programming services. They may also have access to other audience measurements systems (such as BBM), which can be prohibitively expensive for smaller niche services.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Genre protection policy</i>	Miller for CRTC Comments on phase 1 CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-86 CRTC 2015-96 CRTC 2015-304 CRTC 2015-514	<p>The commission removed its genre exclusivity policy, which previously limited programming services from offering certain kinds of programming that did not fit within their licensed genre. The goal of this policy is to remove a regulatory barrier and allows market forces to govern as much as possible.</p> <p>Two types of service will retain their nature of service license conditions:</p> <ul style="list-style-type: none"> - services that benefit from a mandatory distribution order under section 9(1)(h) of the Act, including national news services; and - mainstream sports services retain high CPE requirements and some protections against other services offering more than 10% live sports per month, unless they opt to undertake the same CPE and other requirements imposed on mainstream sports. 	<p>Program diversity:</p> <ul style="list-style-type: none"> - Market forces will govern program diversity to a greater extent. - The commission argues that this decision will allow services to better respond to consumers and will encourage creative programming strategies. <p>Equity-seeking groups, bilingualism and biculturalism:</p> <ul style="list-style-type: none"> - Concern that removing genre protection will cause a “rush to the middle” as services compete for popular or cheap (mostly American) programming (see discussion about genre morphing, p. 239). This could reduce diversity for niche genres servicing smaller cultural communities or official language-minority communities. - The French-language market may be more vulnerable to increased competition in lucrative genres due to its small and highly concentrated distribution market. <p>Ownership diversity:</p> <ul style="list-style-type: none"> - Most Category A channels that benefit from genre protection are owned by large incumbent firms, while the Category B channels that are locked out of the most lucrative genres are more likely to be run by smaller independent firms. - Concern that vertically integrated companies would occupy the most lucrative genres anyway. <p>Consumer sovereignty:</p> <ul style="list-style-type: none"> - In the absence of genre protection, services may change the nature of their programming in a manner that consumers find to be inconsistent with their expectations.

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Streamlining licensing regime for discretionary services</i>	CRTC 2014-190 CRTC 2014-190-3 CRTC 2015-86 CRTC 2015-304 CRTC 2015-514	Introduction of a streamlined licensing process that consolidates most services into three categories (quoted directly from CRTC 2015-86): (a) basic services (including over-the-air conventional and community television stations and provincial educational services); (b) discretionary services (all pay and specialty services, including those services, other than conventional television stations, granted mandatory distribution on the basic service pursuant to section 9(1)(h) of the Act); (c) on-demand services (PPV and VOD services).	It is unclear what—if any—impact his decision will have on diversity in the broadcasting system. The decision's primary goal is to decrease the regulatory burden by simplifying the licensing process.
<i>OTA transmission</i>	CRTC 2014-190 CRTC 2015-24	Conventional television licensees are required to maintain an over-the-air presence in order to retain certain regulatory privileges, including distribution on basic service and the ability to request simultaneous substitution.	Consumer sovereignty: <ul style="list-style-type: none"> - This ruling facilitates consumers in choosing to access conventional television via antenna, which is the most cost effective option. - Shutting down OTA signals could disproportionately impact low-income people who rely on the free signals. Localism: <ul style="list-style-type: none"> - The CBC and BCE both argue that local TV is unsustainable; that it would help fund local broadcasting if they could shut down free OTA signals and gain permission to require a fee for distributors to carry their channels in basic packages.
Separate policy process initiated through the Let's Talk TV proceedings			

Topic	CRTC references	Summary of policy change	Most relevant diversity issues
<i>Review of the policy framework for local and community television programming</i>	CRTC 2015-421 CRTC 2015-421-1 CRTC 2015 421-2 CRTC 2015 421-3 CRTC 2015-421-4 CRTC 2016-224	Local television stations are required to maintain their exhibition and expenditure levels for local news and information. In general, the CRTC maintained overall exhibition requirements for locally relevant programming from any programming category. Specific measures include: <ul style="list-style-type: none"> - rebalancing some resources already in the broadcasting system to provide financial resources to local television stations; - community television framework reviewed, with a few minor adjustments; - terrestrial BDUs in urban metropolitan areas being permitted to focus local expression requirements on local stations and/or community programming in other markets for local news production; and - terrestrial BDUs in non-metropolitan markets being required to devote at least half of their local expression contribution to community programming from their own markets—may allocate the other half to community programming from other markets and/or designated local TV stations. 	Localism: <ul style="list-style-type: none"> - Maintains minimum requirements for local programming, with an emphasis on news and information. Sectoral diversity and ownership diversity: <ul style="list-style-type: none"> - Support for the not-for-profit and non-professional (community) television sector.
<i>Discoverability Summit</i>	CRTC 2015-86	Commission announced the launch of a Discoverability Summit. The summit was held in Toronto on May 10–11, 2016, with advance day-long events in Vancouver and Montréal. The event posited that the ability to discover Canadian programming is essential in an increasingly on-demand and tailored television experience.	Canadian cultural expression: <ul style="list-style-type: none"> - The summit focused broadly on discoverability of broadly defined Canadian content. Consumer sovereignty: <ul style="list-style-type: none"> - Implicit assumption that viewers simply lack <i>information</i> about Canadian programming, and would choose it if it were better promoted.

6.4. Conclusion

Tracing the LTTV proceedings provides a picture of a complex and multi-faceted policy process that touches on multiple diversity concerns. I move now to a deeper assessment of the proceedings, beginning with a review of the CRTC's incorporation of deliberative multi-stakeholder inclusion, and then turning to a granular analysis of how the most significant policy decisions emerging from LTTV impacted a range of diversity concerns raised by different stakeholders.

Chapter 7. Assessment of LTTV as a deliberative multi-stakeholder proceeding

Democracy is hard to love. Perhaps some people enjoy making speeches, or confronting those with whom they disagree, or standing up to privileged and powerful people with claims and demands. Activities like these, however, make many people anxious. Perhaps some people like to go to meetings after a hard day's work and try to focus discussion on the issue, to haggle over the language of a resolution, or gather signatures for a petition, or call long lists of strangers on the telephone. But most people would rather watch television, read poetry, or make love. (Young, 2000, p. 16)

7.1. Introduction

It is crucial to consider outcomes of policy proceedings alongside an assessment of the process itself—in the case of LTTV, a multi-phase process incorporating some degree of multi-stakeholderism and deliberation.

When multi-stakeholder participation works well, the inclusion of a broad range of actors—including members of civil society—can support the regulator's interests by supplying crucial expert or local knowledge and offering legitimacy to the policy-making process itself (Dany, 2013). Ideally, multi-stakeholder participation forces policy-makers to argue rather than bargain when determining policy options (Dany, 2013), putting an emphasis on learning and persuasion that can improve the quality of debates and final decisions. However, in practice many deliberative multi-stakeholder proceedings do not include all stakeholders equally in deliberations. This can be due to a number of factors, including indifference on the part of policy-makers in what these stakeholders have to say, structural inequalities embedded in the processes themselves, resource and power imbalances among stakeholders, and/or inequalities in access to early-stage agenda-setting activities.

In cases where the participants are not included in multi-stakeholder deliberations on equal terms, their participation may have the adverse effect of playing a tokenistic role to legitimate an unfair process in the eyes of the public. Power imbalances and tokenistic inclusion in deliberative proceedings that include topics related to diversity are particularly troubling because of their potential to compound power imbalances and

further marginalize groups seeking equity and inclusion. For this reason, this chapter assesses the role of deliberative multi-stakeholderism in LTTV to consider the degree and quality of stakeholder inclusion, and the extent to which actors representing various issues were able to influence final decisions.

To provide structure for this analysis, I draw on Iris Young's (2000) four ideals of deliberative policy-making. In brief, these are: 1) *inclusion*, 2) *political equality*, 3) *reasonableness*, and 4) *publicity*. The principle of inclusion means that all actors who are affected by a policy decision are included in discussion and decision-making (p. 23). Political equality means that all of those affected by a decision, even nominally, should be included on equal terms, including the equal right and effective opportunity to express their views and respond to others' arguments (p. 23–4). Reasonableness refers to the dispositions of discussion participants—namely, that participants enter discussion with an open mind and a goal of reaching agreement, and thus are willing to listen and respond to others (p. 24). Finally, publicity refers to the creation of a public where participants hold each other accountable, once the conditions of inclusion, equality, and reasonableness are met (p. 25).

In practice, Young's principles of inclusion, political equality, reasonableness, and publicity rarely exist in an ideal form, and meeting each becomes more difficult as the number of impacted stakeholders grows. What these principles do provide is a compass to guide policy-makers toward more just and democratic mechanisms. To these ends, this chapter provides an assessment of the LTTV's proceedings themselves as a vehicle for the creation of strong diversity policy.

7.2. Inclusion

Young (2000) described the principle of *inclusion* as meaning that actors who are *affected* by a policy decision are permitted to take part in discussion and decision-making, insofar as decisions and policies will impact the actor's options for action (p. 23). She pointed to two specific problems with ensuring inclusion: first, that dominant groups or elites have unequal influence over decisions; and second, that historically excluded or marginalized actors are incorporated into pre-set procedures, institutions, and terms of public discourse that they had no opportunity to change. Similarly, others (Kohn, 2000; Pollack, 2003; Raboy & Shtern, 2010) have pointed to concerns surrounding inclusion in

agenda-setting activities. To mitigate these challenges, Young contended that deliberative processes need to be open to a variety of modes and styles of communication, and should attend to social differences and other challenges that impact inclusion in deliberative debate. To these ends, this section considers LTTV in relation to inclusiveness in agenda setting, and the method and tenure of deliberations, as well as attention to issues of inclusion. I take up Young's first concern, about equality of consideration, in the next section on equality.

7.2.1. Inclusiveness in proceedings

Strictly speaking, the LTTV was open to all self-defined stakeholders in Canada and abroad. The proceedings were well publicized in the Canadian media and through a series of high-profile speeches and press releases. However, as with most CRTC proceedings, participation was dominated by organizations with established interests, and garnered only a few thousand comments from individuals (in a country with a population of over 35 million). Interventions from individual citizens and smaller firms also tended to be short, from a couple sentences to a couple pages, while submissions from well-resourced established interests frequently included hundreds of pages of supporting documents and privately commissioned research.

The commission attempted to boost diverse participation by diversifying the ways it procured comments. In phase 1 and the first part of phase 3, participants could submit written responses via snail mail, email, phone, fax, or web form. Phase 1 also provided alternative opportunities for participant deliberation by way of Flash! conferences (discussions facilitated by an individual or organization, with a resulting report summarizing discussions and learnings) and a message board-style online forum to simulate interactive discussion. The Phase 2 structured survey was designed to be accessible to layperson audiences, using simple language and incorporating brief explanations of major issues. Additionally, the inclusion of a representative panel in phase 2 ensured that the commission received some comments from a non-self-selected sample of stakeholders.

Despite these efforts, inclusion of citizens and smaller organizations dropped dramatically during the public proceedings aspect of phase 3, when participation required funding for travel and sufficient expert knowledge and comfort to appear before

the commission. Of the 110 presentations recorded in the LTTV transcripts, only nine were completed by independent citizens not speaking on behalf of an organization. Of these, three were by academics with expert knowledge of broadcasting policy and law, one was a by former audience researcher for a major broadcaster, and one was by an independent citizen who reported strong ties to other public interest organizations. Three of the remaining four interventions were presented by members of the deaf or disabled communities speaking to their community needs, and one was by a private citizen expressing independent views on the topics covered in the proceedings (CRTC, 2014d). The commission attempted to mitigate some of the challenges associated with individual participation by allowing selected stakeholders to participate remotely via videoconference. Overall, however, private citizen participation in the public hearings was extremely low.

The participation drop-off among organizations representing public or consumer interests was mitigated to some extent by supports offered by the Broadcasting Participation Fund, which was established in 2012 to “assist in the representation, research and advocacy of public interest and consumer groups across Canada in both official languages” (CRTC, 2012b). In total, 13 public interest or consumer groups⁹⁰ representing non-commercial interests and the public interest received funding to participate in LTTV’s phase 3. Grants ranged from \$1,249 (for MediaSmarts) to \$122,348 (for the PIAC), and were used for research, preparation, and travel expenses directly related to LTTV (Welch LLP, 2017). The existence of the Broadcasting Participation Fund played a crucial role in supporting inclusion in LTTV, resulting in a diversity of participation that is unrivalled by any other sector in the Canadian policy realm. However, it is worth noting that the fund has not received any additional funding in several years, and, in the absence of new support, is expected to be depleted by early 2018 (Welch LLP, 2017).

Overall, the commission did exert a concerted effort to ensure diverse inclusion in various aspects of LTTV. However, the decrease in participatory diversity in the public

⁹⁰ Funded groups included: Media Access Canada, MediaSmarts, TV Nunavut, Union des Consommateurs, the First Mile Connectivity Consortium, the Public Interest Advocacy Centre, the Forum for Research and Policy in Communications, the Urban Diversity Forum, NACTV, the English Language Arts Network, CSUR La Télé, CACTUS, and the Fédération des Communautés Francophones et Acadiennes.

proceedings portion of the third phase is troubling because the public hearings represented the only aspect of the policy-making process in which stakeholders engage directly with policy-makers, and the commission most often referenced comments received during this phase in its final decisions.

7.2.2. Inclusiveness in procedural development

Stakeholders were not included in the LTTV's procedural development, which was undertaken by the CRTC and, in the case of Phase 2, the external consulting firm Hill+Knowlton Strategies. As discussed above, the commission did attempt to maximize inclusion by providing a variety of intervention options in the first phase and providing an accessible tool for laypersons to participate in phase 2—both measures that had not been used in such an extensive investigation before. Overall, however, LTTV took place within a similar *institutional* framework to all the commission's public proceedings as a result of its quasi-judicial role: the CRTC maintained autonomy over the design of the proceedings with no public comment on procedural development, and concluded the proceedings with unilaterally derived decisions.

7.2.3. Inclusiveness in agenda setting

The LTTV's agenda-setting process was interesting in its professed attempts to scaffold the priorities of each subsequent phase on the results of the previous phase. Phase 1 provided a virtually unstructured forum for discussion, which presumably brought forward a series of topics for greater investigation in the highly structured phase 2 survey. The agenda-setting document for phase 3 (CRTC 2014-190) was ostensibly based on the results of phases 1 and 2, and final decisions emerged mostly from the granular discussions undertaken in phase 3. In this way, the commission presented a model designed to include a plurality of stakeholders in agenda setting to help delineate the proceedings' scope and priority areas.

However, in their research on citizen involvement in LTTV, Luka and Middleton (2017) argued that the CRTC did not in fact base its proceedings or regulatory agenda on the responses received from stakeholders in phase 1. In particular, they found that the plurality of stakeholders expressed primary concern with issues related to genres, Canadian content, local content, public service, and public broadcasting, while the

commission opted to focus the proceedings heavily on issues related to promotion and consumer-centric delivery and decision-making concerns. Considering this critique, Chapter 8 takes up the issue of agenda setting in the commission's proceedings and regulatory decisions in greater detail.

7.3. Political Equality

Young's (2000) conception of political equality posited that stakeholders should be included in decision-making on equal terms, including having an opportunity to question and critique proposals brought forward by other stakeholders. Such equality means that no stakeholder should be able to coerce or threaten others into accepting certain ideas or outcomes. This section considers equality in participation, the potential impacts of power imbalances among stakeholders, and issues related to equality in influence—in particular, the role of political influence in determining the LTTV's agenda and outcomes.

7.3.1. Equality in participation

Ensuring true equality in participation for broadcasting proceedings is difficult. This is in part because of the complexity of the policy area, which makes it challenging for non-expert interveners to develop meaningful proposals in latter stages of the proceedings. It is also due in part to the issues surrounding resource inequality discussed above.

Analysis of demographic data during phase 2 of the proceedings indicates a strong inequality in participant characteristics. This issue may not be particular to phase 2, but it is notable here because it was the only phase that collected demographic data. In particular, 70% of public respondents in phase 2 were male, and participants tended to be younger than the average Canadian population. The reasons for these divides are unclear, although it is likely that the survey's format (an interactive online platform) played a role in soliciting younger participants. One potential reason for the gender imbalance could be the communication platforms through which the survey was shared, particularly if interested organizations with considerable reach to constituents sent out tailored participation requests and follow-up reminders to their members or people on their mailing lists. Hill+Knowlton and the CRTC did not publicize participant sources, and

thus it is impossible to know if third-party publicity from intermediary organizations influenced the outcome of the survey or any other aspect of the proceedings. However, in a proceeding that only ever garners a few thousand responses, there is high potential for well-resourced, “plugged-in” organizations with a considerable public footprint to influence the overall tone of the responses simply by publicizing the proceedings to their own memberships.

7.3.2. Power imbalances among stakeholders

Equality of participation in many CRTC proceedings can be marred by power imbalances among stakeholders, the least powerful of which may soften or self-censor responses to avoid tainting business relationships with more powerful actors. This is of particular concern in considering relationships between smaller broadcasters and vertically integrated (VI) BDUs—for example, if a broadcaster is concerned that a VI company is making use of its own resources to privilege promotion and access for its affiliated broadcasting services, or is using its market power to engage in unfair bargaining practices. As Chapter 8 discusses, some broadcasting companies did express concerns about fairness in the relationship between smaller broadcasters and VI BDUs in relation to some of the CRTC’s LTTV proposals. However, smaller stakeholders must consider the trade-offs in making such arguments and decide whether the possibility for favourable action on the part of the CRTC is worth publicly expressing concerns about the ethics and business practices of the powerful distributors on which they rely.

The commission has mechanisms for managing sensitive information and has at times allowed confidential submissions or in camera presentations from stakeholders during some public proceedings (CRTC, 2010b). However, it is reluctant to use these provisions because of their impacts on transparency in public hearings, and is generally unlikely to consider the VI BDU-small broadcaster power imbalance as adequate justification for withholding debate from the public.

7.3.3. Equality in influence

Difficulties in supporting inclusion and the complex nature of communication policy pose challenges to securing equality in influencing outcomes. Some of these

challenges stem from the institutional structure of the regulatory realm, which has historically viewed industry actors as its primary clients (Armstrong, 2016). However, LTTV made a public spectacle of moving beyond this historical relationship to instead focus on consumer demands, as evidenced by Blais's repeated denigration of "industry entitlement" (Blais & CRTC, 2013, 2015; Shecter, 2015), and highly publicized spats with major industry players including Bell Media (Canadian Press, 2015; Gallant, 2015) and Netflix (Armstrong, 2014; Bradshaw, 2014b).

Despite the commission's stated goals of overturning historical power hierarchies both in public consultations and policy decisions, it is unclear whose interests were really met in their final decisions (a topic that will be taken up in detail in Chapter 8). References to stakeholders in final CRTC decisions tend to focus on comments from those who appeared at the Phase 3 interventions, which, for reasons discussed above, excluded most civilians and smaller organizations. Furthermore, Luka and Middleton (2017) found that the commission tended to address feedback from citizens and public-interest organizations on cultural issues indirectly in its final decisions, which focused on a national marketing strategy and a more equitable distribution system. This prompts the question: If the commission pointedly moved against entitled big-business interests but also only indirectly included the requests of private citizens and public-interest organizations, whose views were most important in setting the course of most major decisions?

Political influence and equality

Potential issues surrounding the CRTC's close ties with government and centralization of power around Conservative Government-friendly Chair Jean-Pierre Blais were discussed in Chapter 6. This section focuses on political influence and equality during the proceedings themselves.

After a cabinet shuffle, which made Moore the Minister of Industry, the subsequent Heritage Minister, Shelly Glover, demonstrated an eagerness to intervene in LTTV to accomplish specific objectives. In November 2013, shortly after the commission formally announced the proceedings, Glover requested that the CRTC look into a potential pick-and-pay service delivery model and publicly announced her commitment to change, stating: "we are committed to unbundling. There's no two ways about it" (quoted in Berthiaume, 2013). Later that month—and just two days before the due date

for phase 1 comments—the Federal Government throne speech also proposed mandatory cable unbundling as an objective for the upcoming year. In fact, the government was so strongly engaged in advocacy for cable unbundling that the move became known as a “Harper government proposal” in subsequent media discussion (e.g., Berthiaume, 2013; Canadian Press, 2013; Pedwell, 2013).

During phase 3 of the proceedings, Glover again publicly articulated her government’s strong stance on issues directly under investigation in LTTV, this time regarding the regulation of over-the-top (OTT) online services. Glover made it clear that her government would quickly overturn an unfavourable ruling from the CRTC, stating: “we will not allow any moves to impose new regulations and taxes on Internet video that would create a Netflix and YouTube tax” (quoted in the *Times*, 2014), and that her government would wait for the LTTV results and would then “determine appropriate government courses of action” (quoted in Bradshaw, 2014b). These comments prompted outrage from NDP Heritage Critic Pierre Nantel, who lambasted the Conservatives for playing partisan politics with an independent regulatory agency (Pedwell, 2014). Later that week, Harper reiterated Glover’s comments in a high-profile election-style address to Conservative supporters, stating that his government would oppose any OTT taxation, and asserting his government’s objective of “helping families, and all consumers” by, among other things, “letting Canadians choose to pay for the TV channels they actually want” (quoted in Bradshaw, 2014a).

The promise of government intervention should the CRTC fail to deliver particular decisions removes any semblance of equality of influence in LTTV. Regardless of the will of the plurality of individual and organizational participants, the Federal Government has the ability to send back or overturn CRTC decisions that it does not support. Moore’s hand-selection of a like-minded colleague as CRTC Chair and comments from Glover and Harper during the proceedings made it clear that the government had a policy agenda in mind and would not hesitate to overrule the arm’s-length regulator to achieve its objectives. The commission had every reason to believe the Conservative Government would follow through on promises to intervene directly to secure desired outcomes, as it had done so with unprecedented frequency since its election in 2006 (see Chapter 6 for details).

7.4. Reasonableness

The principle of reasonableness requires that participants and decision makers be genuinely willing to listen to ideas as presented, even when they seem outlandish. Participants must also share a desire to reach an agreement, and be willing to change their opinions and preferences in response to arguments from other stakeholders. Finally, stakeholders must abide by procedures to reach a decision in the absence of agreement (Young, 2000).

Given the top-down nature of final decision-making, the principle of reasonableness, as it pertains to actual policy outcomes, applies most heavily to the CRTC, although other stakeholders may be compelled to respond to persuasive arguments presented by opposing viewpoints, either to strengthen their own interventions or at the request of the commissioners. Phases 1 and 2 of the proceedings provided little opportunity for discussion among participants, except in cases where interventions were obtained through Flash! conferences, or where participants took the initiative to engage with opposing viewpoints on the CRTC's online discussion forum. By the deliberative portion of phase 3, the most radical viewpoints had been weeded out, either through self-selection or by not having requests to appear at the proceedings granted by the commission. In this way, the CRTC and the structure of the process itself became the arbiters of reasonableness for the most crucial final portions of the discussion.

7.4.1. Reasonableness and LTTV Phase 2

Phase 2 of the proceedings presented a challenge to the principle of reasonableness insofar as it was allegedly designed to air a plurality of conflicting viewpoints. In an attempt to create a study that was interactive and accessible to laypeople, the study designers created a series of scenarios featuring bipolar approaches to policy problems. For example, in its section about OTT services, the study presented two possible viewpoints for understanding the policy issue. On the one hand there was "Jenny," who works in the creative sector:

Jenny, an independent producer, thinks online services like Netflix are getting a free ride by not contributing to the production of Canadian-made programming: more jobs would be created and Canadian stories need to

be told on all platforms. In addition, these services are not even required to provide closed-captioning and adhere to programming standards. (Hill+Knowlton Strategies, 2014c)

On the other hand we had “John,” a media consumer:

John, an engineer and early adopter of new technologies, likes the amount of programming he gets for a very modest price and wouldn't want to pay a penny more for what he's receiving. He does not think online services should be required to contribute to Canadian-made programming if it is going to increase the price for consumers. (Hill+Knowlton Strategies, 2014c)

This structure pervaded most of the survey, scaffolding questions related to cable packaging, local content, accommodations for disabled and deaf communities, availability of international programming and domestic sports broadcasting, and questions about Canadian cultural expression. Other scenarios also included details such as participant age or life stage (one scenario pitted a male university student against his middle-aged parents), and almost all scenarios featured traditionally Anglo-Saxon and gender-normative names.

Fabricating characters to represent conflicting viewpoints posed several problems. Most importantly, it had the potential to skew results by inviting participants to identify with the character that most resembled themselves. For example, in the scenario above respondents were asked to identify directly with either a female from the creative community, who had a material self-interest in Canadian content production (and thus is resembles Blais's much-lamented “entitled” members of industry), or John, a male professional and an early adopter of OTT services with a primary interest in viewer-side benefits. Respondents who were male, early adopters, or fed up with industry entitlement or “artsy types” were thus unlikely to identify with the issues addressed in Jenny's viewpoint, even if they had some sympathies with this position. Furthermore, Jenny's viewpoint combined several issues: 1) her own job and financial well-being; 2) securing Canadian cultural expression; 3) supporting accessibility and equality for people with disabilities; and 4) promoting “programming standards,” which are not defined, and thus could be equated with content evaluation and/or censorship. John's viewpoint, on the other hand, had a sharp focus on ensuring affordability for consumers. This set-up made Jenny's viewpoints seem overly complicated and scattered, and failed to recognize the multifaceted debates associated with each of these four issues.

Arguably, this set-up culminated in typifying Jenny herself as a bleeding-heart member of the cultural elite with little regard for the real struggles faced by the average Joe (or in this case, John).

Overall, this construction removed all nuances from the debate by offering hard-liner straw men presenting simplified solutions to complex problems. When combined with the study's tendency to cherry-pick policy issues and potential solutions, and the analytic simplicity of the final reports (which featured multiple grammatical and formatting errors), it is impossible to view this study's results as a valid and reasonable representation of stakeholder viewpoints.

7.5. Publicity

Young (2000) argued that deliberative policy-making achieves publicity when the process and participants meet the first three conditions of inclusion, equality, and reasonableness. In her words, "when members of such a public speak to one another, they know they are answerable to that plurality of others; this access that others have to their point of view makes them careful about expressing themselves" (p. 25). In other words, when members come together with open minds to participate in inclusive and egalitarian discussion, they formulate a public in which they are accountable to others.

While individual LTTV submissions and presentations occasionally address concerns raised by other stakeholders, instances of this interaction are relatively uncommon and only occur in phase 3. The proceedings' massive size and scope also made it difficult for most stakeholders (those without large legal teams) to digest the thousands of pages of comments generated by others, or even to formulate thoughtful arguments about issues beyond those most closely aligned to their own interests. Most importantly, participants crafted their arguments and proposals with the express purpose of convincing and influencing CRTC commissioners, rather than to engage other stakeholders in meaningful discussion. For these reasons, the LTTV proceedings do not represent the creation of a public—and nor were they designed to do so.

7.6. Conclusions

LTTV's performance across Young's (2000) deliberative ideals is inconsistent. The commission and its employees are to be commended for their genuine attempts to boost inclusion and promote engagement by offering diverse participation options and having the foresight to establish the Broadcasting Participation Fund to support participation by under-resourced groups serving public and consumer interests. These efforts to support participation have resulted in engagement by over 13,000 stakeholders, and in 2016 the LTTV team was recognized with a Public Service Award for Excellence in Policy for their leadership and dedication to the public consultation process (CRTC, 2016c).

Ironically, however, the LTTV's public success in promoting inclusive engagement has made deficits in inclusive agenda setting, equality of participation, and participant reasonableness even more troubling. Research by Luka and Middleton (2017) demonstrated that, despite inclusiveness and stated intentions to set policy goals and priorities based on proceeding results, the consumer-oriented topics that became the focus of final decisions were actually not high on participants' agendas in phase 1. Furthermore, serious study design flaws in phase 2, participant type and demographic imbalances, and power imbalances among participants have challenged the notion of equality in the proceedings. Most crucially, considerable evidence of political interference into the proceedings' agenda setting and outcomes in phases 1 and 3 leads to substantive questions about the quality, purpose, and efficacy of the proceedings as a whole.

These major substantive concerns are further compounded when cloaked in the legitimating façade of inclusiveness and public deliberation rendered by a high level of public and stakeholder participation. But before casting judgement on the proceedings as (intentional or unintentional) window-dressing for a partisan political agenda, we must first consider the outcomes of the proceedings, and the degree to which they were able to address diverse concerns in the face of blatant political meddling.

Chapter 8.

Analysis of Let's Talk TV by diversity theme

8.1. Introduction

Diversity has always been difficult to define in broadcasting policy, and the magnitude of the LTTV proceedings as well as the process challenges discussed in Chapter 7 left the commission with a momentous challenge in fairly ordering a hierarchy of different objectives. In light of this complex policy problem, this chapter is interested in how the CRTC conceptualized and mobilized different diversity policy objectives in its final decisions following the proceedings. It asks:

- What diversity concerns did the CRTC prioritize during the LTTV proceedings?
- How are the proceeding results likely to impact diversity policy objectives in the Canadian broadcasting system?

This chapter begins with a brief recap of the policy problem of diversity in Canadian broadcasting and the broadcast diversity model advanced in Chapter 5. I subsequently assess the results of LTTV in relation to expected and unanticipated impacts on each of the policy topics advanced in my broadcast diversity model.

8.1.1. Recap: What is diversity in broadcasting?

As discussed in Chapter 5, diversity in Canadian broadcasting is polysemous, contested, flexible, and usually defined in an institutional context. For the purposes of this dissertation, Chapter 5 operationalized the term diversity as referring to topics in three main categories, representing nine different topic areas:

- G. Cultural variety and liberal equality
 - XIX. Canadian cultural expression
 - XX. Bilingualism and biculturalism
 - XXI. Indigenous cultural expression
 - XXII. Support for equity-seeking groups
- H. Consumer choice
 - XXIII. Consumer sovereignty
 - XXIV. Genre/program diversity
- I. Sectoral diversity
 - XXV. Ownership diversity

- XXVI. Local and community broadcasting
- XXVII. Public broadcasting

To recap, I define these areas as follows:

A. Cultural variety and liberal equality: Each of these four topics is rooted deeply in Canadian social and political history. They can be traced from decades of policies designed to ensure national unity, security, and cohesion in the face of continentalism and perceived divisive forces within Canada.

- I. *Canadian cultural expression:* This topic focuses on developing Canadian broadcasting to support national unity and identity building. It is rooted in theories surrounding broadcasting's role in national development dating back to the 1920s (Aird, 1929), and today is linked to the development and maintenance of Canada's "cultural tool kit"⁹¹ to support shelf space for Canadian cultural expression (Grant & Wood, 2004). Those who support policy for Canadian shelf space assert that Canadian stories are unique, valuable, and can be very popular—but in the absence of protective measures, are easily lost amid enormous amounts of better-resourced foreign (mostly American) programming (Coppes, 1999; Grant & Wood, 2004).
- II. *Bilingualism and biculturalism:* Policies surrounding bilingualism and biculturalism in broadcasting are rooted in historical attempts to ensure national unity in the face of Québécois nationalism, and are set out in policies delineating French and English broadcasting as "parallel services" as early as 1934 (Raboy, 1990). Bilingualism and biculturalism discussions are also characterized by long-standing disputes about whether broadcasting should fall under provincial or federal jurisdiction (Armstrong, 2016), and ongoing concerns surrounding programming access for official language minority communities throughout the country (Hill+Knowlton Strategies, 2014d; Laurendeau & Dunton, 1970; Therrien, 1980).

⁹¹ The cultural toolkit includes measures to ensure continued shelf space for Canadian works, including content and scheduling quotas, subsidies for public broadcasting, broadcaster spending requirements, national ownership requirements, competition policies, and various direct and indirect industry subsidies.

- III. *Indigenous cultural expression*: Designated television space for Indigenous voices began developing in the 1980s (Therrien, 1980) in response to activism from Indigenous Peoples who were frustrated with their virtual invisibility and stereotyped treatment on mainstream platforms.⁹² Today, the *Broadcasting Act* enshrines the “special place of aboriginal peoples” (1991, p. 3.1.d) in the Canadian system; however, Indigenous voices continue to be underrepresented and misrepresented in mainstream media (Fleras, 2011b). Indigenous self-representation in television occurs primarily through the APTN, which is delivered to cable subscribers across the country with assistance from the commission’s 9(1)(h) licensing provisions. Indigenous groups otherwise rely heavily on community television and public broadcasters to share their stories.
- IV. *Support for equity-seeking groups*: Multiculturalism and tolerance are key building blocks for Canadian identity, and the claims of groups seeking representation are imposed on broadcasting policy through Canada’s Charter of Rights and Freedoms (1982) and the Multiculturalism Act (1988). Section 3 (d)(iii) of the Broadcasting Act sets out an expectation of fair representation by requiring that the broadcasting system reflect the “circumstances and aspirations” of Canadians, including the “multicultural and multiracial nature” of Canadian society. This is reflected in various CRTC policies on broadcasting, including the Ethnic Broadcasting Policy (CRTC, 1999c). Despite these provisions, visible minorities continue to be underrepresented in journalistic and broadcasting management positions (Cukier et al., 2010), which can contribute to a Eurocentric bias in news and entertainment (Fleras, 2011b).
- B. Consumer choice**: The consumer choice approach to diversity is reminiscent of US broadcasting policy. It represents an evolution beyond the use of diversity to

⁹² Indigenous voices were included in some regions through community radio stations such as Wawatay beginning in the 1950s and 1960s. However, Indigenous Peoples in many rural and remote areas became much more vocal about their need for better media representation following the extension of national broadcasting services in the 1970s (Roth, 2014).

mitigate threats to national unity and toward a new goal of putting the consumer in charge of making their own news and entertainment decisions.

- V. *Consumer sovereignty*: Policies and practices focusing on consumer sovereignty involve maximizing choice for consumers, with an implicit assumption that the free market is best equipped to meet consumer demand. Canada did not historically adopt a purely market-based approach to broadcasting because of fears commercialization would lead to an Americanization of the whole system (see: Royal Commission on National Development in the Arts, Letters & Sciences, 1951). However, broadcasting policy has been slowly shifting toward market-based objectives since the release of the Applebaum-Hébert report in the early 1980s (Federal Cultural Policy Review Committee, 1982).
- VI. *Genre/program diversity*: Genre/program diversity refers to diversity in the type of programming that is available for consumption, and it is enshrined in the *Broadcasting Act's* requirement that the system provide “a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity” (3.1.d). It grew in prevalence as a policy objective following the introduction of specialty TV in the early 1980s, which opened the door to new narrowcast programming serving niche markets. In 1999, the CRTC created a priority program designation with screen quotas for underrepresented Canadian genres (e.g., Canadian drama and long-form documentary) (CRTC, 1999a). It updated this program in 2010, creating its current “programs of national interest” categories and mandatory expenditure requirements to support Canadian programming in underrepresented genres (CRTC, 2010a).
- C. Sectoral diversity**: Canada has a hybrid broadcasting model, encompassing private, public, and not-for-profit sectors. Debates surrounding sectoral diversity consider the best ways to support each sector to meet requirements under the *Broadcasting Act*.
- VII. *Private-sector broadcasting—Ownership diversity*: Horizontal and vertical integration of ownership in Canadian media industries has increased

significantly since the early 1990s, with the five largest media firms commanding about 85% of total television industry revenues in 2013 (CMCRP, 2013). The magnitude of industry consolidation has fuelled considerable policy debate and was central to discussions in both the CRTC's 2007 proceedings on diversity of voices (CRTC, 2008a) and 2010 vertical integration proceedings (CRTC, 2011a). Supporters of industry consolidation argue that it is crucial for Canadian companies to re-aggregate increasingly fragmented audiences (Bell, 2007), and point to an increasing number of channels serving diverse markets as evidence of strong, stable companies using their market power to meet consumer demand (Thierer & Eskelsen, 2008). Critics link media concentration with concerns about viewpoint diversity, express concern about the direct and indirect impact that media owners can have on news and editorial content (Skinner & Gasher, 2005), and point to the risks associated with an industry characterized by a small number of large, unstable companies that carry immense debt (Winseck, 2010).

- VIII. *Local and community broadcasting*: This topic refers to broadcasting that provides local content and a voice to the community. Local broadcasters are often subsidiaries of larger companies, whereas community stations may be independent or operated by larger companies, but generally include some aspect of community-based volunteer involvement. Advocates for local and independent voices see their role as filling gaps in public affairs coverage left by for-profit media (Skinner, 2014), and argue that a democratic broadcasting system requires opportunities for citizens to access and participate in the media.
- IX. *Public broadcasting*: Widely accepted characteristics of public broadcasting include the expectations that services be independent, universally accessible, diverse in both programming types and target audiences, and innovative, including exhibiting a willingness to take risks on distinctive or new programming (Buckley et al., 2008). In Canada, the CBC's mandate as stated in the Broadcasting Act also includes supporting national identity, culture, regional variation, bilingualism and biculturalism, and multiculturalism (section 3.1[m]). In addition, Québec, Ontario, and British Columbia each have a

public educational broadcaster that is funded by the province and with the assistance of viewer donations. Debates about Canadian public broadcasting tend to revolve around the relevance and necessity of public broadcasting, the most appropriate funding models and degree of taxpayer subsidization public services should receive (e.g., Rowland, 2013b; Thompson, 2012), and the public broadcaster's appropriate mandate and role in democratic debate (e.g., Spears, Seydegart, & Zulinov, 2010; Winn, 2002).

The LTTV proceedings touched on many of these areas, but its final policy decisions impacted some of these diversity objectives more directly than others. Before moving to an analysis of how these topics were impacted in LTTV, I explain the specific LTTV policy decisions that I have selected for granular consideration.

8.1.2. Policy decisions selected for analysis

As illustrated in table 6-1 (Chapter 6), the CRTC's extensive LTTV response included over 27 distinct policy decisions. I have selected seven of these policy areas to examine in relation to the commission's diversity objectives. These are:

- I. Changes to simultaneous substitution allowances
- II. Changes to measures related to ethnic and third-language broadcasting
- III. Changes to supports for Canadian content
- IV. Changes to cable packaging rules (unbundling multiplexed services, pick-and-pay, and skinny basic)
- V. Elimination of genre exclusivity
- VI. Introduction of a 1:1 linkage rule
- VII. Extension of the regulatory exemption for programming services with fewer than 200,000 subscribers

These decisions all embodied a clear change to existing policy that could impact the broader broadcasting environment,⁹³ and each touched on several diversity issues in

⁹³ I omitted policy topics that did not undergo substantive change (e.g., the discussion surrounding Programs of National Interest rules) and those that were not designed to alter the overall broadcasting environment for most consumers (e.g., it is unclear how, if at all, the various

interesting ways. Most were also among the most publicized decisions, and some garnered significant public attention. The remainder of this section summarizes each of these policy areas.⁹⁴

I. Changes to simultaneous substitution allowances

CRTC document references: CRTC 2014-190, CRTC 2014-190-3, CRTC 2015-25, CRTC 2015-329, CRTC 2015-330, CRTC 2015-513, CRTC 2016-37, CRTC 2016-334, and CRTC 2016-335

Reason for query: Simultaneous substitution (simsub) refers to the practice of temporarily replacing a television signal from a distant (usually American) service with a local signal when the services are broadcasting the same program at the same time. This allows rights holders to maximize audiences (and revenues) for their own advertisements, and is part of a quid pro quo in which broadcasters are then expected to reinvest a percentage of their revenues into Canadian programming. Simsub is estimated to add a value of \$200m–\$450m to the Canadian system (Bell Canada, 2014; CRTC, 2014a); while the CRTC argues that the actual amount is not really substantive, supporters of the practice counter that it can provide crucial support in an increasingly fragmented advertising market (Bell Canada, 2014). It may also provide indirect benefits by allowing broadcasters to promote Canadian content during popular simulcasts and creating large lead-in audiences for Canadian shows that are aired directly after a simulcast (Bell Canada, 2014). Finally, simsub ensures the existence of a distinct Canadian rights market, whereas programming would otherwise likely be sold on a single Canada/US territorial basis.

provisions designed to improve access for people with disabilities will impact the overall industrial environment). I also omitted issues that were very heavily focused on consumer rights but may not directly impact programming, such as the prohibition of 30-day cancellation rules and the introduction of a TV providers' code of conduct.

⁹⁴ Since these topics are well documented elsewhere in policy literature, the objective of this section is only to provide the reader with a refresher on the key policy issues and changes. For a more comprehensive account of policy debates, I encourage the reader to examine the CRTC's original policy documents (referenced at the beginning of each topic area), and to consider the arguments presented by stakeholders during the proceedings (CRTC, 2016d). For a detailed academic account of the broadcast policy environment more broadly, I recommend Robert Armstrong's *Broadcasting Policy in Canada* (2016), and Liora Salter and Felix Ordartey-Wellington's (2008) *The CRTC and Broadcasting Regulation in Canada*.

While simsub benefits some Canadian broadcasters, the practice can be an irritant for consumers when BDUs replace signals imperfectly (cutting off part of the original broadcast), or when viewers miss out on high-budget American advertisements during the Super Bowl (CRTC, 2014c). Furthermore, the practice may stymie the development of Canadian content by encouraging broadcasters to see their role as *distributors* of foreign content rather than Canadian content *developers* (Berkowitz, 2016), and by tying Canadian broadcast schedules to those of US broadcasters (restricting prime-time space for Canadian shows). For these reasons, the commission asked if the practice should be altered or ended in the Canadian system.

Summary of policy decisions:

- Simultaneous substitution is no longer permitted during the Super Bowl, but otherwise the practice will continue to be permitted on conventional TV.
- The commission will monitor an industry working group, which is responsible for finding ways to reduce substitution errors.
- The commission has initiated new sanctions for broadcasters and distributors that make substitution errors.

II. Changes to measures related to ethnic and third-language broadcasting

CRTC document references: CRTC 2014-190, CRTC 2014-190-3, CRTC 2015-86, CRTC 2015-96

Reason for query: The commission sought to improve the accessibility and affordability of ethnic and third-language programming.

Summary of policy decisions:

- The CRTC eliminated the buy-through requirement⁹⁵ for third-language services.
- BDUs must offer one Canadian third-language service for each non-Canadian third-language service they offer.
- The commission streamlined licensing for Category A and B services. Former Category A services no longer receive access privileges.

⁹⁵ The CRTC defines the buy-through requirement as follows: “. . .third-language general interest Category 2 services that offer 40% or more of their program schedule in any of the Cantonese, Mandarin, Italian, Spanish, Greek or Hindi languages may only be offered to customers who also subscribe to the analog service operating in the same language” (CRTC, 2011b).

- All licensed services will be subject to a Canadian programming expenditure (CPE) requirement as of their next licence renewal (CRTC 2015-86).

III. Changes to supports for Canadian content

CRTC document references: Choicebook, CRTC 2014-190, CRTC 2014-190-3, CRTC 2015-86

Reason for query: Historically, the commission supported Canadian content by: imposing CPE requirements on certain types of programming services; imposing contribution requirements on most BDUs; setting Canadian exhibition requirements; and crafting time credit incentives and conditions of licence to promote high-cost, high-risk programming (drama, long-form documentary, music/variety shows, and award shows). However, Canadians are expanding their viewing habits to include unregulated OTT services that are exempt from these measures. In coming years, the shift to non-linear online viewing platforms will impact the existing funding and support model for Canadian content. The commission therefore wished to investigate the best ways to finance and promote Canadian programming in the emerging environment.

Summary of policy decisions

Change in exhibition quotas:

- Exhibition requirements set at 50% for private conventional TV stations during evening hours; there are no minimum exhibition requirements for other times of the day.
- Overall daily exhibition requirements for most discretionary services set at 35%, with no specific evening requirement.
- Exhibition requirements remain the same for services receiving mandatory distribution under section 9(1)(h)⁹⁶ of the *Broadcasting Act*.

Change in CPE requirements:

- English-language market CPE requirements will apply to all licensed services with over 200,000 subscribers. CPE amounts for these services will be based on historical levels of expenditure, with a minimum requirement of 10%.

⁹⁶ Section 9(1)(h) of the *Broadcasting Act* allows the CRTC to require that certain services be distributed with all regulated subscription television services. It is used to support services that make exceptional contributions to meeting the requirements of the *Broadcasting Act*.

- Large private ownership groups can maintain group-based licensing approach and existing expenditure levels.
- The CRTC did not raise CPE requirements for any service, although it has imposed a new condition on services that previously did not have CPE requirements.
- Independent programming services may count the costs of third-party promotion of their Canadian services, up to a maximum of 10% of their CPE requirements.

Creation of two Canadian content pilot projects to promote popular Canadian works:

- Both projects involve exceptions to the standard Canadian content program certification process, to allow for certification of live-action drama or comedy programs based on either:
 - *Pilot project 1*: adaption of a best-selling Canadian-authored novel; or
 - *Pilot project 2*: a production budget of at least \$2million per hour.
- To be eligible, projects must also employ: 1) a Canadian screenwriter; 2) at least one Canadian lead performer; and 3) a Canadian production company.

Launch of a *Discoverability Summit*:

- Held in Toronto on May 10–11, 2016, with advance day-long events in Vancouver and Montréal.
- Brought together experts to discuss how to ensure Canadian programming is *discoverable* in an increasingly on-demand and tailored television environment.

IV. Changes to cable packing rules: unbundling multiplexed services, pick-and-pay, pick-a-pack, and skinny basic

CRTC document references: CRTC 2013-563, PCO Order-In-Council 2013-1167, CRTC 2014-190, Choicebook, CRTC 2014-190-3, CRTC 2015-96, CRTC 2015-97, CRTC 2015-304, and CRTC 2015-514

Reason for query: This issue has been on the table at the CRTC for several years, having been discussed at the 2010 proceedings on vertical integration (CRTC, 2011a). The expectation to examine this issue at LTTV was handed down directly from the Federal Government (PCO Order-In-Council 2013-1167) in November 2013, shortly after the commission launched its initial information-gathering activities. Later that month, Heritage Minister James Moore asked the CRTC to look into a pick-and-pay distribution

model, and the Federal Government throne speech proposed requiring cable package unbundling. The impetus for examining unbundling was consumer frustration over large cable packages and high household expenditure on communications services.

Summary of policy decisions:

Unbundling of multiplexed services:

- Pay services are now permitted to offer their feeds individually to subscribers (instead of in previously mandated multiplexed packages).
- Future multiplexes will be restricted, except with special permission.

Pick-and-pay and pick-a-pack options/skinny basic cable packages

- BDUs are now required to offer all discretionary services on both a pick-and-pay and small package basis.
- BDUs are required to provide a small entry-level service ('skinny basic') for a cost of \$25 or less per month:
 - Must include local Canadian stations, 9(1)(h) designated services, and, where applicable, the community channel and provincial legislature channel.
 - BDUs *may* include also include the following: non-local Canadian over-the-air (OTA) stations; one out-of-province educational service; U.S. 4+1 signals⁹⁷; and local radio stations.

V. Elimination of genre exclusivity

CRTC document references: Comments on phase 1, CRTC 2014-190, CRTC 2014-190-3, CRTC 2015-86, CRTC 2015-96, CRTC 2015-304, and CRTC 2015-514

Reason for query: Historically, the commission would only licence one specialty and pay Category A service per genre. It would licence Category B and Category C services that would compete with other Category B and Category C services, but not services that would compete with an existing Category A service. This policy was designed as a means of ensuring the viability of Category A services and supporting independent services or "deserving" genres. However, the television industry has grown and matured since the imposition of genre exclusivity, and the commission questioned whether

⁹⁷ Refers to programming originating from the four US commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network.

consumers would benefit from greater competition within genres historically held by Category A services.

Summary of policy decisions:

- The commission removed its existing genre exclusivity policy, including a requirement that Category A channels follow nature of service conditions.
- Two types of services retain their nature of service licence conditions:
 - 9(1)(h) designated services, including national news services; and
 - Mainstream sports services, which will retain high CPE requirements and protection against other services offering more than 10% live sports per month.

VI. 1:1 linkage rule

CRTC document references: CRTC 2014-190-3, CRTC 2015-96, CRTC 2015-304, and CRTC 2015-514

Reason for query: The 1:1 linkage rule requires that vertically integrated BDUs distribute at least one non-vertically integrated service in the same language for each service of its own that it distributes.⁹⁸ The purpose of this rule is to ensure fairness in negotiations between large vertically integrated BDUs and independent broadcasters, particularly in the context of mandatory cable package unbundling.

Summary of policy decisions:

- The *Broadcasting Distribution Regulations* now require BDUs to distribute at least one English- or French-language independent programming undertaking for every distributed service in the same language that the BDU itself owns.
- Category A discretionary services will no longer receive access privileges.

⁹⁸ For example, if the BDU arm of Bell Canada Enterprises (BCE) wishes to offer channels owned by its media arm, Bell Media Inc., it must also offer at least the same number of specialty channels owned by non-vertically integrated media firms. Bell Canada Enterprises offers channels such as *Book Television* and *Gusto*, which are both owned by Bell Media. It must therefore offer at least the equivalent number of options owned by non-vertically integrated firms, such as *Cottage Life* (owned by Blue Ant Media) or *OUTtv* (owned by OM Acquisitions).

VII. Regulatory exemption for programming services with fewer than 200,000 subscribers

CRTC document references: CRTC 2012-689, CRTC 2014-190, CRTC 2014-190-3, CRTC 2015-86, CRTC 2015-88

Reason for query: This policy expands on the current exemption already in place for third-language services to include all discretionary services with fewer than 200,000 subscribers. The commission's goal was to facilitate the launch of new discretionary channels serving all language markets. It also eases the regulatory burden for the commission by exempting these small-market players from most regulatory requirements that would otherwise require monitoring.

Summary of policy decisions:

- Programming services with fewer than 200,000 subscribers are exempt from the requirements of Part II of the *Broadcasting Act*.
- The exemption maintains distinctions between third-language services and English- and French-language services (e.g., respective exhibition requirements). Otherwise, obligations are the same across these services.

8.2. Impacts of the CRTC's policy decisions on diversity

This section provides a discussion of how the sum of the CRTC's LTTV decisions impacted each of the diversity topics discussed above. Each topic area includes a synopsis discussing cumulative impacts of the LTTV decisions on the diversity topic broadly, with a granular analysis of the potential impacts of specific decisions included in an accompanying chart. Note that I have changed the order in which I discuss the topics, to address major diversity themes in order of their prevalence in the proceedings. I thus begin with topics related to consumer choice, followed by liberalism and equality, and then sectoral diversity.

8.2.1. Consumer choice: Enhancing consumer sovereignty

Let's Talk TV focused heavily on enhancing consumer sovereignty, which, as discussed in Chapter 7, was built into the proceedings' agenda from the beginning. Blais's speech introducing LTTV cited public dissatisfaction with the current system, and highlighted public concerns surrounding packaging models, contract conditions, and the

price of services (Blais & CRTC, 2013). It is therefore no surprise that facilitating consumer choice and reducing costs—although not at the expense of key industry interests—are at the core of LTTV’s most significant decisions. The impact of LTTV decisions on consumer sovereignty are summarized in Table 8.1:

Table 8-1. Consumer sovereignty

Policy topic	Relevance for consumer sovereignty
I. Changes to simsub allowances	<ul style="list-style-type: none"> - Prohibiting simsub during the Super Bowl allows consumers to choose whether to watch it on a Canadian or American feed. - The commission is responding to 458 complaints related to simsub errors and an inability to watch American Super Bowl ads in 2013 (CRTC, 2014a).
II. Changes to measures related to ethnic and third-language broadcasting	<ul style="list-style-type: none"> - Eliminating buy-through means that consumers are no longer compelled to purchase a Canadian option before selecting foreign content. - This might make third-language services more affordable by offering consumers and BDUs greater flexibility in selecting and packaging services. - BDUs are required to offer a preponderance of Canadian options, including at least one Canadian option for every non-Canadian option provided in the same language. Consumers can choose which (if any) to purchase.
III. Change in supports for Canadian content	<ul style="list-style-type: none"> - The CRTC’s rationale was to facilitate the development of fewer but higher-quality Canadian shows, which Canadians would then <i>choose</i> to watch. - Canadians’ ability to <i>discover</i> Canadian content could be bolstered by the CPE’s new 10% promotional allowance (although there is no guarantee that broadcasters will increase their promotional spending). - Broadcasters argue that easing exhibition requirements allows them greater flexibility to respond to consumer demand. - However, there is no guarantee that focusing on expenditures will lead to higher-quality television; this requires broadcasters to take risks and invest in research and development. Such a model is at odds with broadcasters’ tendency to profit primarily through the exhibition of foreign content.
IV. Changes to cable packaging rules	<ul style="list-style-type: none"> - Consumers can choose whether to continue purchasing large packages, or switch to a skinny basic and/or pick-and-pay model. - Consumers will no longer be compelled to pay for channels they do not watch. - Some commentators believe these options have the potential to reduce costs for subscribers; however, in 2016, the CRTC was compelled to launch a review into the new packages following consumer complaints about hidden fees and allegations that new options ended up being more expensive than old packages (Sagan, 2016).
V. Elimination of genre exclusivity	<ul style="list-style-type: none"> - Ending genre exclusivity allows services to evolve more naturally to serve consumer interests. - In the absence of genre protection, services could change the nature of their programming in a manner that consumers find to be inconsistent with their expectations.

In some instances, the commission’s zeal for pleasing the public appeared to create populist mountains out of consumer-irritant molehills as they strove to be seen to meet consumer demands while not ruffling industry feathers. For example, the

commission's phase 3 discussion document (CRTC 2013-190) indicated a strong preference for eliminating simsub, detailing the problems associated with the practice and framing ensuing discussion questions such that interveners would be required to defend it if they wished it to remain. Yet in its final determinations, the commission decided to only eliminate simsub allowances during the Super Bowl—a decision that it justified as assuaging consumer irritation over an inability to access American Super Bowl commercials.

The decision to generally maintain simsub was certainly a welcome one for the major industry players that have long benefitted from the practice (apart from Bell Media, which currently holds the rights to the Super Bowl). What is less clear, however, is the commission's assertion that the decision will be valuable for consumers: of the Super Bowl's 7.38 million viewers in the year prior to LTTV (Bell Media, 2016), only 92 consumers complained about an inability to watch American advertisements (CRTC, 2014a)—amounting to approximately 0.001% of viewers. Amid stakeholder pressure, the commission's Super Bowl decision can best be read as a half-measure meant to appease broadcasters (other than Bell) while appearing consumer-friendly: broadcasters will continue to benefit from simsub, while consumers are offered access to the American Super Bowl advertisements that a small minority appear to crave. This position allows the commission to posture itself as a (superficially) consumer-focused organization while continuing to meet the demands of major industry players.

Similarly, cable-packaging options became a major and very high-profile aspect of the proceedings, even though research commissioned by the CRTC compared Canadian offerings favourably to the American system (Keeble, 2014), and there was scant evidence that imposing unbundling would result in cost savings for consumers. As I discuss later in this chapter, these rules are unlikely to prove too onerous for incumbent VI firms but are likely to impact business models and revenue streams for non-VI broadcasters and especially small-market services. Ironically, the commission was later deluged with complaints from consumers who were disappointed that the new options were not cheaper than their previous packages, prompting an inquiry into the implementation of pick-and-pay. Blais fired back that the commission had “never promised pick-and-pay would be cheaper” (Ansari & Mudhar, 2015, p. A.1), and suggested that consumers seeking lower prices might obtain a better deal by haggling with providers (Bradshaw, 2016).

The commission’s approach to Canadian content also has a distinctly consumer-centric bend, but one that is also likely to please incumbent broadcasters. The commission’s heavy focus on promotion and discoverability incentivizes the creation of content that will sell well both nationally and globally, and allows broadcasters to spend more on promotion by adding a ten% promotional allowance within CPE requirements. Broadcasters are also encouraged to focus on creative works that have already received some acclaim (such as programming based on best-selling novels) and are permitted to seek reductions in their long-detested Canadian exhibition requirements to allow for the creation of fewer, bigger-budget productions. From a consumer standpoint, these policies exhibit a market-based approach featuring the development of (presumably) higher-quality Canadian content that consumers evaluate based on their viewing *choices*. I take up these and other questions related to the shift in values surrounding Canadian cultural expression in section 8.2.3.

Supporting the broadcasting industry and meeting consumer demand are not problematic objectives in-and-of themselves, although it is worth noting that these objectives are not codified in the *Broadcasting Act*. However, as the next sections demonstrate, the commission at times focused rather narrowly on pleasing a nebulous consumer straw man—perhaps partly in response to pressure from the Federal Government, and perhaps also in fear that failure to do so could cause exasperated consumers to opt out of the conventional broadcasting system altogether.

8.2.2. Consumer Choice: Ensuring diversity in programming and genre

The commission’s tenacious attitude toward improving consumer sovereignty and increasing reliance on market forces is particularly evident in its approach to policy issues that impact genre and program diversity, particularly in the decisions to end genre exclusivity and mandate cable unbundling. The most important impacts of LTTV’s policy determinations on genre diversity are summarized in table 8.2.

Table 8-2. Genre and program diversity

<p>III. Changes to supports for Canadian content</p>	<ul style="list-style-type: none"> - Reducing overall Canadian exhibition requirements while maintaining CPE requirements may result in fewer program reruns for Canadian content. - The commission will continue to rely on channels receiving mandatory distribution through a 9(1)(h) order to provide programming in areas deemed to be of high public interest.
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IV. Changes to cable packaging rules (unbundling multiplexed services, pick-and-pay, and skinny basic)	<ul style="list-style-type: none"> - Some niche channels may struggle to maintain a sufficient subscriber base without the benefit of channel bundling. In particular, certain genres with lower subscriber bases and profit margins (e.g., children’s programming) may be disproportionately impacted, reducing genre and program diversity overall. - The CRTC argues that these provisions will spur innovation for services wishing to remain competitive.
V. Elimination of genre exclusivity	<ul style="list-style-type: none"> - Market forces will govern program diversity to a greater extent. - The commission argues that this decision will allow services to better respond to consumers and will encourage creative programming strategies - Risk that programming services will abandon genre specificity in favour of broadly popular content, causing a “rush to the middle” in program and genre.
VI. Introduction of 1:1 linkage rules	<ul style="list-style-type: none"> - This measure supports independent services as a group, although no one service will be guaranteed access (services still need to negotiate with BDUs). - Independent services frequently offer niche programming targeted at narrower audiences, so this provision indirectly supports program/ genre diversity.
VII. Extension of the regulatory exemption for programming services with fewer than 200,000 subscribers	<ul style="list-style-type: none"> - Supports genre/program diversity by easing the regulatory burden for smaller, often niche-programming services.

The commission argued that conditions of licence are difficult and inefficient to enforce due to the subjective nature of genre definitions, and that genre protection bolsters large companies while inhibiting new entrants. But its primary rationale for the move was a shift toward broadcast reregulation:

By eliminating this policy, the Commission is removing regulatory barriers so as to allow entry by new programming services, programming flexibility and greater domestic competition. This will ensure that programming diversity is governed by market forces to the greatest extent possible. Programming services will be able to respond to consumers and adopt creative programming strategies. (CRTC, 2015b, n.p.)

It is not clear, however, what the impacts of removing genre exclusivity will be for genre diversity. As discussed in Chapter 5, the CRTC’s existing genre rules may not have been functioning very well, with broadcasters often making grandiose promises pertaining to their tangible contributions to meeting the Broadcasting Act’s objectives—promises they had no intention of keeping (Vipond, 2011). The greatest risk is that removal of genre requirements for broadcasters will cause a “rush to the middle,” where services compete to offer the most lucrative content and avoid taking risks on new or niche options. However, this “genre morphing” is already underway in the Canadian

system (Miller, 2013), fed by regulatory complacency and an industrial economic structure that focuses on earning profits through airing popular American shows.

What is most interesting then is the CRTC's response to these underperforming policies: instead of reviewing the structure and content of specific regulations or developing new methods for monitoring and enforcing compliance, the commission opted instead to simply eliminate them. This decision puts Canadian policy more in line with genre diversity strategies in the United States—a market in which, by Miller's (2013) analysis, genre morphing is occurring even more rapidly as niche content increasingly moves online. Given that there has not been a significant push to eliminate genre exclusivity either from industry actors or the public,⁹⁹ the CRTC's decision to remove it appears to be driven more by free-market ideology and a sense of inevitability surrounding the rise of online services rather than a desire to enhance genre diversity.

The likely impacts of cable unbundling (if popular among consumers) are clearer, as some narrowcast services are likely to struggle to maintain a sufficient subscriber base without the benefit of channel bundling. These channels will be forced to rebrand, seek more universally appealing content (perhaps genre morphing, as discussed above), or risk failure. In each of these scenarios, the overall diversity of genre/program diversity in the system is likely to suffer. Notably, the impacts are likely to be greatest for non-VI firms, since services owned by companies that also operate BDUs are likely to receive better promotion and favourable packaging. For its part, the commission accepts these potential losses as a necessary part of the growing process in a changing broadcast environment. When announcing the decision, Blais acknowledged the risks involved in the new pick-and-pay regime, stating that “[i]n this environment, there may be services that don't survive and that means job losses” (Lewis, 2016a, p. B.1.), but pointed to increased marketplace competition as a force for positive change, stating that “good companies will find ways to innovate, compete and thrive if they are successful” (CBC News, 2015).

The commission did counterbalance these policy changes with some tools to facilitate genre/program diversity moving forward. It opted to maintain Canadian program expenditure requirements, including special requirements for high-cost, high-risk PNI

⁹⁹ BDU-primary firms such as Rogers tend to oppose genre exclusivity, but overall the policy seems to do little harm and its removal has not been at the top of the policy agenda for BDUs.

genres. It also attempted to mitigate the impacts of unbundling and the elimination of genre exclusivity on smaller services and/or independent broadcasters. In particular, services with fewer than 200,000 subscribers enjoy lighter regulatory requirements, since they are now exempt from Part II of the *Broadcasting Act*; and VI BDUs are required to offer at least one independent service for each service of its own that it offers (1:1 linkage rule). These two measures partially offset the impacts that unbundling and the elimination of genre exclusivity could have on genre/program diversity by offering some assistance to those smaller and independent services that frequently serve niche audiences. However, the commission offers no concrete protections for narrowcast services, nor does it prevent BDUs from privileging the discoverability of their own channels over independent services in their marketing techniques. Even considering the limited assistance offered by the small-service exemption and 1:1 linkage rule, narrowcast services that no longer benefit from advantageous bundling may be compelled to innovate by offering more universalized content, or content similar to that which is already provided on previously protected Category A services.

Furthermore, the reality behind the commission's decisions impacting genre/program diversity does not reflect its stated goal of regulatory simplification, but instead imposes a new regulation based on objectives related to consumer sovereignty and free-market ideology—in particular, the imposition of requirements for cable unbundling represent a *new* regulatory burden on BDUs that did not previously exist. In addition, if the broadcasting system is to meet the *Broadcasting Act's* program diversity requirements¹⁰⁰ in the future, the commission will need to rely more heavily on other regulatory tools to support programming with lower profit margins: mandatory carriage powers under the *Broadcasting Act's* 9(1)(y) provision and PNI expenditure requirements. The net effect is not an overall reduction in regulation but a situation in which some regulations are swapped for others based on changing policy ideals.

¹⁰⁰ The *Act* requires that the broadcasting system provide “a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity” (Government of Canada, 1991, 3.1.d.ii).

8.2.3. Liberalism and equality: Supporting Canadian cultural expression

The commission entered LTTV with a goal to re-shape the style and image of Canadian content. In his first introduction to the proceedings at the Banff World Media Festival in June 2013, Blais stated his regulatory philosophy as moving forward “from protect to promote,” and shifting CanCon “from great Canadian works to great works that happen to be Canadian” (Blais & CRTC, 2014). In post-LTTV policy, these objectives manifested in a new emphasis on *promoting* Canadian content and a reduction in Canadian content exhibition requirements in exchange for mandated CPE requirements for all broadcasters. Both of these provisions are indicative of a consumer sovereignty and market-based approach to Canadian cultural expression: if consumers in Canada and abroad are able to *find out* about Canadian productions they will naturally choose them, and the worthiness of productions is best determined by consumer choice. Table 8.3 summarizes these and other impacts of LTTV decisions on Canadian cultural expression.

Table 8-3. Canadian cultural expression

I. Changes to simultaneous substitution allowances	<ul style="list-style-type: none"> - If Bell Media loses substantive revenues as a result of the Super Bowl simsub ban, its CPE contributions will be proportionately lower. - Otherwise, the status quo of simsub benefits and challenges for the Canadian system remain the same.
II. Changes to measures related to ethnic and third-language broadcasting	<ul style="list-style-type: none"> - Elimination of buy-through requirements are likely to mean fewer subscribers for major Canadian-based third-language services. - Broadcasters required to <i>offer</i> several Canadian third-language services; it will be up to consumers to choose what to purchase. - Consumers may opt to purchase foreign services (with no Canadian content exhibition requirements) and bypass Canadian options altogether. - These measures may cause instability in the Canadian ethnic media sector and incentivize broadcasters to spend even less on Canadian content.
III. Changes to supports for Canadian content	<p>Shift to supporting large works with universal appeal:</p> <ul style="list-style-type: none"> - Enacted through emphasis on CPE requirements over screen quotas. - TV production pilot programs emphasize high-impact programming that draws large Canadian and international audiences. - Attempts to target foreign markets could lead to a loss in cultural specificity. <p>New emphasis on product promotion:</p> <ul style="list-style-type: none"> - CPE spending allocation (10%) for promotion emphasizes marketing and discoverability of Canadian content. However, there is no guarantee that broadcasters will increase promotional spending; they may simply allocate fewer resources to content procurement. - Discovery Summit’s focus on <i>discoverability</i> of content demonstrates commission’s belief in better <i>promotion</i> for broadly defined Cancon.

IV. Changes to cable packaging rules (unbundling multiplexed services, pick-and-pay, and skinny basic)	<ul style="list-style-type: none"> - Skinny basic packages give priority carriage to Canadian television services, particularly local and community stations and those supported under the 9(1)(h) section of the Act. - Potential loss of programming services could impact Canadian production by making it difficult for services to amortize costs across multiple services. This could decrease overall funding available for Canadian programming. - Corus Entertainment (2016) argues that unbundling will reduce overall revenues and hence CPE expenditures.
V. Elimination of genre exclusivity	If existing channels relinquish their genre specificity to serve more lucrative markets, American channels could apply to fill these genre gaps. However, given that the television market is already well established, this result seems unlikely.

English-language Canadian television programs¹⁰¹ have long experienced low ratings, and have been generally accepted by broadcasters as loss leaders that meet exhibition minimums in exchange for other regulatory benefits, such as simultaneous substitution (Shtern & Blake, 2014).¹⁰² The commission’s view is that this system—while always imperfect—is unsustainable in an era where viewers enjoy on-demand viewing and unfettered access to foreign content through OTT services.¹⁰³ By incentivizing promotion, reducing exhibition requirements, and relying more heavily on CPE requirements, the commission hopes to foster higher-budget productions featuring universally appealing themes that can recoup costs on both Canadian and international markets.

What is most interesting about this plan is its break from historical approaches to Canadian content, which embodies a major shift in the perceived purpose of Canadian

¹⁰¹ The same is not true in the French-language Québec market, where (at the time of writing) the top five programs were all Canadian: Unité 9 (CBC), En Tout Cas (TVA), Fugueuse (TVA), District 31 (CBC), and L’échappée (TVA) (Numeris, 2018a). While francophone viewers tend to prefer Canadian content, the French-speaking market is smaller and international sales are more challenging. For these reasons, the francophone-Canadian market instead struggles to maintain a self-sustaining production industry. This section focuses on English-Canadian productions as the primary target of the CRTC’s new Cancon policies.

¹⁰² At the time of writing, only six of the top 30 most watched television programs aired in Canada were Canadian—only one of which made the top 10 (*CTV Evening News* at number nine), and only three of which were in genres other than news and sports (*Murdoch Mysteries* at number 18, *The Launch* reality TV series at number 21, and drama series *Cardinal* at number 22) (Numeris, 2018b).

¹⁰³ The commission’s assessment on the broadcasting system’s future may be broadly correct, although this shift is not occurring as rapidly as the LTTV discussions suggest: traditional TV viewing only decreased by 0.6 hours per week between 2015 and 2016, and still commands 26.6 hours per week for Canadians aged two and up. While OTT viewing is growing, it only accounts for 6.4 hours per week and tends to act as a supplement to, rather than replacement of, traditional TV viewing (CRTC, 2017).

cultural expressions. As demonstrated in chapters 3, 4, and 5, the nurturing of a distinct Canadian identity and national unity was historically cast as the key task of broadcasting policy. Raboy (1998) noted that this objective began to shift toward a market-driven approach favouring private industry and consumer sovereignty following a perceived decrease in the Québec sovereigntist threat in the 1980s. The political field has shifted further in this direction in the 20 years since Raboy noted this trend: the Québec secessionist movement is less overt, and while proponents of Canadian industry still cloak themselves in the rhetoric of national expression, previous liberal-humanist approaches to cultural expressions have largely given way to a focus on supporting major productive industries in the face of globalization and trade liberalization. As Chapter 3 demonstrated, this shift is visible in Canada's approach to the negotiation of UNESCO's international convention for cultural diversity (CDCE), which was first promoted by high-level industrial interests in the cultural industries SAGIT, and culminated in an instrument embedded in the logic of market capitalism designed to support nation-states in protecting and promoting domestic industries.

While it would certainly lend greater economic viability to production and broadcast industries, it is unclear what a marked switch to broadly popular Canadian content would mean from a Canadian cultural standpoint. Research suggests that many Canadian producers seeking international audiences have already felt pressure to "dilute" cultural indicators in order to mitigate the cultural discount¹⁰⁴ in years prior to LTTV (Tinic, 2005, p. 92). The results of the proceedings are likely to augment this pressure for two reasons. Firstly, the expectation of bigger-budget productions is likely to lead producers to an increasing reliance on international co-productions, which are especially susceptible to the cultural discount (Davis & Nadler, 2009) and thus likely to avoid cultural specificity (Tinic, 2005). Secondly, the commission's new measures do not include any new provisions to encourage domestic regional and sub-cultural expression to counterbalance pressures to internationalize productions (discussed further in section 8.2.6). In fact, the commission's "best-selling novel" pilot project privileges stories that have already dodged the cultural discount in their literary formats, and thus are unlikely to encounter such problems as television programs.

¹⁰⁴ The tendency of audiences to place less value on foreign content due to a lack of cultural knowledge and background required to fully enjoy the experience (Hoskins & Mirus, 1988).

At the same time, the commission's elimination of Canadian service buy-through requirements for third-language services, combined with the new cable unbundling rules, may lead to a net decrease in availability and quality of Canadian content on narrowcast and ethnic stations. This is due to an expected reduction in subscriber rates for Canadian services as consumers are untethered from historical buying patterns, either through the elimination of the buy-through requirement or through the implementation of pick-and-pay. If these new consumer-centric provisions do result in an overall drop in broadcaster revenues, as Corus (2016) argued they will, the result would be a parallel reduction in quality Canadian production through a decrease in CPE revenues available in the broadcasting system.

The likely cumulative result of these policies is a decrease in distinct national and regional character in Canadian content, apart from designated programming by the public broadcaster and 9(1)(h)-licensed services, or work produced with assistance from specific *Canadian Media Fund* programs (such as the Northern Incentive). Such a situation would require a reinterpretation of the *Broadcasting Act's* objective to maintain and enhance national identity. It will also likely lead to a reheating of debate about the *raison d'être* for content subsidies, spending requirements, and exhibition quotas, as rules historically supported for reasons of cultural specificity smell increasingly like a crass industry protectionism.

8.2.4. Liberalism and equality: Facilitating bilingualism and biculturalism

Throughout the proceedings, the commission made a concerted effort to ensure that policy decisions would not negatively impact access for official language minority communities (OLMCs) in both English- and French-speaking regions. This consideration reflects an important value in broadcasting policy, as well as the CRTC's commitment to upholding its obligations under section 41 of the *Official Languages Act* (Minister of Justice, 1985).¹⁰⁵ Supporting bilingualism and biculturalism is regularly high on the agenda for the commission, and commissioners meet with an official language minority

¹⁰⁵ Section 41 of the OLA refers to government policy in the advancement of English and French. It states that federal institutions and the Government of Canada are required to enhance and support the development of official language minority communities, and foster the full recognition and use of both French and English in Canadian society (Minister of Justice, 1985).

discussion group biannually to maximize OLMC participation in CRTC proceedings (CRTC, 2013b, p. 11). Overall, the results of the LTTV proceedings are unlikely to have a significant net impact on the availability of programming for OLMCs.

Most major decisions were made with an emphasis on English-majority markets; however, the commission recognized that English- and French-language broadcasting “operate under different conditions and may have different requirements” (CRTC, 2014a, para. 34), and in some instances (such as with its simultaneous substitution decisions) asked for input on potential unanticipated consequences in Québec’s market. An important exception to this practice, however, was the commission’s decision to end genre exclusivity. In this case, several key interveners—including Bell, Corus, APFC,¹⁰⁶ AQPM,¹⁰⁷ and the MCCCCFQ¹⁰⁸—all opposed ending genre protection in the Québec market. These actors cited concerns around Québec’s smaller market, and presumed inability to withstand genre competition in comparison to the much larger English market. They also cited specific concerns about the extremely high level of vertical integration in Québec, and Vidéotron’s dominance in distribution. Only Québecor (parent company of Vidéotron) supported eliminating genre exclusivity in Québec.

Despite strong opposition from such a diverse range of actors (VI and non-VI media firms, organizations representing producers, and the Québec government), the commission did not really address these concerns in its final determinations. Instead, it stated only that the French market has “strong brands” that would be able to differentiate themselves, but did not address issues concerning how power imbalances caused by extreme vertical integration might be augmented by eliminating genre exclusivity (CRTC, 2015b). However, the commission’s overall maintenance of current practices to support bilingualism and biculturalism suggests that this policy goal is relatively unchanged since the last major broadcasting policy review in the 1980s.

¹⁰⁶ L’alliance des producteurs francophones du Canada.

¹⁰⁷ L’Association Québécoise de la production médiatique.

¹⁰⁸ Québec Ministère de la Culture et des Communications.

Table 8-4. Bilingualism and biculturalism

I. Changes to simultaneous substitution allowances	According to interveners including <i>Media Experts</i> (2014) and the <i>Groups for the Public Interest</i> (Canadian Ethnocultural Council et al., 2014), simulcast would have limited impact on the French market because French networks do not regularly simulcast large amounts of US programming beyond major events like the Super Bowl and the NHL playoffs.
IV. Changes to cable packaging rules (unbundling multiplexed services, pick-and-pay, and skinny basic)	<ul style="list-style-type: none"> - The commission maintained its 1:10 linkage rule, which requires BDUs to distribute one minority-language discretionary service, where licensed, for every 10 majority-language services it distributes. It also extended this requirement to direct-to-home providers. This ensures distributors offer OLM services, where possible. - If the 1:10 rule is not sufficient, the commission may need to rely more on licensing OLM services under section 9(1)(h) of the Broadcasting Act.
V. Elimination of genre exclusivity	<ul style="list-style-type: none"> - Eliminating genre exclusivity may have a different impact in the French-language market due to its smaller size and highly vertically integrated nature. Ending the practice could cause market instability and augment the power imbalances between the dominant vertically integrated entity (Québecor) and other players. - The commission argues that the French market has “strong brands,” and thus there is no reason to be concerned about the impacts of ending genre exclusivity.

8.2.5. Liberalism and equality: Supporting Indigenous cultural expression

Throughout the first two phases of the proceedings, the commission received several comments regarding underrepresentation and poor representation of Indigenous Peoples in the broadcasting system, including several comments from Indigenous producers noting difficulties in selling their work to mainstream markets. This prompted the commission to ask about Indigenous services in its 2014-190 planning document: “Is there appropriate access to a diversity of programming by and for Aboriginal peoples? If not, are regulatory measures needed to achieve this objective?” (CRTC, 2014a, Q.41)

There were few interventions speaking explicitly to Indigenous interests, although a handful of respondents, such as *On-Screen Manitoba* (Matiation & On Screen Manitoba, 2014), *Groups for the Public Interest* (Canadian Ethnocultural Council et al., 2014), and the *Quebec English-Language Production Council* (Lundman, Dalton, & Québec English-language Production Council, 2014), discussed the importance of better serving and reflecting Aboriginal Peoples. The *First Mile Connectivity Consortium* (FMCC) also spoke to innovative Indigenous-led storytelling occurring online and

emphasized the importance of improving broadband connectivity to rural and remote Indigenous communities (McMahon, 2014). Interestingly, APTN (the only national Aboriginal broadcaster) did not speak explicitly to issues surrounding Indigenous representation, but instead spoke to more general issues as a participant in the *Independent Broadcasters Group* intervention. Many other interveners opted not to answer the CRTC's question about Aboriginal representation. *Friends of Canadian Broadcasting* argued that LTTV was not an appropriate place to address Indigenous representation, which is a complex question deserving much deeper analysis (Morrison & Friends of Canadian Broadcasting, 2014).

The dearth of discussion surrounding Indigenous cultural expression in the CRTC's final decisions can be read two ways. The first is to consider it as an extension of the long-standing tendency to treat issues pertaining to Indigenous cultural expression as a separate set of issues from mainstream Canadian issues, perhaps by assuming that Indigenous representation is met by built-in supports for APTN and general requirements surrounding multicultural representation for mainstream broadcasters. Comments from Indigenous producers struggling to break into mainstream markets certainly suggest that this may be the case.

A more generous reading is that the commission concurred with *Friends of Canadian Broadcasting's* suggestion that the question of Indigenous representation be taken up in separate, more targeted investigations. In this case, the commission may have intended this discussion topic not as a direct path to policy development, but as an information gathering exercise to provide some context about what avenues to pursue in future. There is evidence that the commission did this in two separate instances. First, in its proceedings on community television shortly after the conclusion of LTTV, it explicitly addressed the need to include diverse voices in community TV by requiring BDUs to create "citizen advisory committees" made up of members from local Aboriginal, cultural, linguistic, and ethnic groups (CRTC, 2016a). Second, the commission took up the issues posed by the FMCC in its Basic Service Objectives proceedings in 2016, in the end declaring broadband internet as a basic telecommunication service and creating a new \$750m fund to support broadband development in rural and isolated regions (CRTC, 2016b).

The most likely case is that both readings are accurate. Visible minority representation on mainstream services was not presented as a discussion topic during the proceedings, either for Indigenous Peoples or for any other equity-seeking groups (discussed in more detail in section 8.2.6). The only major Indigenous broadcaster, APTN, is supported with 9(1)(h) licensing privileges and thus is unlikely to be impacted by decisions surrounding unbundling or the elimination of genre exclusivity. Supports for the creation of high-quality Indigenous content in the new Canadian content environment presumably rest with the arm's-length Canadian Media Fund, which has a separate funding stream for Aboriginal programming as well as a Northern Incentive program to bring production to remote locations (Canadian Media Fund, 2018b). At the time of writing, the commission has not yet launched a targeted investigation to consider frameworks for Indigenous broadcasting or Indigenous representation on mainstream television.

8.2.6. Liberalism and equality: Supporting equity-seeking groups

Let's Talk TV's explicit policy discussion and determinations targeting support for equity-seeking groups were limited to some decisions impacting third-language broadcasters and television accessibility for people with certain kinds of disabilities. LTTV did not address issues surrounding representation in mainstream media, or supporting participation by women, LGBTQ+ communities, visible minorities, or people with disabilities. This is interesting given the commission's decision to delay its planned cultural diversity policy review so it could later be conducted "in the context of the outcome of *Let's Talk TV*" (CRTC, 2014b, p. 4). The decision to delay the cultural policy review is important for two reasons: 1) it indicates that the commission expected LTTV to impact cultural diversity policies and objectives, even though these issues were never explicitly addressed; and 2) it means that any future discussion on cultural diversity and rectifying issues related to inequality will take place within the framework of the LTTV decisions. The rulings that impact third-language programming and concerns about representation are summarized in Table 2:

Table 8-5. Supporting equity-seeking groups

<p>II. Changes to measures related to ethnic and third-language broadcasting</p>	<p>Supports for third-language communities:</p> <ul style="list-style-type: none"> - The costs of foreign third-language programming could drop with the elimination of the buy-through requirement. - Unbundling and the elimination of the buy-through requirement could lead to a reduction in Canadian third-language services (both number of offerings and amount invested in Canadian programming). <p>Support for other equity-seeking groups (visible minorities, women, members of LGBTQ+ communities, people with disabilities):</p> <ul style="list-style-type: none"> - Let's Talk TV did not address concerns surrounding representation in broadcasting content or management. - LTTV did include some provisions to improve service and access for people with disabilities (e.g., changes to described video requirements).
<p>III. Changes to supports for Canadian content</p>	<ul style="list-style-type: none"> - Third-language and other services previously exempt from CPE requirements will be assigned a CPE requirement at licence renewal. - Other changes to Canadian content supports facilitate the development of universally popular works that can be sold internationally. They do not contain specific allowances for improving representation of equity-seeking groups and may in fact make the environment more challenging for programming targeting some niche identity communities.
<p>IV. Changes to cable packaging rules</p>	<ul style="list-style-type: none"> - Services with small audiences are concerned about the viability of their business models without the support of large packages. They could lose subscribers due to pick-and-pay, and fear that BDUs may refuse to offer third-language or other niche services in packages. - The commission will rely on section 9(1)(h) of the Broadcasting Act to ensure certain equity-seeking groups have access to representative programming.
<p>V. Elimination of genre exclusivity</p>	<p>Removing genre protection may cause a rush to the middle as services seek the most lucrative programming. This could result in a dilution of genre-specific programming on services targeting small cultural communities.</p>
<p>VII. Extension of the regulatory exemption for programming services with fewer than 200,000 subscribers</p>	<ul style="list-style-type: none"> - Third-language channels already had the benefit of this regulatory exemption prior to the LTTV proceedings. However, this extension may make it easier for services targeting other equity-seeking communities to launch.

Likely impacts on third-language programming

The commission's approach to third-language broadcasting is focused heavily on consumer sovereignty. Mandatory cable unbundling and the elimination of the Category A third-language buy-through requirement mean that consumers have greater choice in selecting broadcasting options. This greater flexibility would ostensibly make it easier for consumers to access Canadian Category B and exempt third-language services, as well as foreign services. Given that third-language packages tend to be expensive,

mandatory unbundling and the elimination of the Category A buy-through has the potential to help consumers manage costs by selecting only the services they want to receive. It also creates a fairer competitive environment for Category B and exempt services, which were previously only accessible to consumers who first purchased the mandatory Category A channel in the same language.

On the other hand, all Canadian services are likely to experience a decrease in subscriber base because of cable unbundling. Markets for third-language programming are inherently smaller, and services are less likely than other services targeting niche communities and/or equity-seeking groups to be included in large “value” television packages.¹⁰⁹ Furthermore, while the commission requires that BDUs *offer* at least one Canadian-based service for each foreign-based service offered in the same language (when available), consumers will be under no obligation to *purchase* a preponderance of Canadian services, and some consumers may opt to only purchase foreign options.¹¹⁰ Canadian third-language services thus face the problem of competing with foreign services that benefit from economies-of-scale obtained on their domestic markets, while also meeting their Canadian exhibition and/or CPE requirements. Some services may experience budget shortfalls that impact programming quality, or may fail entirely.

This disregard for impacts on domestic third-language programming is particularly notable given a 2013 decision by Rogers Media to cut five of its multilingual OMNI television stations, impacting availability of Canadian news and entertainment services in 11 languages (Canadian NewsWire, 2013)—a decision that demonstrates the challenge of providing lucrative made-in-Canada multicultural services, and results in a decrease in Canadian third-language options. OMNI followed-up these cuts with even deeper cuts to both multicultural and local services in May 2015, a move that Rogers Media president Keith Pelley said was made in response to OMNI’s “financial crisis”

¹⁰⁹ Assessment based on an evaluation of pre-packaged TV options in the Vancouver area from three major providers: Rogers, Telus, and VMedia. Multicultural channels were generally not included in larger theme packs, although occasionally services targeting other equity-seeking groups, such as OUTtv (targeting LTBTQ+ groups) and W Network (offering “women’s” programming) were available as part of larger packages.

¹¹⁰ While this is now possible for all specialty services, it is more likely in the third-language market due to the greater proportional availability of foreign services. However, such services will still be subject to regulations surrounding licensing of foreign broadcasters.

(quoted in Houpt, 2015).¹¹¹ While it is unclear whether the LTTV determinations played a significant role in exacerbating OMNI's financial challenges, it is nonetheless notable that LTTV made no attempt to address concerns related to the struggles faced by local third-language programmers, even in light of this visible crisis.

Likely impacts on programming serving other equity-based considerations

Category B and exempt services offering cultural and sub-cultural representation in English or French are likely to face similar challenges to third-language broadcasters in the face of unbundling: if a critical mass of consumers opts for à la carte options, some channels will experience a decrease in overall subscribership.

More interesting is the way in which the commission's new value system surrounding Canadian content (namely, the push to produce fewer high-budget, universally popular works) could impact the tenure of material produced—and perhaps also a broadcaster's willingness to take a risk on sub-cultural content that targets or represents equity-seeking peoples. As discussed above, broadcasters have historically commissioned low-budget Canadian content with the expectation that it would meet licensing requirements but would not necessarily earn money (Shtern & Blake, 2014). While this defeatist attitude is problematic, it also leaves potential space for risk-taking in creative endeavours in the service of distinct communities.

At times, this has allowed for unique programming targeting cultural *and* regional niche communities, such as Global's reimaging of Trey Anthony's award-winning play, *Da Kink in My Hair*, which centred around a Caribbean hair salon in Toronto. In an environment where broadcasters are pressured to sell their wares internationally, is there space for programming that unabashedly targets small cultural *and* regional Canadian markets? Examples of programming demonstrating both regional and cultural specificity are already considered to be a public service to certain communities, and thus are rare beyond a handful of creations commissioned by the public broadcaster, which in recent years has invested in shows such as *Kim's Convenience*, *Arctic Air*, and *Little Mosque on the Prairie*. But an increased reliance on international co-production and

¹¹¹ OMNI reports that its ad revenues dropped from \$80 million in 2011 to \$25 million in 2013–2014, while parent company Rogers Media lost \$85.8 million before taxes and interest in its conventional TV operations (Houpt, 2015).

pressure to sell Canadian productions internationally could contribute to their disappearance (outside of public broadcasting) altogether.

8.2.7. Sectoral diversity: Ownership diversity

Managing industry consolidation was not a significant theme throughout the LTTV proceedings, although the amalgam of policy decisions could impact the overall makeup of the industry. These potential impacts are summarized in table 8-6:

Table 8-6. Ownership diversity

I. Changes to simultaneous substitution allowances	Simultaneous substitution is only permitted for conventional broadcasters, which are owned by large VI companies.
IV. Changes to cable packaging rules	<ul style="list-style-type: none"> - Companies that rely heavily on television assets will experience greater financial challenges if subscribership drops as a response to pick-and-pay, since they cannot recover costs across business units. - Vertically-integrated distributors have considerable power over the <i>discoverability</i> of services and have incentive to better promote their own holdings over independent services (Blue Ant Media Inc., 2014).
VI. Introduction of a 1:1 linkage rule	<ul style="list-style-type: none"> - This measure is meant to support independent services, which frequently offer narrowcast programming. - This rule offsets the inherent conflict of interest in which a VI company is incentivized to favour its own services.
VII. Extension of the regulatory exemption for programming services with fewer than 200,000 subscribers	The reduced regulatory burden for smaller broadcasters may make it easier for independent services to launch and develop.

The commission acknowledged that mandatory unbundling would impact some services more greatly than others, stating, “some will experience their share of growing pains. Success will not be universal. Some will thrive; others fail. New players will emerge” (Blais & CRTC, 2015). In particular, mandatory unbundling most heavily impacts non-VI services that cannot amortize costs and losses across business units, and that suffer from an inherent power imbalance wherein VI BDUs are strongly motivated to better promote their own affiliated services. The *Independent Broadcast Group* articulated the dire impacts that mandatory unbundling and changes to Canadian content requirements could have on the independent sector in an intervention:

The potential scope of change to the broadcasting system that is now under contemplation presents unprecedented structural challenges to the

independent sector. The combination of regulatory intervention to require narrower packaging of programming services and to remove safeguards that have ensured the very presence of Canadian programming services and Canadian programming choices—such as access rights and rules that ensure priority distribution of Canadian programming services—threatens the continued survival of Canadian independent services (Independent Broadcast Group & Fortune, 2014, p. 1).

OUTtv CEO Brad Danks affirmed this argument and added that mandatory unbundling tackles the wrong problems: it is a regulatory solution to a market-based problem that developed following long-standing permissive attitudes toward vertical integration (OUTtv & Danks, 2014). Vertically integrated BDUs enjoy territorial monopolies or oligopolies, and thus have every incentive to extract unreasonably high rates from consumers. Mandating pick-and-pay *may* provide some price relief—or it may not—but it will not solve the problem of vertical integration. In fact, mandating certain kinds of packaging may inhibit independent BDUs that lack economies of scale and will face difficulties in differentiating their services if they are required to offer certain kinds of packages. Measures such as the 1:1 linkage rule and regulatory exemption for broadcasters with fewer than 200,000 subscribers provide some support to diverse players. But overall it is clear that the commission's priority was supporting consumer sovereignty, even if it meant disproportionately impacting smaller players. The biggest losers in this system are likely to be these small BDUs, as well as non-VI and independent broadcasting services.¹¹²

8.2.8. Sectoral diversity: localism and community media

The commission deferred most decisions related to local and community media to hearings specifically on community TV, planned for 2015–16 (CRTC, 2013b). The only major decision on the table that would directly impact community broadcasting was whether to allow local stations to shut down transmitters to save money, which the commission opted against. It also decided not to add any extra fees or levies to support local TV, despite visible crises for local stations in several major Canadian cities

¹¹² E.g., Corus Entertainment, a non-VI media firm that makes 70% of its revenue from broadcasting, experienced a stock drop of 11% after the release of the pick-and-pay decision (Pellegrini, 2015).

(including Hamilton, Victoria, London, and St. John’s). Instead, it stated its intention to re-examine this decision during its local TV review (CRTC, 2015a).

The only major CRTC decision that could impact local TV is the decision surrounding simultaneous substitution. One of the major arguments in favour of simultaneous substitution is that it can help broadcasters offset financial losses from local TV. Popular substituted programming may also indirectly support local programming by providing larger lead-in audiences for shows that are aired directly after a popular substituted program. Given that the commission’s decision surrounding the elimination of simsub was limited to the Super Bowl, it is unlikely to have a significant impact on local and community TV at this time.

Table 8-7. Localism and community media

I. Changes to simultaneous substitution allowances	The decision not to remove simsub from everyday programming means that the status quo will remain in terms of its support for local TV.
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8.2.9. Sectoral diversity: Public broadcasting

Public broadcasting was not a major topic in the LTTV proceedings. While the CBC participated in the proceedings, its intervention did not address issues that were specific to the public broadcasting sector. The commission’s decision to leave out the issue of public broadcasting during the proceedings is interesting given significant public support for the broadcaster in the face of massive federal budget cuts (Dias, 2014), and its prevalent position in comments from individuals and public interest organizations in LTTV phase 1 (Luka & Middleton, 2017).

The only major decision expected to have a distinct impact on public broadcasting is the imposition of CPE requirements on all broadcasters—previously, public broadcasters did not have such requirements. Perspectives on this shift, however, were mixed. The CBC did not oppose CPE requirements, and noted that it already spends a great deal on Canadian programming. However, it opposed the imposition of a CPE requirement *on top of* existing exhibition requirements, arguing that such an arrangement would unnecessarily add to their regulatory burden (Kirshenblatt & CBC Radio-Canada, 2016). TVO also did not oppose CPE requirements, but asked the

commission to carefully consider whether to include online revenues as part of its calculations in CPE rates (de Wilde & TVO, 2016). Conversely, Knowledge Network opposed the imposition of CPE on public broadcasters, arguing that their funding model would make it difficult to implement a CPE requirement (Pollon & Knowledge Network Corporation, 2016).

Table 8-8. Public broadcasting

III. Changes to supports for Canadian content	Federal and provincial public broadcasters will be required to meet a mandatory minimum Canadian content expenditure. However, since most public broadcasters already focus heavily on Canadian programming, it is unclear if this requirement will have a significant impact on their day-to-day operations.
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8.3. Enhancing neoliberalism in broadcasting

8.3.1. Letting the consumer’s interest determine consumer interest

In general, LTTV focused on adjusting policies in areas that could be seen as consumer friendly and/or could make elements of the broadcasting system more economically productive. Notably, achieving collective national goals such as identity building was downplayed throughout the proceedings, even though it has historically been an extremely important aspect of broadcasting policy and is a prevalent objective of the Broadcasting Act.

The commission focused heavily on measures to enhance consumer sovereignty. Shifting broadcast policy goals to account for consumer desire (or, to be seen to account for consumer desire) serves several objectives for the commission: adhering to the government’s expectations (political expediency), remedying the public’s exceptionally low level of trust in the CRTC (enhancing public image),¹¹³ and providing incentive for Canadians to continue accessing the regulated broadcasting system in a changing media environment (economically supporting a major industry). Explicitly

¹¹³ The public’s trust in the CRTC was extremely low in 2012, in part due to negative press addressing the high-profile, internet usage-based billing dispute in 2011 (Nowak, 2011). In 2012, a poll commissioned by *Reader’s Digest* suggested that the CRTC was the second-least trusted institution in Canada, with 34% of Canadians claiming a negative level of trust toward the institution. These scores were behind only the Canadian Parliament, which scored a 42% level of distrust among Canadians (Reader’s Digest Canada, 2012).

focusing the proceedings' objectives and rhetoric around enhancing consumer sovereignty is thus a highly productive endeavour.

Let's Talk TV's decisions as they pertain to certain other diversity objectives—particularly genre diversity, support for equity-seeking groups, and Canadian cultural expression—suggest a slip from pro-social outcomes toward a greater focus on economic productivity and consumer choice. Genre diversity has always been tied to market-based objectives, largely due to its development within the private sector and reliance on technological development. However, the commission's decision to eliminate the genre exclusivity policy provides the greatest advantage for VI incumbents and further ties this form of diversity to consumer-driven market logic wherein the value of narrowcast services is derived entirely from their ability to outperform competitors. Similarly, approaches to ethnic and third-language diversity have always been largely left to the market with few regulatory protections, but decisions including the elimination of the buy-through requirement and new policies requiring cable unbundling put further pressure on these broadcasters to demonstrate their value by free-market standards in an inherently inequitable marketplace.

Perhaps most interesting is the LTTV's approach to Canadian content, and its accompanying shift in what constitutes primary policy objectives in this area: *Let's Talk TV* demonstrated that promoting national unity and identity-building is no longer the primary *raison d'être* for provisions supporting Canadian productions. Instead, the commission has shifted its approach to focus on making Canadian-produced material more economically productive by way of universalized appeal and enhanced international sales, indicating a desire to support Canadian production as an *industry* rather than a social objective. This is particularly interesting given LTTV's overarching rhetoric lambasting the "entitled" industry actors who have come to rely on a highly protectionist environment.

On the other hand, objectives associated with social justice-oriented forms of diversity were omitted from the proceedings almost entirely. These included questions pertaining to support for equity-seeking group representation, bilingualism and biculturalism (which the commission still prioritizes, but became less urgent as the sovereigntist threat diminished), Indigenous cultural expression, ownership diversity, localism, and public service broadcasting. The decision to omit these issues is

particularly notable given that many were prevalent during the LTTV's phase 1 data collection and agenda-setting phase: in particular, Luka and Middleton (2017) found that concerns surrounding availability of French programming for OLMCs, CBC funding, availability of local programming, and diverse representation were common in phase 1 responses.

Proponents of LTTV may well argue that these topics were legitimately excluded due to questions of scope, and point to other proceedings as indication that they were nonetheless important topics on the CRTC's agenda (such as the 2015 local and community TV review). However, their omission during LTTV is notable due to the proceedings' self-proclaimed magnitude in size and scope. As much as LTTV was about providing a much-needed update for the Canadian broadcasting policy framework, the energy expended on its multi-phase multi-method design and considerable publicity indicates that it was also meant partly as a promotional vehicle for the commission. As such, it was important for the commission to be seen to be operating in a consumer-focused and future-oriented mindset far beyond the outdated fuddy-duddy bureaucratic organ often depicted in the media.

This desire to appear in-touch with consumer demands may have led to some LTTV decisions bordering on the frivolous (facilitating audience reception of American Super Bowl ads) while neglecting the boring but necessary work of providing specific services to various communities and ensuring fairness in the marketplace. While some of these topics may be addressed in future proceedings, any moves to enhance these forms of diversity will now necessarily be scaffolded on the distinctly consumer- and market-focused decisions of LTTV. Future public proceedings will also be conducted with much less publicity and fanfare, and thus also less public engagement.

8.3.2. The evolution of diversity

These findings reveal an interesting change in the way in which one Canadian cultural policy institution defined and packaged diversity objectives, perhaps representing an institutional solidification into the next phase of diversity principles that are best understood as a part of the long history detailed in chapters 3 and 4. A close examination of LTTV in relation to these complex histories reveals not a sudden break with historical objectives, but rather a subtle transformation into new norms as diversity

principles are absorbed into productive, economically based objectives. These objectives are inaccurately cast as supporting consumer desires and acting in an equitable marketplace.

Diffusion of global diversity objectives

Jean-Pierre Blais was intimately familiar with UNESCO's cultural agenda, having formerly been Assistant Deputy Minister of Cultural Affairs at the Department of Canadian Heritage at the time when the UNESCO CDCE was negotiated (see Chapter 3). In late May 2013, shortly before the CRTC's first public announcement surrounding the upcoming LTTV proceedings, Blais described his broadcasting policy objectives as "similar to the spirit of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression" (CRTC, 2013c).

Let's Talk TV's outcomes are compatible with Canada's approach to the CDCE insofar as they *promote* Canadian-produced television for global audiences. This supports the CDCE's unwritten objective to provide a cultural counterbalance to Hollywood, simply by supplying made-in-Canada options that are available both domestically and internationally. The commission framed its decisions as providing a much-needed update to the cultural toolkit for the digital age, arguing that maintaining Canadian cultural expression in the new technological environment could only be accomplished by creating universally appealing works designed to maximize international sales. Blais also signalled a regulatory shift away from broadcasting's identity-forming functions and the protection of cultural specificity early in proceedings, articulating a desire to reframe the commission's focus "from great Canadian works to great works that happen to be Canadian" (Blais & CRTC, 2014).

The CRTC's emphasis on the creation of high-budget, universalized works is likely to foster an increased reliance on international co-productions and joint ventures as broadcasters seek new funding sources to support them. Besides providing an enhanced budget and larger potential audience with which to recoup costs, such arrangements fit well with the CDCE's objective to encourage international cooperation through "the conclusion of co-production and co-distribution agreements" (UNESCO, 2005a, article 12.e). However, while international co-productions can at times be used to

bring forward unique stories of distinct cultural interest to both participating countries,¹¹⁴ they often suffer from a higher degree of cultural discount (Davis & Nadler, 2009) and thus producers may be more likely to avoid cultural specificity in their need to recoup higher costs (Tinic, 2005).

This attitude toward works seeking broad appeal suggests that the cultural tenure and aesthetic uniqueness of cultural productions are of relatively little concern to either the CRTC or UNESCO. The CDCE focuses on fostering a multitude of works that originate from a range of nations and shares the CRTC's implicit assumption that country of origin can be considered the principal indicator for cultural diversity. The two institutions' reluctance to evaluate content based on distinct cultural contribution is certainly understandable, and likely preferable: even charging arm's-length or peer-based institutions with the task of measuring cultural and aesthetic value is a risky business that is bound to embed institutional bias and can easily degrade into intentional or unintentional acts of censorship. In Canada, such evaluations are already done to a limited extent by the arm's-length Canadian Media Fund, insofar as it hosts specific funding streams to support certain kinds of work (Canadian Media Fund, 2018b). Overall, however, this stated preference for popular big-budget productions that happen to originate from different countries blurs the lines between measures that are genuinely designed to foster cultural diversity and those that represent explicit industry protectionism.

Also in keeping with Canada's response to the CDCE is LTTV's laissez-faire attitude toward supporting radical claims to diversity protection from *within* the state. Chapter 3 described the CDCE's mobilization in the Canadian political realm and argued that it tends to be invoked in service of maintaining the status quo of cultural protections rather than to encourage new initiatives or challenge existing power hierarchies in cultural production. Likewise, LTTV does not enhance most forms of diverse cultural expressions: as discussed above, it is likely to have little impact on some more critical diversity objectives (Indigenous cultural expression, bilingualism and biculturalism, representation, localism, and public broadcasting), and may indeed change the nature of

¹¹⁴ The Canada-South Africa co-production of *Book of Negroes* comes to mind as a successful co-production including an interesting historical component for both countries. However, one wonders if it would have attained the same degree of success had it not also included a significant component of American cultural history that would play well with our neighbours south of the border.

other objectives that have been re-cast as economically productive categories in a neoliberal policy framework (third-language broadcasting, genre diversity, and Canadian cultural expression).

Some of these changes could be interpreted as being counter to the CDCE's principle of enhancing diversity of the media (article 6.2.h) and paying due attention to the needs of equity-seeking peoples (article 7.1). However, its nationalistic lens and soft wording in terms of state obligations mar the CDCE's democratic potential. Section 6 posits that signatories "may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory" (6.1), which *may* include provisions to enhance diversity of the media (6.2 and 6.2.h). The convention thus does not pose any positive obligation on the part of the CRTC to undertake any particular measures to protect and promote media diversity and diverse cultural expressions domestically. This means that even a state that removes all supports for cultural diversity would not necessarily be in violation of the convention.

In our present case, the CRTC's policy and attitudinal shifts in relation to diversity are subtle and consistent with a broader consumer-centric and market-based ideological agenda in the political realm. As illustrated in Chapter 3, political operatives supporting these shifts were highly successful at deflecting criticism based on interpretation of the CDCE by simply reaffirming a commitment to the document while asserting the government's sovereign right to move forward with whatever cultural policy changes it wished. If pressed specifically based on CDCE principles, the commission would likewise be able to exploit the convention's vagaries and soft wording to indicate its compliance with the document, regardless of the real impacts LTTV changes may have on certain forms of diversity.

Diffusion of broader Canadian political approaches to diversity

The results of LTTV suggest that the CRTC under Blais was engaged in a subtle shift away from some historical normative diversity objectives in the interests of improving broadcasting's economic productivity and meeting "consumer demand." However, the same is not true of other culturally based institutions. In contrast, the Canada Council for the Arts (CCA) adopted a new equity policy in April 2017 that takes meaningful steps to facilitate diversity and assuage structural challenges to diversity in arts sectors. The policy includes measures to track and monitor funding serving various

demographics, and implements targeted funding mechanisms to support equity in funding opportunities in response to structural barriers for designated equity-seeking groups (Canada Council for the Arts, 2017). Other changes include making a bigger proportion of CCA funding available for first-time applicants in a competitive project-grant process that is open to everyone (Everett-Green, 2017), and hard provisions that directly tie funding to an applicant organization's "commitment to reflecting the diversity of [the] organization's geographic community or region" in its executive, administrative, and backstage workforce as well as among its art and artists (Nestruck, 2017).

The reasons for the discrepancies between the approach to diversity in broadcasting versus arts policy are likely due to a number of factors that can be partially traced back to differing ideas about what constitutes success and value in the arts versus in broadcasting. This division can impact major structural components of the two overseeing bodies, such as the demographic and ideological composition of high-level operatives, the greater political expectations placed on the CRTC, and a rebalancing of broadcasting's hybrid status as an economic actor first and a socially oriented cultural institution second.

As demonstrated in chapter 4, cultural diversity in the form of popular traditions, festivals, and arts have long been considered to be a benefit to the greater Canadian national fabric. However, in broadcasting, support for various forms of diversity has typically been framed as a social *obligation* that is necessary for meeting government policy objectives but not expected to offer any tangible benefit to majority Canadians. For example, the Bi and Bi Commission listed the expression of unique cultures through popular traditions, arts, and letters as "an integral part of the national wealth" (Royal Commission on Bilingualism and Biculturalism, 1969b, p. 14), and thus valuable to Canada as a whole. However, its attitude toward broadcasting marked ethnic and third-language broadcasting as a service for diverse communities that might assist with cross-cultural understanding and allow newcomers to maintain a hybridized version of their own cultures. It also rejected outright equity-based claims for greater representation in the broadcast industry, claiming that it was "neither appropriate or necessary" (Royal Commission on Bilingualism and Biculturalism, 1969b, p. 193).

Similarly, the *Equality Now!* Report in 1984 pointed to the invisibility of visible minorities in broadcasting as a social justice *problem* rather than a lost *benefit* for

majority Canadians to enjoy access to diverse cultural experiences. We also see something analogous occur with Indigenous cultural artefacts versus broadcasting: while Indigenous cultural artefacts (or settler-produced derivatives of them) have long been upheld as crucial markers of Canadian history and national identity, Aboriginal broadcasting was slow to develop, and when it did, it was framed by the Therrien Committee as part of a government responsibility to support Indigenous cultures rather than a benefit to Canadian society writ large (Therrien, 1980, p. 21).

Global discourse at UNESCO also articulated broadcasting as being a balancing act of providing certain kinds of services to groups seeking development assistance while managing the industry's economic needs. UNESCO's 1995 report *Our Creative Diversity*, for example, addressed concerns related to concentration in media ownership, defended consumer choice as an indicator of diversity, and urged states to encompass broadcasting as part of a broader development strategy that can provide shelf-space for otherwise voiceless communities (UNESCO, 1995a). This service-based approach to the broadcasting industry contrasts deeply embedded conceptions of diverse arts and letters as part of a "common heritage" of mankind or aspects of a global "wealth of nations," which date back to the early programs of cultural exchange promoted by UNESCO in the 1940s.

Given historical service-based beliefs surrounding broadcasting diversity and the industry's position as a both a market-based industry and socially relevant endeavour, it is not entirely surprising that recent shifts in broadcasting policy are prone to neglect justice-oriented diversity objectives that are not economically motivated. The aesthetic forms of cultural expression supported by the Canada Council (festivals, art, music, and dance) are productive aspects of "brand Canada," and thus the Canada Council has incentive to pursue aggressive strategies to combat structural barriers and improve inclusion in all aspects of the artistic process. However, since diversity in broadcasting is viewed as a social justice-oriented service rather than a productive category, success in broadcasting is instead measured by success in domestic and global markets. For the CRTC then it is easy to back a discursive shift that privileges economically productive aspects of diversity—letting consumers "vote with their wallet" to determine the value of diversity in broadcasting—and back gently away from some social justice-oriented forms of diversity by framing them as impractical, unnecessary, or steeped in industry "entitlement." After all, this is the approach that the government of the day mandated.

At the same time, industry players and government actors alike continue to shroud themselves in the language of cultural diversity to protect industry interests in an increasingly competitive global media environment. As discussed in Chapter 3, interested industrial actors, including the cultural industries SAGIT, instrumentalized the rhetoric of diversity as a technique to elicit sympathy for otherwise unpopular protectionist policies. Cultural Industries SAGIT member Peter Grant (2013) was explicit about this rhetorical use when he described the instance in which the advisory body shifted from the language of protectionism to the language of diversity: “Instead of focusing on the concept of a ‘cultural exemption,’ why don’t we talk about the need to protect ‘cultural diversity’? And if we can’t win inside the WTO, maybe we can influence public opinion outside it” (p. 205).

On the home front, VI companies likewise justify the highly consolidated status of the broadcasting industry by appealing to Canadian cultural distinctiveness. The argument goes as follows: while the Canadian broadcasting system may be highly concentrated, the existence of large and stable companies is crucial to ensuring our media industries are globally competitive in an increasingly fragmented media market (Standing Committee on Canadian Heritage, 2003b). Embedded in this claim is an assumption that it is culturally beneficial to have a broadcasting system dominated by large Canadian players rather than succumb to the power of the global majors. The actual cultural benefits, however, may be more negligible given that both Canadian and global companies answer to the same neoliberal logic of global capitalism, and that Canadian broadcasters already rely heavily on American-produced content to maintain profitability.

8.4. Conclusion

This chapter uncovered a major discursive institutional shift in Canadian broadcast policy, wherein policy objectives surrounding consumer sovereignty-based and economically productive aspects of diversity receive considerable attention, while objectives supporting less exciting social justice-oriented objectives are sidelined. *Let’s Talk TV* in particular shows a shift in the normative purpose of Canadian content, with a clear switch from objectives surrounding national identity building toward the development of economically viable industries. Each of these changes is closely linked to political objectives that progress the government’s free market- and consumer

sovereignty-oriented platform. They also coalesce with the global attitudes toward diversity embodied in the UNESCO CDCE, which is generally permissive of culturally blanded endeavours as long as they originate from a range of different nations and can be seen as representing a cultural counterbalance to Hollywood.

The CRTC is in the midst of a series of difficult choices and has the daunting task of balancing broadcasting's normative cultural goals with the reality of a digital, on-demand environment. Moving forward, we must take a hard look at how the emerging system impacts diversity objectives: Is promoting consumer sovereignty broadcasting's primary objective, above other normative goals such as supporting equity-seeking peoples or diverse media ownership? Can increasing consumer choice and reliance on market forces have the unintended impact of actually decreasing programming diversity, and particularly those options provided by smaller market players? Is supporting great Canadian works a good use of the public purse if such works are devoid of cultural and regional specificity, so as to play better to an international audience? As we learn to navigate an era of communicative abundance, we must systematically consider how our new approach to broadcasting impacts the full range of diversity concerns.

Chapter 9.

Parting thoughts: The beneficiaries of diversity

A key premise of this dissertation is that diversity as a policy objective is difficult to define: it is polysemous, contested, flexible, and usually framed in an institutional context. Yet, as this dissertation has demonstrated, diversity does, at times, come together as a discursive institution held together by a hierarchy of institutional facts that treat its (temporary) current manifestation as a natural aspect of social life. Due to their positions as social facts, these institutional solidifications are resistant to critique. However, they can evolve, either incrementally or rapidly, through their varied use in policy discourse. As ideas surrounding diversity evolve, so to do the policies and praxis that surround it – and consequently, the purported and actual beneficiaries of policies that are directly or indirectly related to diversity objectives.

I therefore conclude this dissertation by returning to a consideration of the stakeholders involved in diversity debates. This chapter summarizes my assessments of the diversity principle at UNESCO, in Canadian national policy, and in Canadian broadcasting policy. In doing so, it asks: in practice, who *benefits* from measures designed under the logic (or veneer) of diversity?

9.1. Diversity's beneficiaries in UNESCO's diversity canon

Today, UNESCO functions under the premise that cultural diversity is a benefit for the entirety of the world's population, and it is therefore laden with several objectives: promoting world peace by eliminating racial hatred; supporting economic and cultural development; and enriching human existence by archiving the common heritage of mankind, and providing a broad range of cultural products and experiences for humanity to share. However, different diversity objectives have prevailed at different times in UNESCO's history, each deeply entwined with global politics, and most of which have been Western-led.

In UNESCO's early days, policies promoting cultural tolerance were hoped to secure world peace (a benefit to the global population), as well as to protect less-powerful groups from violence and hatred on the part of more-powerful groups (a benefit

to less-powerful groups, bestowed by powerful Western countries). This more-tolerant approach to diversity was quickly followed-up with post-war communication for development policies, which included strong strands of anti-colonialism and nation building, but ultimately promoted ethnocentric policies designed to stop the spread of communism and open up new markets for capitalist expansion. While the purported beneficiaries were people in “traditional” societies, and the policies did contribute to positive messaging about diversity, the real beneficiaries were the Western political and business elites who benefitted from political control and the creation of new markets.

The New World Information and Communication Order and the advocacy of the G-77 represented a re-appropriation of diversity objectives by developing states demanding enhanced respect for cultural difference embedded in a framework granting cultural and communication rights. The intended beneficiaries of this push would have been non-Western countries seeking to narrow the communication gap and reverse the dominance of Western communications in development countries. However, NWICO effectively collapsed following the withdrawal of the US and the UK from UNESCO and amid a Western media-led counter offensive aimed at weakening the movement.

In the 1980s and 1990s, UNESCO responded to global movements for cultural rights by declaring different cultures to be the cornerstones of a common heritage of mankind (UNESCO, 1982b). In a move spearheaded by the G-77 of developing countries, UNESCO embarked on a program of cultural development and declared 1988–1997 as the “World Decade for Cultural Development.” This era is marked by a new commitment to cultural pluralism and a celebration of creativity in all its forms. The program laid out in the culminating report (*Our Creative Diversity*) called for respect for cultures and ethnic groups within and among states, and thus pointed to historically oppressed peoples—particularly in developing countries—as its primary beneficiaries.¹¹⁵ However, the report’s focus on media concentration demonstrated UNESCO’s emerging cultural industries approach to diversity, and its identification of diversity as a common national or global asset pointed to an emerging resource-based attitude toward diversity.

¹¹⁵ These principles are laid out in UNESCO’s *Universal Declaration on Cultural Diversity* (2001), which reaffirms cultural diversity as the common heritage of humanity and reaffirms links between diversity and development, human rights, and human creativity.

Both of these approaches to diversity became increasingly prominent in UNESCO's cultural programme in the following years.

9.1.1. Beneficiaries of Canada's approach to UNESCO-based diversity policy

Canada's domestic enactment of UNESCO's global diversity framework focuses on protecting cultural industries against the Hollywood juggernaut. Canada's interest in the evolving global framework for cultural diversity is strongly linked to its economic interests, and its desire to maintain its cultural toolkit and protect cultural industries from the devastating economic consequences of free trade. Canada's approach to global cultural diversity policy, as enacted through UNESCO and particularly the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, has been as a tool to protect domestic industry interests rather than support expressions from equity-seeking groups—an objective it claims to already be fulfilling. The primary beneficiaries of global diversity policy within Canada are therefore selected industry actors, while UNESCO's broader goals and the CDCE remain virtually invisible throughout most of the country.

9.2. Diversity's beneficiaries in Canadian national policy

Chapter 4 found that Canada's decisions to either respond to or reject calls for recognition and equality have historically been linked to the country's evolving and flexible economic or colonialist-nationalist objectives. While targeted diverse groups have benefitted from the evolution of diversity policies through official recognition and the provision of rights, most diversity policies have also been designed to achieve certain broader national and/or economic objectives. Furthermore, the country has frequently packaged diversity accommodations in such a way as to reassure majority populations that they, too, will receive economic benefits from diversity.

Canada's earliest approaches for accommodating difference were unabashedly instrumental, including limited accommodations for Indigenous groups and the *canadiens* designed to make them easier to control, and to secure their support against American expansionism in the 19th century. Likewise, immigration policies in the 19th and first half of the 20th centuries were highly racist in their preference for people of the "right

stock” (ideally British, or at least Western European), and allowed for diversity only insofar as it would deter American expansion and improve the colony’s economic outlook by way of increased agricultural productivity. Thus early diversity policies were designed solely for the benefit of British ruling elites followed by early Canadian nationalists, and were deployed in the service of economic development, security, and nation building.

These objectives remained relatively stable even in the early days of the institutionalization of diversity from the 1960s to the 1980s. While the Liberal Government’s official policy of multiculturalism (1971) did provide official recognition for diverse groups, it avoided the topic of race and was deployed in large part to serve certain political objectives. For the Liberals, multiculturalism helped give direction and shape to nation building, and set the country apart the United States. It also enhanced political success (especially in the West) and helped to downplay inconvenient claims for constitutional reform on the part of Canada’s homeland minority populations (the Québécois and Indigenous groups). At the same time, the multiculturalism policy sacrificed substance for style: the government devoted few resources to supporting multiculturalism while doing nothing explicit to deter racism, and the policy’s ostensible beneficiaries (“multicultural” Canadians) derived few tangible benefits beyond official recognition of their right to maintain their cultural roots.

In the crush of an economic recession in the 1980s, multiculturalism policy moved toward a greater focus on the economic benefits of difference. Multiculturalism was charged with improving life for all Canadians (especially “non-multicultural” Canadians) by providing the country with better access to external markets and enhancing its image as a trading partner. Furthermore, while ensuing policies designed to enhance visible minority performance on the job market and broader Canadian economy were designed to benefit members of cultural and racial minorities, they were also carefully sold to a majority-Canadian audience as benefitting the country’s broader economic outlook by injecting into it the labour power and unique expertise ostensibly held by visible minorities. The tendency to instrumentalize diversity as a utilitarian driver of economic activity became even more pronounced in the 1990s, as managerial logic in labour discourse shifted to focus on the professed “competitive advantage” created by a diverse workforce.

Overall, Canada's focus on the performative aspects of diversity (creative expressions, equity policies, and international diplomacy efforts) have allowed for its conceptualization as a product that can be managed and exploited for nation building and economic gain, rather than a challenging social justice-oriented objective encompassing claims to redistribution. The policy's declared targeted beneficiaries (members of equity-seeking groups) do benefit from the provision of basic rights and a general cultural aversion to explicit acts of discrimination. However, the existence of depoliticized or empty diversity policies also creates a false sense of success, which is accompanied by a self-aggrandizing narrative of Canada as a country that is free from the inequalities and visible acts of discrimination that we envision as playing out among our less-enlightened neighbours. This form of depoliticized and self-congratulatory policy is ineffective and dangerous: it allows for easy downplaying of real claims to social change, and masks the impacts of ongoing structural inequalities and covert bias that flourish in the undercurrents of Canadian society.

9.3. Diversity's beneficiaries in Canadian broadcasting

Chapter 5 unpacked a multitude of ways that stakeholders and the CRTC have approached diversity in broadcasting since the early days of regulation. I found that some social justice-oriented diversity objectives in broadcasting—such as representation of equity-seeking groups, creating shelf space for Indigenous cultural expression, and offerings for official-language minority communities—were treated as non-economically productive services for specific communities, rather than a national benefit to the country as a whole. These diversity objectives consequently evolved later and more slowly in the broadcasting system. As the results of LTTV have demonstrated, they are also easily cast aside in the interests of objectives with clearer economic benefits.

Other diversity objectives have experienced a change in regulatory urgency over the years as Canada's nationalist and economic needs have evolved. Once closely intertwined, objectives surrounding support for Canadian cultural expressions and public service broadcasting have seen a distinct downgrade in their status as threats to national cohesion have subsided and the broadcasting system has been increasingly oriented toward market-based competition. This shift is clear in LTTV: public service broadcasting was quite unusually not included as a component in this major policy review, while provisions designed to support Canadian cultural expression took a clear

shift away from the development of culturally relevant content toward the development of competitive material that could be economically productive on an international scale. At the same time, the neoliberal consumerist priority of enhancing consumer choice by letting viewers “vote with their wallet” took on an enhanced position as the CRTC (and the Federal Government)’s most vocally supported objective during the proceedings.

Finally, genre diversity and third-language programming have been historically accommodated in broadcasting policy, but only insofar as they can compete and succeed as purely market-based services. As discussed in Chapter 8, the results of LTTV have removed some of the limited regulatory supports available for these services, more fully exposing narrowcast and ethnic broadcasters to the volatile winds of an increasingly global media marketplace. This is done in response to the neoliberal logic of freeing the marketplace by putting the consumer in charge, but is likely to have the converse effect of driving out some niche-oriented services while propelling homogenized content on the services that do survive.

9.4. Looking forward

Overall, Canada’s approaches to diversity have contributed to a greater respect for difference among the general population, and have embedded some essential protections against certain kinds of discrimination. However, the country’s long-standing focus on mobilizing diversity in the service of national and economic objectives limits its emancipatory potential for equity-seeking groups and can impede justice-oriented progress by masking ongoing structural and covert forms of power imbalances and discrimination. This is especially true in broadcasting: as the results of the LTTV proceedings indicate, the rapid injection of neoliberal consumer-based logics geared toward enhancing choice can cause a realignment of policy objectives away from concerns for representation, ownership diversity, and program diversity via narrowcast, niche, and community-based services. While enhancing regulatory focus on consumer needs is not a problematic policy objective in and of itself, such objectives need not and should not be accomplished at the expense of social justice or rights-based claims for policy accommodation. In other words, while the consumer need not be left out of the equation, there is a need to re-align Canadian broadcasting policy objectives to foreground the social good.

Future research aimed at enhancing social justice diversity policy objectives in broadcasting could focus on tangible ways to modify existing policy processes and deeply embedded values anchored in consumerist or free-market ideologies. A few considerations for policy practitioners and scholars to investigate include:

- Providing consistent federal funding for the CRTC's broadcast participation fund, by way of an annual endowment from the Department of Canadian Heritage.
- Developing two different participation guides for CRTC proceedings to encourage input by small or less-experienced stakeholders. One guide could be created by the CRTC to provide a plain-language explanation of processes and important considerations for stakeholders. The other could be funded by the CRTC but developed by an external expert with an external peer-review process (no CRTC editorial influence).
- Embedding a systematic assessment of how policy decisions could be reasonably expected to impact diversity considerations in CRTC decisions (for example, using the model outlined in Chapter 5). This could be completed even in policy proceedings that do not appear to be directly linked to diversity policy as a means to guard against unexpected impacts on diversity.
- Restoring the CRTC's arm's-length status by ending the government's new practice of providing a mandate-like letter to the CRTC's chair upon their appointment. Instead, government instructions to the commission should be delivered by means of publicly accessible directives.

These potential measures represent a starting point for discussion on the ways in which Canada can enhance the impacts of diversity policy in broadcasting. Future research and policy intervention in this area should critically assess the "us" embedded in new policy objectives to unpack a policy's purported versus real impacts, and to restore the balance between policy priorities related to consumer demand in relation to social justice issues.

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