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NAME OF AUTHOR/NOM DE L'AUTEUR MS. DEBRA SLACO

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NAME OF SUPERVISOR/NOM DU DIRECTEUR DE THÈSE Professor Liora Salter

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THE TELESAT-TCTS DECISION:  
A CASE STUDY IN POLICY FORMATION

by

Debra P. Slaco

B.A. Simon Fraser University 1975

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS (COMMUNICATION)

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Communication

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Author: \_\_\_\_\_

(signature)

Debra Slaco  
\_\_\_\_\_

(name)

July 31 / 79  
\_\_\_\_\_  
(date)

APPROVAL

Name: Debra Slaco

Degree: Master of Arts (Communication)

Title of Thesis: The Telesat-TCTS Decision:  
A Case Study in Policy Formation

Examining Committee: Chairperson: Tom Mallinson

---

Liora Salter  
Senior Supervisor

---

W. H. Melody

---

Dallas Smythe

---

Noel Dyck  
External Examiner  
Professor  
Department of Sociology  
& Anthropology  
Simon Fraser University

Date Approved:

March 21, 1979

ABSTRACT

The thesis is a case study in policy formation, specifically the developments in satellite policy leading to the Telesat-TCTS decision by the Federal Cabinet which had overturned the ruling of the regulatory agency, the Canadian Radio-Television and Telecommunications Commission.

The thesis proposes that policy should be viewed as a process, as the series of decisions and non-decisions taken on an issue. The process represents policy-in-development and represents its effective definition. Policy is therefore fluid and changing, responding to different pressures within and outside of government in different locuses of its formation. The thesis suggests that this process be viewed within the broader framework of government-industry relations.

An analytic framework is developed to examine the policy process. The explanatory inquiry examines the history of satellite policy through an analysis of the events and attendant negotiations surrounding the satellite issue. The analysis includes locating the process within a historical context of national policy decisions.

The data organized within this framework includes the examination of government documents and departmental

research, corporate reports, interview information and the information gained through working experience at the CRTC during the hearing and decision-making period.

From this examination the thesis suggests that the Cabinet decision can be explained as the outcome of a long process of on-going negotiations, a negotiation process which is central to political-economic policy formation.

Satellite policy negotiations have a specific character in view of the context of state-corporate relations.

Decisions "in the national interest" as in the Cabinet decision on the Telesat issue, have an historical specificity but their logical consistency lies in the effective systemic bias they represent.

The discrepancy of opinion in the decisions of the CRTC and Cabinet can also be accounted for. Each represented different forums for policy formation; each forum having a different historical relationship to industry and consequently a different prioritization of criteria in its assessments.

From the contextual framework provided for an analysis of the decision, it appears that Cabinet's decision is the expectable consequence and the CRTC's position is the aberration.

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PART ONE - SCOPE AND METHOD

CHAPTER ONE - DEFINING THE PROBLEM

1. INTRODUCING THE PROBLEM: A DECISION OF POLICY

In 1968 the Canadian government decided to proceed with the implementation of a domestic satellite system.<sup>1</sup>

Telesat Canada, the corporate entity created to assume the responsibility, is a public-private venture between the Government of Canada and the telecommunications carriers. Although Telesat's satellite system could operate as a competitor to land-based telecommunications carrier systems, its operation thus far has provided supplemental rather than competitive services.

In 1976 Telesat and the major telephone companies prepared to enter into a contract by which the satellite company would join the Trans-Canada Telephone System. The proposed agreement required regulatory approval, but the Canadian Radio-Television and Telecommunications Commission turned down the application.<sup>2</sup> The Cabinet decision of November 1977 regarding Telesat Canada overturned the ruling of the CRTC, thereby allowing Telesat's membership in the TCTS, the association of major telephone companies.<sup>3</sup>

This "bold political move"<sup>4</sup> by Cabinet holds certain implications for telecommunications policy and the regulatory policy process. Firstly, the telephone companies have extended their monopoly power to include a potentially competitive technology. Secondly, the regulatory process, by virtue of the Cabinet decision overturning the decision of the "independent" agency, suggests that powerful interest groups have found one organ of government more responsive than another.

Explanations of the Telesat-TCTS decisions have tended to centre on the action of Cabinet in relation to the regulatory process. The decisions seem to have been considered in terms of an assessment of the relative authority of Cabinet responsibility vis-a-vis that of the regulatory agency in policy jurisdiction. For example, it has been suggested that policy should be the political prerogative of elected officials, such that regulatory agencies should act within specific guidelines. Those who argue on this basis would likely see the discrepancy of opinion in the Telesat issue as a consequence of the ill-defined role of the independent agency in relation to Cabinet responsibility and political accountability.<sup>5</sup> The decision by Cabinet was considered by some as the appropriate assertion of political

jurisdiction over the independent agency process.<sup>6</sup> It was therefore considered a "bold political move" to re-politicize policy responsibility by the appropriate authority.<sup>7</sup>

From a different perspective of the appropriate roles of the regulatory agency and political authority, it has been suggested that Cabinet's intervention in effect compromised the credibility of the regulatory process by undermining the "independence" of the agency. For example, the Consumer Association of Canada had argued against Cabinet's hearing of the appeal, stating:

"if the Governor-in-council proceeds with consideration of the present petition then the public's confidence in it as an appellate body will be seriously undermined; furthermore it will undermine to an equal degree the public's confidence in the independence of the regulatory process." 8

As a result of Cabinet's decision, the Consumer Association remarked that Cabinet's action was "most irregular and embarrassing", adding that it broke with long-standing tradition.<sup>9</sup>

In both cases opinions of the decision were argued on the basis of the proper role of the independent agency in relation to governmental authority. Such opinions attempt to assess the consequences of the different

decisions but without offering an explanation for why the CRTC differed from Cabinet in their assessment of the issue.

Press commentary on Cabinet's overruling of the CRTC suggests that:

- it reflects the on-going internal power struggle between the Minister of Communications (and her Department) and the regulatory agency over jurisdiction for policy matters; and/or
- powerful interest group pressures managed to obtain beneficial results; those being the extension of monopoly powers held by the telephone companies (particularly Bell Canada) in the telecommunications sector.<sup>10</sup>

With respect to the suggestion of an internal power struggle, the Minister (Hon. J. Sauve) has clearly been acting on many recent issues in opposition to CRTC positions, and appeared to be attempting to usurp policy decisions from the agency.<sup>11</sup> (The impending Telecommunications Bill C-43 would legislate policy jurisdiction to departmental authority.)<sup>12</sup> The Minister's advocacy of support for the Telesat-TCTS agreement can be seen as a further attempt to consolidate her position that policy decisions belong in the political arena.<sup>13</sup> But

the Minister did not have the power to reverse the agency's decision and her justifications for seeking a reversal have been supported by Cabinet approval.

In regard to the suggestion that interest group pressures precipitated the resulting decision, such an explanation would have to account for why one organ of government was more responsive than another. Interest group pressures generally are accounted for at the agency level in terms of a "capture thesis" of agency cooptation by the regulated industry. In the case of the Telesat decision, however, it was the agency which ruled against the more powerful interest bloc. It is Cabinet's "accountability" which must be questioned.

In considering an explanation of the decision, it should be noted that in response to the Cabinet's decision, Mme Sauve (Minister of DOC) had qualified the government's position on the grounds that "the action just taken was dictated by broad issues of public policy which lie beyond the reasonable purview of the CRTC".<sup>14</sup> Cabinet had had to view the matter in broader national terms. The Minister's assessment holds significant implications for understanding the Cabinet's decision.



## 2. PROPOSAL FOR RESEARCH: POLICY AS PROCESS

I would suggest that propositions for an explanation of the decisions on the Telesat issue have been ill-framed for the purposes of understanding the basis for a discrepancy of opinion between Cabinet and the CRTC and its implications for analysis of the policy process. A more productive understanding of the decisions may emerge from a study of the history and context in which decisions like Telesat can be seen to be made.

Certainly the factors in the above explanations influenced Cabinet's decision, but the explanations are directed at the extrapolation of a consequence of a series of events. The decision has been viewed in isolation of its determinents. The premise of this thesis is that the Telesat decisions should be viewed in conjunction with the sequence of past decisions taken on issues relating to satellites. I propose to view these events and the attendant negotiations as representing the process of defining satellite policy.

I will argue that the events and decisions which have defined satellite policy developed in a variety of policy forums, according to different criteria, at different periods of time. Within the process of policy formation constraints were imposed upon the corporate entity

responsible for commercial satellite developments which led to the eventual merger proposal. The proposed agreement between Telesat and TCTS represented the resolution of the imposed problematic conditions. Yet, at each stage in satellite policy developments, the government position had been presented in the "national interest". A clearer understanding of the term "national interest" as a rationale for government policies will emerge from the analysis of its usage in a variety of instances which seek to identify the interests it promotes or defends.

The thesis proposes that the developments in satellite policy should be considered within the broader framework of political-economic relations. An historical analysis of the regulatory environment and the state-corporate relationships will provide a contextual reference for the consideration of criteria presented for decisions based on the national interest. A study of the historical relations will also provide a context for the location and mapping of specific interest groups that have acted in satellite policy.

It is proposed that viewing the series of decisions on satellite issues within this framework will provide a

useful means for accounting for the Cabinet's action and that of the regulatory agency, the CRTC. It is suggested that the priorities in Cabinet's criteria for its decision may appear to be consistent with the effective historical thrust of "national policies" and that the CRTC's prioritization of criteria may be seen as the aberration, a position taken which attempted at least in part to test its own legitimacy as a decision-making body.

In the attempt to understand the decision on the Telesat-TCTS agreement, the thesis is a case study in policy development. The framework for the explanatory inquiry will proceed through an examination of the elements of the satellite policy story to an historical rationale and explanation.

As a prelude to the examination of satellite policy, a brief summary of its significant events will be presented to introduce the issues under study.

### 3. SUMMARY OF EVENTS REPRESENTING POLICY

#### a. Decision to Establish a Satellite System

In 1968 the Federal Government announced a policy proposal for the introduction of satellites for communication services in Canada. The proposal came in the form of a White Paper entitled: A Domestic Satellite Communication

System for Canada, and was based on the findings of the task force which had been commissioned a year earlier. The document promoted the application of satellite technology for communication services in Canada, and identified three areas of national need which the new technology was expected to fulfill. These were: supplying broadcasting services in both French and English to any point in Canada; supplying telephone and television service to the North; and supplementing the provision of telecommunication services in the expanding east-west market in southern Canada. The criteria established by the White Paper for the implementation of a domestic satellite system were: that the system was to be a national undertaking, operating under the jurisdiction of the government of Canada; that the earth and space segment of the satellite system would constitute a single system under one management; and that the new entity was to have a corporate form. The White Paper stated the government's conclusion that the development of a satellite system for Canada was an item of priority, "of vital importance for the growth, prosperity and unity of Canada".<sup>15</sup>

The decision to establish a domestic satellite communications system was influenced by a number of factors. Canada's

scientific community had demonstrated a capability in the development of the technology used in earlier space programs undertaken in conjunction with the United States. The northern regions had become an area of intense speculation for resource extraction industries and telecommunications services were considered an essential infrastructure to the establishment of the economic base. The concept of the "dual nation" heritage as a means of promoting national unity and national identity in the face of a growing awareness of the increasing American economic and cultural penetration and civil unrest in Quebec, was also an issue of the time. Satellite technology was heralded as a means of meeting these social, economic and political challenges.

b. The Advantages of Satellites

Satellite technology stimulated such optimism because of its unique characteristics. In its simplest form, a satellite system for communications consists of a satellite or station in orbit and at least two ground stations. In the transmission process, signals are beamed at the space segment which receives and amplifies, then transmits the signals back to earth. This type of system is able to avoid certain limitations inherent in land-based systems. The system characteristics were

considered the most economical means of providing telecommunication services throughout Canada.

c. The Creation of Telesat Canada

Following from the White Paper a Bill was introduced in the House of Commons proposing an entity to establish, own and operate Canada's domestic satellite communications system. In 1969 Parliament passed legislation creating the Telesat Canada Corporation. Its primary objective was to "establish satellite telecommunication systems, providing on a commercial basis telecommunication services"<sup>16</sup> for Canada. Telesat is not a Crown corporation, but rather the shared initiative of public and private enterprise.

The management of the corporation's affairs, by its board of directors whose composition was intended to reflect the anticipated tripartite ownership and voting structure, is controlled by eleven board members of which five are designated government representatives, five are elected by the member carriers, and the remaining one is the president of the corporation, the one public shareholder. As a corporation, Telesat Canada has many of the same powers as any corporation under the Canadian Corporations Act, save for a few exceptions respecting

the government's role and the limits of its authority in the affairs of the corporation.

i. Financing

Telesat's initial financing was through the issuance of six million and one common shares without par value at ten dollars, subscribed to by the federal government and the telecommunications carriers, each providing thirty million dollars. To date the balance of Telesat's financial requirements have been realized through short-term loans arranged with the government of Canada. All loans have been repaid and Telesat has no outstanding debt.

ii. Hardware

Telesat Canada launched its first satellite in November 1972 and commenced commercial operations on January 31, 1973. Canada was the first nation in the world to establish a geo-stationary domestic satellite service. Within Telesat's five years of operation (1973-1977) three satellites have been successfully launched. A fourth was planned for 1978-79.

iii. Usage of the System

Since the beginning of Telesat's operations, services

and facilities provided have been leased for message and broadcasting services by the Trans Canada Telephone System, Canadian National/Canadian Pacific Telecommunications, Bell Canada, Teleglobe Canada and the Canadian Broadcasting Corporation. Based on the capacity available on the system, satellite services have not been fully utilized; channel capacity has exceeded demand. Telesat has retained ownership of its earth stations and has followed a practice of leasing only whole radio frequency channels. These aspects have been criticized as restricting Telesat's profitability by placing it in the role of a wholesaler or carrier's carrier. Potential users consider that a change in these policies would decrease costs and increase demand.

d. Proposal to Join TCTS

By 1976 Telesat was faced with the impending expiration of the original contracts for usage and the further need to secure capital necessary to proceed with the development of the next generation of satellites. Because usage remained below the system's capacity, the costs per channel continued to be relatively expensive and contract renewals were not guaranteed. Further, the requirements for financing of the newest satellite were expected to exceed the government limit for loans available to Telesat and the Trans Canada Telephone System, the result of which



was the proposal for membership of Telesat in the association of the telephone companies.

The proposed agreement was submitted to the Minister of Communications for Cabinet approval in the fall of 1976. The Minister responded that the government was favourable to the membership proposal subject to some considerations. Telesat acknowledged that the conditions had been met, and the Telesat-TCTS agreement proceeded to ratification by both parties, to be effective January 1, 1977. In December, Telesat Canada was informed of its obligation to have the agreement submitted to the regulatory agency, the CRTC, for approval.

e. Regulatory Process

The CRTC, which had recently acquired jurisdiction over the telecommunications sector, issued notice of a public hearing to consider the ramifications of the proposed Telesat-TCTS agreement and invited public interventions. A lengthy hearing ensued in which evidence and witnesses in support of the arguments for the applicants and the intervenors were heard.

After careful consideration, the CRTC denied approval of the agreement between Telesat and TCTS on the ground that it would not be in the public interest.<sup>17</sup>

The applicants appealed the decision to the Minister for Cabinet consideration and the Cabinet reversed the decision of the Commission.<sup>18</sup> The agreement became effective retroactive to January 1, 1977 and Telesat Canada is now a member of the association of telephone companies represented in TCTS.

FOOTNOTES AND REFERENCES

CHAPTER ONE

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CHAPTER TWO - DEVELOPING A FRAMEWORK  
FOR POLICY ANALYSIS

---

A variety of approaches have been developed to analyse public policy. The methodologies used are likely to be specifically tied to the objectives for studying policy. Often, for example, policy study has been descriptive of institutions or actors as an outgrowth of the growing discipline of public administration. Other policy studies have been analytic in the technical sense; they seek to provide an improved means of prescriptive assessments of choices or alternatives. Only to a lesser extent has the emphasis been on an explanation of policy as a study in political science. In the latter case, the difference in objectives requires a suitable methodological approach.

Viewing the analysis as the attempt to explain a specific case of policy development in relation to a broader framework of political-economic relations, requires the concomitant development of an analytic framework. I wish to suggest a general framework drawing from various approaches to policy study which, when combined, provide a methodological approach for the specific study of a policy process, allowing policy to be viewed within its broader political context.

Although the respective methodologies of the two predominant streams of policy study - the prescriptionist assessment of options and the descriptive analysis of institutions or administrative processes - address different questions than this inquiry proposes, since their influence is at the mainstream of policy study, their contributions will be considered for assessing the relevant factors an explanatory inquiry would address.

1. CONSIDERING COMPONENTS OF POLICY STUDY  
RELEVANT TO AN EXPLANATORY INQUIRY

Ripley offers a distinction between policy analysis and policy theory, defining the former as that which seeks to advise on choosing alternatives and the latter on the explanation of why certain alternatives are chosen over others.<sup>1</sup> From this basis "policy analysis" would then be concerned with technical questions relevant to public administration, and "policy theory" the subject of political science. Essentially one is accepting the assumptions and constraints in which the policy questions arise and attempting to improve the process of policy-making either quantitatively or qualitatively. It is basically pragmatic and concerned with working out solutions. The other is questioning the nature of the process itself, the assumptions and the constraints, and may not be useful for determining

recommendations, for it leads backwards and inwards on the rationale that the insights it may provide are useful to addressing broader questions of political theories. This study falls in the latter category..

To begin to determine the appropriate questions for an explanatory inquiry, some examples of the former approach will be offered. Prescriptive policy analysis often provides specific insights or details concerning policy decision-making, but it is their assumptions and directions which prompt questions for developing an explanation. Policy analysts in this vein such as Rowan and Szablowski, seek to improve the decision-making system by analysing and prescribing procedural techniques.

In "A Conceptual Framework"<sup>2</sup> for government policy-making, Rowan attempts to propose a "better" means of decision-making. Given that decision-making follows an input-output model, emphasis here is directed toward improving outputs both qualitatively and quantitatively. His method assumes choices can and should be made on a "rational basis", and proposes a technique of "structural rationality" to facilitate the scientific method in decision-making. It attempts to offer a procedural means for decision-makers to decide between alternatives based on information organized on the costs and benefits of

choices. Such assumptions fail to note that choices involve values which cannot be easily quantified. A procedure for policy decisions should view choices as more than a measurement problem. Certain choices will favour certain interests. Deciding involves the resolution of conflicts of interests and values, and must be related to the question of who benefits.

Szablowski<sup>3</sup> proposes an optimal policy-making system for the Canadian context working from precepts developed by Y. Dror.<sup>4</sup> In this article, Szablowski evaluates the impact of a policy-making system and decisional technique (as exemplified in the Planning and Priority Board System) on the Canadian political process. The PPB, assessed by measuring its decision-making process in reference to an optimal model, is considered an improved structure for making rational choices. The PPB impact on the policy process is measured by identifying its effects on Canadian political leadership. As an improved decision-making technique, Szablowski finds that the PPB is transforming the relationship between the leader (P.M.) and his supporters, from transactional to bureaucratic to moral, a process which in Szablowski's opinion, is a positive step.



If procedures influence content such that improved procedural techniques facilitate better choices, there is still a definitional problem with "better" as in Rowan's propositions, i.e. better than what and for whom. Procedures are political tools; their evaluation requires an examination of their historical rationality and the structural relationships they manifest within a system of power. For a model which seeks to exemplify the rationalist mode, its evaluative procedures are still largely "subjective". Further, as with Szablowski's analysis, there is a trend to individualistic reductionism, a tendency which is often carried through in the literature on public administration and its tendency to organizational theory in the form of a "who-talks to who" syndrome.<sup>5</sup> Information channelling and the nature of representation (of whose interests are advocated by whom, for what purpose, within the government organizational structure and decision-making process), in the activities of public policy and in the public interest, fails to receive the critical attention it requires in this stream of the literature. Prescriptive models deal with the variables, not the process.

Fundamental difficulties with these types of approaches for an explanatory purpose reside in their concentration

on technique rather than using policy to generalize about politics or to see how broader factors may influence "outputs".

Another approach to policy research is concentrated on describing interactions within a particular institution or process, for instance, the role of Cabinet, the bureaucracy or interest groups, in formulating or implementing a policy.

Lowi's work on the policy process, for example, operates from the premise that policies determine politics, within a framework which acknowledges that the political system is based on the management and manipulation of legitimate coercion by the state. Policy, then, is "deliberate coercion-statements attempting to set forth the purpose, meaning, subjects and objects of coercion".<sup>6</sup> Policy is therefore a political activity. The state's actions exercise legitimate coercive functions to secure acceptance and compliance. Policy-making, Lowi suggests, provides a set of parameters within which "politics" takes place. It involves not just the allocation of values by choosing alternatives, or the allocation of resources as a distributive power, but also the means of securing compliance by exercising the legitimate coercive powers of the state.<sup>7</sup>

From this basis Lowi suggests the analytical methodology can begin by examining different outputs, i.e. policies. It would then attempt to establish a systemic relationship between outputs and the differences in the processes from which they evolved. The type of policy can then be characterized by the nature of the process from which it is engendered. Each type of policy (Lowi proposes four-distributive, constituent, regulatory and redistributive)<sup>8</sup> develops its own characteristic policy process with a corresponding arena of power, set of relationships and level of coercion. The types of policies, classified by their impact on society, will determine the political relationships and power structures associated with the process.

The nature of the detailed data required to establish a connection between "outputs" and processes, hinders the practical application of this approach. However, as a conceptual tool, it provides a useful guide for consideration of policy processes.

The Doern and Aucion book, "Structures of Policy Making in Canada",<sup>9</sup> provides a series of analyses of the roles of various institutional organs at the level of the executive-bureaucratic arena. Beginning with Lowi's

contention that outputs, policies, need to be related to the process and the notion of coercion, contributing articles focus on positional policies emanating from government structures. The editors see the key variable as the structure of policy-making units which function as the "structuring of influence".<sup>10</sup> Emphasizing the plurality of structures, Doern concentrates on two main organizational units which are dominant in the Canadian institutional context:

- the structure that operates in and around the Cabinet in the conversion of new or fundamental political policy issues to outputs; and
- the structure that operates in and around the bureaucracy in continuing conversion of manifest or latent support.<sup>11</sup>

He argues that given the Cabinet system of government, understanding policy requires focusing attention on the executive-bureaucratic arena.

Although Doern provides a useful analysis on the structural and analytical changes which have taken place within the executive-bureaucratic organs of government, there is little insight into how these changes alter the nature of policy-making within the overall political system. He fails to relate how differences impact upon the socio-economic context in terms of what

governments do and for whom. Institutional analysis is a critical element of policy study, but needs to be related to the broader political framework.

Simeon's review of trends in policy study has offered the most useful assessment of appropriate questions for determining the relevant factors which an explanatory inquiry might address. Simeon has proposed that there is a need to "link up the study of policy with the more traditional concerns of political science, and in particular with the three most vital elements: power, conflict and ideology".<sup>12</sup> "Policy emerges from the play of economic, social and political forces as manifested in and through institutions and processes."<sup>13</sup> Critical factors operating in the larger framework will impinge and condition the immediate policy process through such factors as the prevailing ideology, assumptions and values, structures of power and influence, patterns of conflict and division, and so on.

In agreement with Simeon, this thesis attempts to recognize such factors in the analysis of policy development. The examination of policy must consider policy as political activity which occurs in a context of institutions and actors and is a function of the

relationships involved. An examination of policies is essentially an examination of what governments do, how they do it, and with what effects.

Policy, as the activity of the state apparatus, is formulated by bureaucrats and politicians who make choices, but it is through them that the broader political forces operate. Their agenda and behaviour reflect the pressures of the environment, the play of political influences surrounding policy disputes, the norms, assumptions and values found in the culture and ideology, and the opportunities and constraints imposed by institutions.<sup>14</sup> These factors can be viewed as levels of constraints within which bureaucrats and politicians make critical choices from a limited set of alternatives. The choices themselves are limited to the range of legitimacy and may often be of different orders of comparability, e.g. economic versus social costs and benefits. The resolution of such options or choosing imposes quantitative comparisons. In such an imposition, latent assumptions and values are made manifest, the results of which need to be related to who benefits.

The context of institutions and actors within which policy occurs, structures the process and therefore influences it. Institutional arrangements organize the

locus and format of policy debate; they define the procedures and the participants. The structuring of influence will depend on how and what interests are represented within the process of policy decision-making. In so doing, the procedures and participants set the range of alternatives, the prioritization of criteria, and notions of legitimacy.

I would also argue that policy activity is the political manifestation of the dynamics of power relations and conflicts. Policy outcomes will reflect the functioning of the interests involved, the degree of disagreement, and the relative means of influence each brings to bear on the policy process. Structures of power relations, patterns of conflict and prevailing ideological notions are factors in the broader framework which have been historically conditioned, but which impact the immediate policy process at various levels in institutional arrangements, procedures and the evaluation of criteria.

The framework in which a specific policy process occurs has been structured by historical conditions and patterns of policy which have developed an arrangement of economic power, a mode of government-industry relations, and dominant value assumptions.

Economic structures are a result of past policy decisions. Current policies, whether they promote alterational or maintenance functions, need to be viewed in relation to the structure of economic power and the relationship between government and industry in patterns of policies. In other words, policy study must examine the relationship between political and economic power and policy decisions.

Power is often economically defined as a condition determined by the distribution of resources and the influence it affords in the ability to affect decisions. Patterns of policy will likely reflect the distribution of power and influence. There is an assumed relation between power and outcomes. There is little disagreement that powerful economic forces influence political decisions, but there is little agreement on the nature of the process. The developments in a specific policy process, if viewed in relation to an historical rationale which attempts to illuminate the mode of government-industry relations, would begin to address the assumptions in the relation between power and policy outcomes.

Power is also a function of authority relations inherent in prevailing ideas and values. The dimensions of



ideological or value constraints condition perceptions and define limits for the range of policy alternatives; effectively they determine the options for policy discussion.

Values may influence what governments should do; they set an agenda of attention. Ideas may influence "how" something should be done, the means to achieve the desired ends. Prevailing ideological notions are influential at various levels, broadly: in terms of the perceptions of the role of the state, of the role of competition in the market structure, and of the needs of the individual versus the collective community. And specifically, for example, in terms of current economic theories or modes of analysis used to determine policies (tax structures, fiscal and monetary management, regulatory applications). Assumptions inherent in the ideology also function to remove or ignore questions and therefore alter the nature of the agenda. Like other manifestations of power, however, values and ideas need to be related to the groups whose interests they promote or defend.<sup>15</sup>

In most policy study, power has been a variable of limited definition in the analysis. The operation of

decision-making within the policy process is often where attention is addressed. The focus of analysis should account for the manner in which conflicts emerge and are resolved. In order to make this focus, the broader framework must be examined since it conditions and prioritizes the relationships of power and values and hence choices which occur in the resolution of conflicts. Without acknowledgement of the significant factors which impinge and influence the decisions made, the analysis can serve only a limited function. Therefore, this thesis proposes that these factors of historical relationships, the distribution of power and prevailing assumptions need to be incorporated in the analysis of policy as a process, and that it is from a combination of methodological approaches that a framework for policy analysis emerges.

## 2. FRAMEWORK FOR ANALYSIS

The framework for policy analysis will follow these four stages:

- a. the identification of the participants - the public and private institutions and actors in the policy story;
- b. the context - the immediate environment from which the issue emerges, how a particular issue becomes

the focus of attention;

- c. the decision-making - the formulation, implementation and regulation stages in the policy process; and
- d. the historical rationale - an examination of the significant features in general government-industry relations and regulatory environment which illuminate the broader framework.

The first stage is the identification of the participants in the policy story to provide a background resource for tracing the public and private institutions and actors in the policy developments. In the private sphere, the corporate interest groups with a stake in the decisions of policy are described in relation to their economic sector and industry structure. Participant identification allows the interest groups to be viewed in terms of their resources and relative positions of power. Hence, background profiles on the corporate actors, their interests and stakes in the decision-making, aids an evaluation of their role in the policy process.

The role of interest group influence in the policy process is a central tenet in policy study literature. Presthus and Kwavnick have amply demonstrated that lobbyists play an influential role in the political

process. Presthus' study of interest groups and legislator interaction contends that legitimacy is a prerequisite to influence and that politicians' perceptions of lobbyists as legitimate, is enhanced through increased interaction which "encourages the exchange of values and positive normative feelings".<sup>16</sup> This, in turn, Presthus argues, increases the influence of lobbyists. Kwavnick's work indicates that leaders of interest groups establish and maintain positions both with organizations and within government.<sup>17</sup> I will argue further that in order to account for various degrees of influence of contending interest groups, it is first necessary to see their relationship to the economy and to each other. In the corporate sphere, this begins by seeing the alliances and conflicts of particular interests at the intra and inter industry levels.

The institutional arrangements of the government organs involved must also be described with respect to their functions and rules of procedure. In this way, we can begin to see how institutions structure political competition and therefore policy debate. Their description provides a means of examining the constraints and opportunities that institutional arrangements

present through their operating procedures. As Simeon has suggested, the behaviour of the bureaucratic and political decision-makers will reflect the pressures of the environment and interplay of political influence surrounding policy debates. Their bargaining role is constrained by the assumptions and values of the prevailing ideology and the formal role imposed by the institutional procedures.

Policy literature concentrates heavily on attempting to assess the roles of government actors and their relative influences. The role of the bureaucracy in policy formation has expanded considerably. Kernaghan, for example, has assessed the expansion of administrative responsibility of public servants, noting that "the lingering image of the bureaucracy as a passive instrument of political masters serves as a convenient fiction".<sup>18</sup> Several senior civil servants have also contributed to policy literature, providing useful insights and personal perceptions on the day-to-day political activity of policy formulation and implementation, e.g. Robertson on the role of the Privy Council and Prime Minister's Offices,<sup>19</sup> or Johnson on the Department of Finance and the Treasury Board.<sup>20</sup> Doern's examination of government departments and agencies<sup>21</sup> has provided

invaluable insight for reading the institutional matrix of the state, establishing credence to the notion of government organs performing the function of internal representation of specific interests. By seeing how the internal hierarchy of the governmental apparatus works in relation to specific policy instances, begins to demonstrate the relevance of the organizational structure in processing an issue.

The second stage is to describe the context in which an issue, in this instance a policy proposal for the use and development of satellites, emerges at a given point in time. There are numerous issues of possible interest to government, industry or the public. How a particular issue becomes the focus of attention must be addressed by examining the immediate political-economic-social conditions in which it has become a priority item; in other words, one must address how the agenda of attention is determined. The specific environment of the time has been conditioned by historical relations; the actors and the issue already have a history. This is the beginning of a particular policy story.

In establishing how a particular issue becomes an item of attention, it can then be related to what is at stake and for whom, in the possible developments of policy positions. Before focusing on the decision-makers, however, account must be taken of the influences which shape the alternatives they consider, the assumptions they make and the kinds of action to be taken. Simeon suggests that what political actors assume or take for granted becomes what is most important for explanation.<sup>22</sup> An acknowledgement of the context from which a policy proposal arises sets the stage for the participant actors and an evaluation of their roles in the continuing script of policy developments.

The third stage is the examination of the decision-making through the formulation and implementation and, in the case of satellites, regulatory phases. From the time an issue becomes a subject of a policy statement or position of intent, the decisions of proposal, the actions taken and the results following, define policy in practice. These events need to be viewed as conflicts in resolution, as the complex bargaining process which results in policy outcomes. It is here that all the other factors in the policy process are played out, i.e. the influence of interest groups, the governmental

arrangements for the process of decision-making, the priorities of concern evaluated and the allocation of benefits distributed and the norms, assumptions and values and relative positions of power among the participants made explicit.

It is essential here to see how priorities in decisions change, to see the influence of contending parties, and to see the results in relation to priorities and influence, in order to evaluate whose interests are being served at different points in time. Also, it is important to discern the manner in which interests are represented in the political forum and what interests can be seen to be represented. An examination of policy-in-process assumes policy is fluid in nature, as a sequence of on-going negotiations where conflicts emerge, are resolved and re-emerge. Policy decisions reflect the priorities of criteria and the changing nature of representation reflected in the process.

Political decisions are rarely unanimous, the differentiation in opinions and relative influence of the participants is crucial to the notion of what constitutes the compromise the decisions represent. The means of obtaining a resolution of conflicts and the relation of who benefits from the nature of the compromise are



essential factors for explaining policy in relation to the political system.

Attention is most often addressed here at the level of the decision-makers, in explicating the interactions of proximate policy-makers, i.e. bureaucrats, politicians and interest group leaders. The literature reflects the debate on the appropriate models for addressing the relevant questions for and assessment of policy analysis. Aucion offers a discussion of the extent of this debate.<sup>23</sup> Simeon suggests the process of decision-making becomes the focal point for incorporating and assessing how the wider features of the political system impinge on the policy process. "Process, then, becomes the bridge on which we work forward from what we know about institutions, ideology, power, etc., to policy outcomes and on which we work backwards from variations in policy outcomes to seek explanations".<sup>24</sup>

The critical aspect of decision-making is the paramount variable in assessing policy, yet is often where information is least available to external scrutiny. The actual "politicking" in arriving at decisions is inaccessible to those other than the participants.

Thus, as assessment of decisions provides scope for speculation and theorization and consequently the wide range of debate that proposed conclusions about the process engender. It is a problem endemic to policy study.

The fourth stage is to relate the specific policy developments to the broader framework and patterns of policies. Policy instances are political processes which embody sets of relationships historically conditioned from a general pattern of government-industry policy relations. The significance of an historical rationale lies in the characteristics of the relationships it identifies, their relationship to the nature of power, and the dominance of certain ideas and values. The significant features in the broader framework help to demonstrate how a specific policy process is congruent with or dissimilar from established norms and trends in policy and political relations. Historical analysis thus provides a wider scope for assessing and understanding the nature of the prioritization of criteria used in the determination of policy decisions.

Simeon suggests addressing patterns of policy by discerning or imposing order upon the dimensions of

policy such that the political nature of policy can be perceived in three dimensions.<sup>25</sup> One, the scope of government policy, that is, the extent of government as opposed to individual or market decisions. Two, the means by which governments assure approval or compliance with their decisions. Three, the distributive dimension, that is, the results in terms of who gets what from the process of policy decisions of government. Essentially it is a question of the role of the state and in whose interests it serves. Specific instances of policy formation can be similarly assessed and related to the broader features as evidence for determining the larger question of the role of the state.

From the examination of a case study, certain relevant features emerge which suggest questions for relating one case to another and for developing a framework for viewing policy in relation to political theory.

FOOTNOTES AND REFERENCES

CHAPTER TWO

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PART TWO - ELEMENTS OF POLICY

CHAPTER THREE - THE PARTICIPANTS - INSTITUTIONAL ARRANGEMENTS

1. INDUSTRY AND MARKET STRUCTURE

The following data provides a brief identification of the actors in both the public and private institutional arrangements relevant to the policy story. In the public sphere, the government branches in the organizational structure which are central to policy-making in the specific instance of the issue of satellites in the 1960's will be identified. In the private sphere, it will be the corporate interests relevant to that time and issue and their location in the market structure. The actors change with the issues and further introductions will be incorporated as the policy story unfolds.

a. The Telecommunications Carriers

Immediately prior to the establishment of a satellite system in Canada, national telecommunications were dependent upon two organizations, the Trans Canada Telephone System and Canadian National/Canadian Pacific Telecommunications. Internationally, the Crown corporation, Canadian Overseas Telecommunications Corporation (now Teleglobe) affords overseas communication links with Canadian users by cable, radio-telephone, radio, telegraph and satellite subject to the provisions of the International Telecommunications Convention. The domestic duopoly of TCTS and CN/CPT provided the nationwide networks for telephone, telegraph,

television, data transmission and specialized services for defense purposes.

The telecom industry has been structured by the historical foundations for classification by type of service,<sup>1</sup> fundamentally telephone or telegraph. These services were provided by separate firms with exclusive monopolies over the territories they served. Public message telephone and public record telegraph services were considered public utilities whose activities are regulated by federal or provincial agencies. Traditional regulation of the telecom sector has been based for the most part on the economic principles of rate regulation.

The established market structure has developed in accordance with the concept of "natural monopolies". Since the traditional provision of longhaul telephone and telegraph services has been undertaken in separate monopoly spheres, with CN/CP and Trans Canada Telephone System both operating microwave systems for their respective functions, the provision of other telecommunications specialized services has become the competitive sphere of these two suppliers. The policy developed by the Department of Communication relating to licencing of microwave systems has restricted entry to specialized-common carriers (unlike United States policy). The justification for this policy is:

"That both the spectrum and investment capital available to the industry are scarce resources. Further there is a need to ensure the economic

and operational strength of the established public telecommunications systems if they are to serve Canada effectively." 2

Consequently new services and facilities being introduced are dependent upon the initiative of the established common carrier institutions. The innovative services and facilities associated with data transmission have raised contentious issues regarding who has jurisdiction over their provision, and have complicated the regulatory sphere where traditional monopoly enterprises became engaged in offering unregulated, competitive services. Policy has thus far restricted competition to the two major suppliers, but its justification has become increasingly in question.

The Interim Report on Competition Policy, July 1969, by the Economic Council of Canada had stated:

"The danger that regulation may work more as a brake than a shock absorber must be constantly guarded against."... "In any dynamic economy, new institutions, new industries and new products are constantly springing up, sometimes providing competition in areas previously considered to be the preserve of natural monopolies and therefore subject to fairly close regulation. Unless a continuing lookout is kept for the emergence of new competition, the regulations may prevent the established firms from responding appropriately to this new competition."

The assumption which remained questionable was how competitive can or will two suppliers really be.<sup>3</sup>

In the rapidly innovating sector of the economy in telecom services, there has been considerable concern that



monopolists should be denied any assurance that this protected status is perpetual or irrevocable. Technological advances tend to erode the established market structure, develop new markets and create new options for supplying services traditionally provided by the regulated monopolists.<sup>4</sup> New services related to data transmission and cable television are blurring the old boundaries for classification of service creating new regulatory issues over jurisdiction and access to these new lucrative markets. Satellites, like most innovative technologies, have the potential to alter existing market structures.

The following is a brief description of the major industry participants in the telecommunications corporate structure prior to the inception of Telesat Canada.

i. CN/CPT

Canadian National/Canadian Pacific Telecommunications is the joint undertaking of the two major railroad companies which had provided public message telegraph services, to a somewhat competitive degree, until integrated in 1967 as a consortium. Though telegraph message service is historically associated with railway undertakings, CN/CPT has also moved into the provision of telephone services in areas of northern B.C., Yukon and Newfoundland, where service had not been offered by existing telephone companies. Recently, it has been moving toward integration by acquiring

25% interest in Computer Science Canada.<sup>5</sup> (U.S. parent company is Computer Science Corporation.)

With CN/CP's licence for a microwave system in 1963-1964, and the growing market for data transmission, CN/CP reacted quickly in establishing a corner on the profitable specialized services market, with 40-50% of its current revenues being associated with data transmission.<sup>6</sup> (Its future profitability and competitive status in this market is largely dependent upon the current issue of allowing the CN/CP network to interconnect with the Trans Canada Telephone System so that CN/CP can have access to the local distribution facilities.)

The amalgamation of a private enterprise with a Crown corporation has not had significant effect on the operation of the jointly owned hybrid institution. In fact, the public enterprise has been characterized as "not unlike a private utility seeking dynamic new roles".<sup>7</sup>

The common carrier business of CN/CPT has been regulated by the Canadian Transport Commission, until the recent switch in jurisdictions of authority over telecommunications to the CRTC.

ii. Telephone Companies

The Trans Canada Telephone System is composed of the major telephone companies in Canada, the most eminent of these being Bell Canada.

Bell Canada

Bell Canada has control over intra-provincial and exchange service in its operating areas in Ontario, Quebec, and through its subsidiaries, in the Atlantic Provinces. Bell Canada, as of 1975-1976, is the largest industrial corporation in Canada, whether ranked by assets or net income.<sup>8</sup> In terms of revenues, it ranked fifth behind Ford Motors, General Motors, Imperial Oil and Canadian Pacific.<sup>9</sup> Shareholdings in Bell have been widely dispersed and, although AT&T owned 25% of Bell's shares in the 1930's, that has since diminished to just over 2% of the common shares.<sup>10</sup> Though studies of Bell Canada have rarely alluded to AT&T's stock ownership as having influenced the behaviour of the firm,<sup>11</sup> it remains important to point out that this is the largest foreign single block of shares held by one party.

In addition to its monopoly services in Ontario and Quebec, Bell Canada controls six other major companies, Newfoundland Telephone, Island Telephone, Maritime Telephone and

Telegraph, New Brunswick Telephone, Northern Quebec Telephone and Northern Telephone Company. The Bell group controls 70% of all telephones in Canada, with Bell itself controlling over 60%.<sup>12</sup> (Bell also now holds 24.6% of Telesat.)

Bell is vertically integrated with its communications equipment manufacturer, Northern Electric (now Northern Telecommunications and Bell/Northern Research). Bell also has an arrangement with AT&T for access to the research and development of Bell Systems Laboratories.<sup>13</sup>

Being a federally-chartered company, Bell comes under federal regulatory jurisdiction.

#### British Columbia Telephone

This is the other federally-chartered and federally-regulated telephone company in Canada. It provides monopoly telephone service to British Columbia in conjunction with its wholly-owned subsidiary, Okanagan Telephones. General Telephone and Electric, the United States parent company which is second in the United States only to AT&T, holds 100% of Anglo Canadian Telephones<sup>14</sup> which controls Quebec Telephones and British Columbia, and accounts for 11% of all telephones in Canada.<sup>15</sup> General Telephone and Electric also controls the manufacturing

subsidiaries, Automatic Electric (Canada), Sylvania Electric (Canada) and Lenkurt Electric (Canada). It also operates two subsidiary companies, Dominion Directory and Canadian Telephone and Supplies Ltd., both of which serve British Columbia Telephone.<sup>16</sup>

British Columbia Telephone, by arrangement through General Telephone and Electric, has access to research and managerial facilities of the "Gray Group", a consortium of independent telephone companies in the United States which have centralized their research and development efforts.<sup>17</sup>

#### Others

Telephone services in the prairie provinces are provided by publicly-owned corporations. The Atlantic provinces and Manitoba and Alberta have provincial regulatory authorities over their telephone companies, while Saskatchewan Telephone is self-regulated by means of a Cabinet-appointed director as Minister of Telephones.<sup>18</sup>

#### iii. TCTS

The Trans Canada Telephone System was established in 1931 as a consortium of these telephone companies, to construct and operate long distance facilities on a coast-to-coast basis. Each of the present nine TCTS

member companies is a fully-integrated telephone company, providing both exchange and long distance telecommunications services within an operating territory confined by a single province, except for Bell. Within the provinces, the smaller telephone companies expect to be represented by the appropriate TCTS member in matters of connecting agreements and other Trans Canada Telephone System functions.

The Trans Canada Telephone System consortium is seen to serve two purposes for its members:

- it establishes the necessary standards, planning, construction and operations for a national network in coordination with United States carriers and Teleglobe; and
- it provides technical and market research functions more efficiently through joint action.

TCTS owns no capital or hardware. Each member company is responsible for construction and operation of its facilities. The members share the administrative and service expenses of TCTS and share in the profits of the Trans Canada Telephone System in accordance with a Revenue Settlement Plan as determined by the board of management of the TCTS. The Trans Canada Telephone System prides itself on operating on a consensus basis where each member has a veto power.<sup>19</sup>

The two most important points about the Trans Canada Telephone system are:

- that Bell, because of its strength and holdings in the industry, has played a major and prominent role in influencing the direction of TCTS operations; and
- that there is no regulatory review of TCTS because it is not a legally defined company, (although the activities of its member companies may bring TCTS representatives into the regulatory arena).

b. Manufacturing Sector - The Telecom  
Equipment and Aerospace Industry

A significant feature of the telecommunications industry structure is the degree of vertical integration it supports. The carriers have a marked inclination to engage in ownership of successive stages of production, particularly the equipment manufacturing sector. The Canadian telecom manufacturing industry is composed of: two large manufacturing organizations, each integrated with a large Canadian carrier (Bell and GTE), approximately a dozen substantial non-integrated companies, and a variety of small, specialized companies.<sup>20</sup>

The affiliates of Bell and GTE, i.e. Northern Electric (now Northern Telecom) and Automatic Electric, control at least 70% of the manufacturing activity in telephone and telegraph equipment. The larger non-integrated companies include RCA, Collins Radio, Canadian General Electric, Canadian Westinghouse, Canadian Marconi, Phillips Electronic

Industries and Canadian Wire & Cable. Those which are U.S. owned, manufacture products designed by the parent organization. The U.S. parent company assigns products for production in Canada.<sup>21</sup>

Though the Telecommission study on the telecom equipment manufacturing sector remarks that "the electrical industry is the base upon which the next stage of our industrial and cultural development will grow",<sup>22</sup> the manner in which growth takes place will be directed by the industry's structural constraints as the chairman of Northern Electric stated:

"The Canadian problem is that technology and innovation from the parent corporation and other easily accessible sources have been so readily available, and so economically attractive in the short term, that the growth of systematic broad based indigenous innovation and technological capability has been severely inhibited." <sup>23</sup>

The common carriers' position to maintaining this relationship is usually argued on the basis that ownership of manufacturing subsidiaries contributes to internal planning and coordination. Owing their equipment suppliers, they say, is maintaining system integrity which is essential to their operation and effective cost savings. This position is supported by the economies of scale argument, essentially an elaboration on the "bigger is better" theme.<sup>24</sup> Counter to this position is the argument that such internal dependencies inhibit innovation and



reduce the viability of a competitive manufacturing sector.<sup>25</sup> Proposals to change this situation suggest that either regulation should extend to the subsidiary or more progressively, that there should be divestiture of the affiliates.

Divestiture continues to be a contentious issue. The Restrictive Trade Practices Commission is currently reconsidering such arrangements within the telecom industry. Bell has previously stated its position to the Royal Commission on Corporate Concentration.

"Bell Canada submits that our country simply cannot afford experiments that affect or constrain the vital telecom system--the nerve system of our economy and of our society--without a thorough evaluation of the consequences. ...If short term actions taken in the name of the public interest make long range plans and large capital commitments neither feasible nor attractive, then great damage is done. Such a development would be contrary to the public interest at the best and disastrous at the worst." 26

Although the manufacturing sector of the telecom industry produces and sells nearly every kind of device or system required, and provides the necessary engineering requirements (except for computers) needed for domestic markets, the "health" of the industry is said to be dependent on export production.<sup>27</sup> The promotion of exports requires cooperation and coordination of government and industry initiatives. The Telecommission study reported that the

industry had commented favourably upon improvements in practices and measures of the Department of Industry, Trade and Commerce to assist the industry towards its growth objectives of penetrating international markets.

Further:

"the future of the industry depends on its capability to expand its facilities and capture larger markets. Tomorrow's sales depend on yesterday's Research and Development". 28

This sector therefore had significant interest in the development of a satellite program. The technology being developed through research and development efforts required a market.

i. Manufacturing Companies

Northern Electric

Northern Electric (or Northern Telecom as it is now called) is a wholly-owned subsidiary of Bell Canada and the dominant firm in the Canadian electrical equipment manufacturing industry.

From 1895 to 1956, Northern Electric was the Canadian extension of Western Electric, the manufacturing affiliate of AT&T, the Bell System in the United States. Forced by the U.S. anti-trust consent decree in the 1950's, it was severed from the U.S. parent and eventually was acquired in full by Bell Canada.<sup>29</sup> Prior to 1960, 90% of production designs and manufacturing information was

from the U.S. parent system. By 1970, foreign design imports are said to be at the level of only 1%.<sup>30</sup>

Since 1961, Northern Electric has been involved in studies regarding satellite communications, principally the investigation of modulation methods and multiple access techniques. In 1962, research became directed toward ground terminals and, between 1964 and 1966, in tracking systems. In 1965, Northern Electric, in cooperation with Bell, conducted a technical and economic study (commissioned by the Department of Transport) (Hughes Aircraft also contributed one section) of satellite communications systems for telephone, telegraph and television services in the north. A significant endeavour was its participation in the establishment of an experimental Arctic earth station in 1966 which was carried out in close association with the Department of Transport.<sup>31</sup>

Northern Electric had teamed with Hughes aircraft, a leader in the United States space program, through technical service licences for the use of Hughes' satellite technology.<sup>32</sup> By 1968, Northern Electric and Hughes had negotiated a licence agreement with the aim of establishing in Canada the ability to design and manufacture satellite systems.<sup>33</sup> These arrangements are significant in light of the controversy surrounding the awarding of contracts in establishing Telesat.

R.C.A. Canada

R.C.A. Canada is a branch plant of the parent multinational based in the United States. (R.C.A. was one of the four principal shareholders in the establishment of Comsat.) The Canadian subsidiary is one of the major companies in the telecommunications equipment sector of the manufacturing sector. It produces hardware for television and radio receivers, radio communications equipment and television and radio broadcasting and distribution equipment.<sup>34</sup>

R.C.A. acquired expertise in the field of satellite technology through research and development undertaken in conjunction with the Defence Research Board while participating in the NASA space program. There, R.C.A. was involved in the production of components for Relay I, an experimental satellite, and subsequently in the Alouette-Isis series. In 1963, R.C.A. was awarded the prime contract for Alouette II and was the major participant in setting up the facilities at Mill Village for the Intelsat System in association with the Department of Transport and Northern Electric.<sup>35</sup>

As a result of the Alouette-Isis program, R.C.A. had developed a spacecraft centre in Montreal capable of

designing, constructing and testing complex spacecraft. Between 1960 and 1966, R.C.A. had invested 29 million dollars in a commitment to space works (9 of which were in 1965).<sup>36</sup> Its operations were concentrated in space research satellite works and earth-based facilities of which 50% of its production was for the U.S. space program.<sup>37</sup> R.C.A. Canada was considered a prime candidate for establishing space research and technical capability as an area of Canadian expertise.

#### The deHavilland Aircraft Company

deHavilland was associated with Hawker-Siddley, a British conglomerate.<sup>38</sup> The Specialized Products and Applied Research division of deHavilland had been involved in the Canadian space program since 1956. It was awarded the contract for Alouette I in 1960 for the design of the space frame. Its area of expertise centered in space systems technology, aerospace STEM production and electric optical systems. In 1963, deHavilland was the associate contractor for Alouette II. By 1966, deHavilland (Spar) had carried out over 6 million dollars worth of space business.<sup>39</sup> In 1967 Spar was created as a Canadian federally chartered company, formed to acquire the Specialized Products and Applied Research division of deHavilland Aircraft. Primarily engaged in the design and manufacture and service of products for space, air and ground transport<sup>40</sup> industries, Spar has become a major firm in Canadian space technology.

A partial recipient of Telesat subcontracts, Spar has also received large government contracts for subsystem facilities for CTS, an experimental satellite.<sup>41</sup>

### Canadair

Canadair is a Canadian subsidiary of General Dynamics Corporation, a United States manufacturer of aircraft, missiles and electrical equipment. Since 1958, Canadair has been involved with the USAF in developing the Black Brant rocket and antennae structures. In conjunction with Northern Electric, Canadair was responsible for the satellite tracking antenna constructed at Shirley Bay.<sup>42</sup> In 1975-76 Spar was attempting to acquire Canadair and deHavilland.<sup>43</sup>

### Bristol Aerospace

Bristol Aerospace was awarded a government contract in 1960 for production of Black Brant Rockets, and was later working on a feasibility study of developing a Canadian rocket system for use on communications satellites.<sup>44</sup> Though considered sufficient for the original proposal of a compact system, Telesat's larger satellites required NASA launching facilities.

## 2. GOVERNMENT ORGANIZATIONAL STRUCTURE

Identifying the corporate actors by a brief description of who they are and what they do, gives some sense of

the industry structure they represent. But the same technique is less adequate for identifying the public actors and the organizational structure of governments. In the corporate sphere, power can be attributed with some semblance of credibility in relation to the resources of the corporate actor and therefore the relative importance of the actors. The government actors are usually seen as acting with one voice rather than as separate branches with specific differences, each reflecting particular interests in policy matters. Parliamentary democracy, with its principle of ministerial responsibility and Cabinet solidarity, tends to shield the actors from public view and hence from differences of opinion and the relative political power of the actors. An assessment of power relations within governments is a question of how the organizational structure functions. Answering that is a critical concern of policy analysis, and should be related to political theories. Recognizing its limitations, the following introduction to the government actors and procedures is offered as a descriptive schemata for guiding the policy story.

a. Executive-Bureaucratic Arena

At the centre of the executive arena is the Prime Minister and Cabinet. Constitutionally, they are the institutional

structure which is responsible to Parliament for new and on-going policy programs. Other key roles in the organizational structure involved in the policy process are the Prime Minister's Office, the Privy Council Office, the Department of Finance and Treasury Board. Doern describes the respective roles of these branches as being "derived from the logic of their functional input into policy".<sup>45</sup> These, unlike other policy actors exert their power, Doern suggests, through their role as major bodies coordinating fiscal policy and political priorities.

i. Cabinet

The notion of collective Cabinet policy-making is more theoretical than practical, as it is apparent that certain Cabinet roles or ministerial responsibilities are inherently more important than others. There is some debate<sup>46</sup> as to whether internal Cabinet substructures can be described as an "inner Cabinet", divided by patterns of loyalty, ideological or functional factors which may become obvious in a particular analysis of a specific policy issue. But there is no doubt that there is an internal pecking order with respect to Cabinet portfolios. The power of financial administration and allocation remains the dominant factor in policy decision-making. Other government bodies and their interests are generally subordinate to the "inner core Cabinet" although they



may exert significant pressure in particular issues affecting their constituencies. Thus, the political power and policy influence of a particular Minister will be determined by the Minister's ability to persuade the Ministers of the allocative departments to his point of view. "Hence in one sense the policy criterion of power confronts the allocative or budgetary criterion."<sup>47</sup> In this sense, the Department of Finance and the Treasury Board are predominant organizations in the institutional structure operating within Cabinet in the conversion of new or fundamental policy issues to outputs.

A significant meeting point for the differentiated inputs is the Cabinet Committee on Priorities and Planning. It was a main component in revamping the decisional procedures on the basis of then current trends in information theory.<sup>48</sup> A basic assumption of the Canadian PPB system is that systems analysis is essential to the implementation and success of the system.<sup>49</sup> The Priorities and Planning Board, along with the Science Council, the Prime Minister's Office and the Privy Council Office, were formal structures inserted into the policy-making process between 1966 and 1970. Except for the Science Council, the activities of these organs had existed previously but not as visible institutional bodies.<sup>50</sup>

The PPB system was developed in the United States and "slipped quietly into the Canadian scene" without any visible debate of its implications for the Canadian political system. Given our federal political system and political culture, Szablowski has said that the issues of debate it raised for U.S. political thinkers are "substantially more relevant for Canada".<sup>51</sup>

The creation of the Cabinet Committee on Priorities and Planning is considered to have gone furthest in institutionalizing an inner Cabinet functionary body. It was created to give central and departmental decision-making a rational basis for budgetary control and is the determining focus on national goals and objectives.<sup>52</sup>

(A. W. Johnson notes cautiously that as the political process has "deep rooted institutional barriers to improving policy administrative efficiency, the PPB expert should not try to force the politician to substitute rational contemplation of objectives for the intuitive perception of the needs of the community".<sup>53</sup> The level of concern limits the issue to objective versus subjective decision-making, scientific reason versus political acumen. The rationalist approach may only reorder the priorities and therefore values; it does not remove the value questions in making choices.) In giving special attention to the broad objectives of government and major questions of long term implications of policy, it is here that the basic decisions on suitable objectives and strategies are taken for recommendation to Cabinet.<sup>54</sup>

ii. The Prime Minister's Office  
and Privy Council Office

The Prime Minister's Office and the Privy Council Office are formal advisory bodies to the Prime Minister. Though a previous organ performed much the same function, the creation of these bodies formalized their roles.<sup>55</sup> The offices became increasingly significant after the election of Prime Minister Trudeau and the roles of these bodies are considered to be chiefly shaped by the philosophical perspective of the Prime Minister in conjunction with his concern for "rationality and logic" in the political process. Their creation is credited as a development from a commitment to a "cybernetic model of politics and information theory".<sup>56</sup> Critics, such as party leader Lewis, had commented that it was the mark of triumph of the technocrats and technocracy.<sup>57</sup>

The Prime Minister's Office is considered to be the strategic source of political advice, whereas the Privy Council Office is the source of overall governmental advice.<sup>58</sup> In combination, they are the organization that maintains an overview of strategic government activity. Their relationship requires "harmony". The Prime Minister's Office is partisan, politically-oriented, yet operationally sensitive. The Privy Council Office is non-partisan, operationally-oriented, yet politically sensitive.<sup>59</sup>

iii. The Department of Finance and  
the Treasury Board

These key elements in the executive-bureaucratic structure

have had their roles and reciprocal relationships altered, such that the Department of Finance, which had long been established as the seat of power, with the creation of the Treasury Board may have symbolically been seen to have "slipped", but in substantive consequent analysis, it appears to have retained its pervasive authority.<sup>60</sup>

The emergent strength of the Treasury Board is derived from the changed roles, which in effect split Department of Finance functions. The Department of Finance's role is to view matters under consideration in terms of their impact on the government's ability to extract resources to carry them out, and on the fiscal and economic consequences of governmental activity on the society and economy. The Treasury Board is concerned with the on-going resource allocation within the internal finances and their administration with respect to the impact of existing and proposed governmental action and organization. Doern suggests that their roles should not be competitive, but the kind of policy advice they provide should and will be competitive.<sup>61</sup>

It has been suggested<sup>62</sup> that the fiscal and economic advice of the Department of Finance and the financial administration advice of the Treasury Board are in a horizontal relationship vis-a-vis one another. Through the assessment of programs, their advice is subordinate to the Privy Council Office. The Privy Council Office's responsibilities for operational strategies, expressed through the mechanism of policy or policy choices, is

subordinate to the Prime Minister's Office. This hierarchical structure of relations places the Prime Minister's Office in a superior position as constituting the political role of government whose responsibilities are directed by the authoritative mechanism of value decisions. This one-dimensional concept to delineate organizational roles, as Doern admits, cannot capture the dynamics of the way in which hierarchical authority and the means of power and influence are exerted, but it does provide a perspective for analysing the relationships of organizational structures in the executive arena.

#### iv. Increasing Responsibilities of Bureaucracy

In the transition from the Pearson years to the Trudeau government, policy organs are seen to have become more visible and bureaucratized in the process of structural differentiation. Trudeau's initiatives in organizational change were supported, and to some extent generated, from within the bureaucracy, especially from such career senior civil servants as Michael Pitfield, A. W. Johnson, Gordon Robertson and Simon Reisman, each of whom has played a key advisory role.<sup>63</sup>

During these years of transition, there was an expansive innovation of the committee system, which correspondingly expanded the number of senior advisors involved in the policy process.<sup>64</sup> The result of these changes was that

bureaucratic officials became more directly involved in policy formation and decisions. The expanded committee system delegated authority and a substantial amount of the work load such that numerous decisions were being made at the committee level prior to submission to Cabinet. While Robertson refrains from conferring responsibility on officials other than the Ministers who have the ultimate authority in decisions made, his explanations of the detailed functioning of the Privy Council Office suggests a ministerial role of decision "taking" rather than "making". For it is with the functioning of the Privy Council Office, in coordination with the committee system, which provides the basis of the information system of the offices and operations of government as a whole. How the information is structured, i.e. prioritized for the provision of the "essentials", is crucial to how decisions are taken rather than made. That is, prioritization filtering eliminates options; the few alternatives prepared and submitted for discussion may include proposed advantages and disadvantages for discussion of the options. As Kernaghan states, "administrative officials have accumulated vast powers to influence policy decisions".<sup>65</sup>

b. Key Government Departments in the Policy Issue of Satellites

The functional responsibility of departments and their Ministers in policy formulation has been interpreted in accordance with various models of the policy process. There

appears to be fundamental agreement that a principal function of departmental structures is that of representing its constituents. The interpretation of the exercise of power or influence in decision-making, however, proposes theoretical differences for the analysis of the process. Doern explains the functional importance and therefore influence of political roles in terms of vertical and horizontal portfolios.<sup>66</sup> "Horizontal" are traditionally more influential and correspond to areas with major policy roles which cut across a variety of other departmental concerns, whereas vertical portfolios are more administrative in function and differentiated according to strength and budgetary allocation. Mahon proposes that the hierarchical relationships of internal government structures be interpreted in accordance with their respective constituents in the economic power structure of relations.<sup>67</sup> There is little differentiation in terms of their analysis of who is more powerful; the divergence in their respective levels of analysis is in how they seek to explain the exercise of power within the larger context of political-economic relations.

The structure of interests and therefore inputs and influence is critical to the analysis of policy, for it is at the core of expression of power relations in the decision-making process. An analysis of the dynamics of power in the policy process will be dealt with in a subsequent section following the presentation of data

relative to the policy story on satellites. For the present purposes, the following is a brief introduction to the relevant departments which were instrumental in the early stages of policy formation on the issue of satellites.

The two main departments of government involved in the policy process to be examined here are the Department of Transport (the transition to Department of Commerce) and the Department of Industry, Trade and Commerce and their respective Ministers. Each of these portfolios carries considerable weight in the Cabinet structure. Their status and hence political power and policy influence "can be assessed by the proportion of the budget allocations that the portfolios command",<sup>68</sup> which, in turn, signifies influence with respect to their interest groups or constituents. Both departments have responsibilities over sectors of the economy controlled by segments of the dominant elite. In Transport, it is indigenously based, whereas in Industry, Trade and Commerce there are both foreign and indigenous controlling interests but of primarily a branch plant status. Thus, the Minister's voice reflects the interests of his representative community.

i. Industry, Trade and Commerce

The Minister of Industry, Trade and Commerce at this time (1963-1968) was C. M. Drury, who was also Chairman



of the Cabinet Committee on Space Programs. (Note: This Department also included Ministry of Defense Production.) (D. A. Golden, who later became President of Telesat, had been Deputy Minister until replaced in 1964 by Simon Reisman, often characterized as one of the most powerful civil servants.) Drury has described his role and that of his Department as being responsible for representing the following concerns: "As the importance of secondary industry has grown over the years, it has become increasingly apparent that the viewpoint of the industrial sector of the Canadian economy should be represented when government policy is being formulated."<sup>69</sup>

The secondary industry sector, particularly manufacturing and production, is made up of contradictory interest groups. Largely dominated by branch plant organizations, there is also an indigenous manufacturing and industrial sphere which is in a subordinate and severely constrained position. The Department has been characterized as mainly concerned with the trade and commerce sector and support for export production, while the manufacturing sector status has been that of the "junior partner".<sup>70</sup> Stegeman's study in this area found that "officials claim that expansion in export markets is the most effective way of increasing productivity of Canadian industry".<sup>71</sup>

It is also important to note that in matters of trade policy, Stegeman claims that the definition of a Canadian firm is a question of residence, not ownership, where preference favours foreign production. The effort is towards increasing production in Canada regardless of possible constraints recurring from foreign control.

This emphasis on exports is consistent with the philosophy that the limited size of the domestic market constitutes a chief obstacle to the development of an efficient manufacturing industry in Canada. This perspective of the assessment of industrial growth is a view shared by the Trade and Commerce departmental section and that of the Department of Finance.

ii. Transport - Communications

The Department of Transport was responsible for the telecommunications industry until 1969, and telecommunications was regulated by the Canadian Transport Commission until 1975. Administratively and substantively, the telecommunications industry was not a matter for great concern within the Department as can be evidenced from the allocation of Departmental resources for its caretaking and from its regulatory history and environment. The development of the telecommunications industry proceeded with a rather free rein. The ramifications of this environment and self-regulatory latitude will be

analysed with specific reference to Bell Canada, the dominant firm in the telecommunications industry and a major corporate power in the country and will be presented in a later section.

The Minister during the period under consideration prior to 1968, was J. Pickersgill (later became President of CTC). As the Minister responsible for this sector of regulated utilities, he had taken on a dual role as representative of their interests within governmental workings as well as his responsibility for regulatory policy in the public interest. The regulatory body, the CTC, reported to Cabinet through the Minister. Though the functions of the agency as opposed to the Department differ in the sense that one is regulative and the other representative, the relationship between these organizational units does not bear antithetical purposes.<sup>72</sup> This dual but non conflictual relationship demonstrates how the notion of the "public interest" in traditional Canadian telecommunications proceedings has been subsumed in the "national interest". This relationship will be analysed with reference to the regulatory history of the dominant firm, Bell Canada, in a later section.

The Department of Communications was not created until 1969 after the election of the Trudeau government and while the satellite issue was in progress. Established by the Government Organization Act as a result of the

Glassco Commission, it was to have the overall responsibility "for ensuring that all Canadians obtain access to the rapidly-expanding area of communication services".<sup>73</sup> It coordinated the diverse activities of the space program, giving space research and development a home. (Chapman became Assistant Deputy Minister responsible for the space program.) The initial White Paper had been released under the auspices of Industry, Trade and Commerce Minister Hon. C. M. Drury, but the new Department and its Minister, Eric Kierans, took over the responsibility for satellites in the forthcoming Bill of Legislation (Telesat Canada Act). The creation of the new Department reflects its increasing importance and its no longer suitable position of subordination within the larger Transport Ministry. It is interesting to note that Doern has characterized the DOC as a new aspirant to the level of horizontal coordinating portfolios.<sup>74</sup>

iii. The Department of Consumer and  
Corporate Affairs

The DCCA does not play a visible role in the satellite policy story until the final stages of the regulatory decision. Its functional responsibility is the marketplace and economic law, with concern that citizens, be they consumers, investors or managers, are treated justly and fairly. The DCCA formally oversees the marketplace in order to maintain competition. Its position has been that corporate and consumer interests are best served through an "efficient" marketplace.<sup>73</sup>

This organizational body institutionalizes the representation of interests of two essentially conflicting and irreconcilable groups (consumer and corporate interests). Doern has characterized the Department's policies as attempting to avoid conflicts by emphasizing or revising the Competition Act. Doern's analysis bears a strategic point which is congruent with Mahon's perspective on policy when he states that "reviewing passage of these bills and group positions in favour of or against the bills is one way of understanding the role of economic power in the Canadian political process."<sup>76</sup>

c. Other Organs and Channels

i. Science Policy Organs

The Science Secretariat was legislated into existence in 1964 as a result of the recommendations of the Glassco Commission on Government Reorganization, and its creation has been said to have marked the first real presence of specialists in the Privy Council Office.<sup>77</sup> It was to be a small, fact finding, analytical group serving in a staff capacity, without executive authority, as confidential advisor to Cabinet, through the internal advisory machinery of the Privy Council Office. The Science Secretariat was to be the day-to-day advisor, whereas the Science Council created in 1966 and fashioned on the model of the Economic Council, was to provide long range planning advice. The Science Council was to be an external policy body with a direct relation to the Prime Minister and Cabinet.

The purpose of the Science Council, as stated in the legislation read by Hon. C. M. Drury, was to define and determine feasible long term objectives for science in Canada, suggest appropriate paths for researching them and to consider the responsibility of the various segments of the industrial, academic and governmental communities. Its capacities were to be advisory only; it would have no direct authority over expenditures or budgets of any government department or agency. The Science Council was to make recommendations concerning:

- the adequacy of scientific and technological research and development in Canada;
- the priorities for scientific and technological research;
- the effective development and utilization of scientific and technological manpower;
- long term planning for scientific and technological research and development;
- the factors involved in Canada's participation in international science and technology;
- the responsibilities of government departments and agencies in relation to those of the universities, private companies and other organizations in furthering science and technology;
- the status and other information needed (regarding scientific and technological research and development) to provide the basis for the formulation of policy

- on the role of science and technology; and
- the best means of developing and maintaining the cooperation and exchange of information between the Council and other public or private organizations concerned with science, technology and its economic and social aspects.<sup>78</sup>

It was designed with the intention of being an open structure which could generate public debate about science policy.

In its first two years of operation, the Science Council was hampered by its relationship to the Science Secretariat which created a "structural ambivalence" to borrow Doern's term. Initially the Secretariat served a dual role as advisory in its own capacity and as the Council's main source of research and staff support. Hence the Secretariat was in a position to evaluate the Council's recommendations which it (Secretariat) had helped to formulate. Further difficulties were created by the strain and ambivalence which the confidential and secretive Privy Council Office environment placed on the supposedly open and public body of the Council. In 1968 the Council was given a more independent status and its own staff.

The role of the Secretariat and the Council on the formative years was not warmly endorsed by the rest of the scientific

bureaucracy. The Science Secretariat in particular had created dissention in the science community as the "scientists in several agencies viewed the Secretariat in much the same way as the rest of the bureaucracy views the Treasury Board - that is, with a healthy suspicion".<sup>79</sup> The Science Council had its own self-conceptual problems of determining its role, and as it was considered the representative of an external "community of interest" it had difficulty establishing its legitimacy in the eyes of the internal bureaucracy.<sup>80</sup>

The Council (initially) consisted of 25 members appointed for three year terms, chosen from persons having a special interest in science and technology, and four associate members from federal government departments. (Membership and committees included 16 government, 24 industry and 27 academic representatives.) Its first Chairman was Dr. O. M. Solandt (past executive of deHavilland) and Dr. Gaudry (Rector of the University of Montreal, was Vice-Chairman.

The early policy role and strategy the Council undertook was influenced by the career perspective and philosophy of the Chairman in particular, who believed strongly (as did other members of the Council) in the conviction that Canadian science should be decentralized geographically and sectorally. As much of "science" in Canada had been dominated by the government sector, Solandt strove to implement a severing of the ties away from government



bureaucracy and the style of "pure" research to an organizational philosophy which was "mission" oriented, that is, towards applied research and development.<sup>81</sup>

The Council attempted to define its philosophy on a broad scope. Deciding that it needed a framework for policy if it was to advocate the use of science in achieving national, social and economic goals, it sought to define comprehensive national goals by grafting non-economic goals on to the stated goals of the Economic Council.<sup>82</sup> The Science Council suffered, according to Doern, from the "fundamental policy dilemma of central advisory bodies".<sup>83</sup> This was accentuated by the fact that it was involved in an area of public policy with a great amount of uncertainty and unpredictability. Combined with its subject matter and indeterminate time frame, these factors contributed to the Council's problem in determining its strategic role in specific issues in their political and economic context.

#### ii. Administrative Channels

The use of White Papers, Royal Commissions and Task Forces is seen as a means of permitting wider forms of political participation under the rubric that policy making should involve public participation. The assumption that they increase the level of participation is a liberal interpretation which absences an analysis of who participates. It should not be disregarded that "involvement" primarily

remains among the interest constituencies with the resources and time to participate. An elite representation tends to be broadened, but such devices have limited effects at broadening the range of interests included to the excluded "public domain".

#### White Papers

White Papers essentially make public government opinions on matters under policy consideration. Their purpose is to give Parliament information on matters of policy and to test opinions of the House and public. According to Doerr's study, White Papers were used in 1963-1968 for the purpose of informing Parliament and the public of the government's intentions with respect to future policy and legislation.<sup>84</sup> Feeling out reactions was particularly important during those years of minority government due to the government's reliance on the Opposition for political support. Since 1969 they have been used with the primary intention of stimulating discussion, and in keeping with the Prime Minister's view of the political process as cybernetic, were considered as interaction mechanisms. The strategic importance of White Papers as a political tool is that they give the government control over timing and content, of when an issue is raised and how it is framed. White Papers are less successful than their symbolic intent, since they

lack the channels of political machinery to conduct any debate with the public.

#### Task Forces

Task Forces are essentially ad hoc bodies in the policy process which are less ostentatious versions of Royal Commissions. They are established for the purposes of conducting "expert" inquiries, and are usually initiated in situations where there are a multiplicity of demands, internal and external, to government. The task force concept was a policy instrument adopted from the U.S. to combine the efforts of intellectuals, civil servants and private citizens in assessing specific questions. In Canada, Task Forces can generally be characterized as the result of informal executive appointments, reliance on outside expertise, inexpensively-funded, and of short term duration.<sup>85</sup> The critical feature is that unlike Royal Commissions, they are not required by statute or convention to publish their reports or make their studies available. Their primary purpose is an informal administrative aid to the executive. Their function is to gather information which is usually only seen by Cabinet, and they are not considered as agents or mechanisms of a "two way communication". The problem this information tool presents is that it contributes to administrative secrecy and enhances the hegemony of the Prime Minister's Office over policy formulation. Since Task Force studies are not available to Parliament, how

can Parliament, as a representative institution, play a responsible role in policy debate? White criticizes two features of task forces:

- that Task Forces function for the sake of appearance of activity; and
- that their mandate is usually narrowly confined to specific questions which cannot account for the complexities they may be examining.<sup>86</sup>

Hence their recommendations may not be practical in consideration of the issue in the broader context.

This chapter has suggested a general pattern of organization in the relationship of actors relevant to the satellite issue. The structure of relationships presents a hierarchical conception but the degree of power between actors is not "fixed". The key actors and their relative influence will be examined in the following section as the process of policy-making proceeds.

FOOTNOTES AND REFERENCES

CHAPTER THREE

1. Beigie, Carl, E. "An Economic Framework for Policy Action in Canadian Telecommunications" in English (ed.) Telecommunications for Canada, Methuen, Toronto, 1973, p.39.
2. Department of Communications, Instant World: A Report on Telecommunications in Canada, Information Canada, Ottawa, 1971, p.136.
3. There have been suggestions of two variations to alter this, to integrate both systems as a national network for long-haul transmission functions, or to increase the number of suppliers by removing barriers to entry. D. Smythe had proposed a Crown corporation to provide the long-haul transmission function, allowing specialized services to be the competitive sphere. See the Telecommission Study, 1(e) Relevance of United States Regulatory Experience to Canada, p.189 (Ottawa 1971). English has stated that the effectiveness of proposing nationalization has been a beneficial incentive to the behaviour of the existing firms, but sees its usefulness only so far as it remains a threat which never actualizes. Can. Telecommunication Problems and Policies, p.22. Both Beigie and English contend that flexible policy guidelines should prevail so as to accommodate changes in technology, and that with the appropriate policy and regulatory environment, there could be increased competition in the supply and use of specialized telecommunications services. Telecommunications for Canada, p. 36, 196-203.
4. Phillips, Charles, F. "Increasing Conflict between Regulation and Anti-trust", Public Utility Fortnightly, January 7, 1971, p.32.
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6. CRTC estimate based on CN/CPT data submitted in CN/CPT application for network interconnection.
7. English, H. E. "Canadian Telecommunications Problems and Policies" in English (ed.) Telecommunications for Canada, p.15.
8. Financial Post 300, Summer 1976, p.16.
9. Ibid.

10. Beigie, "Economic Framework", p.73.
11. McManus, John, C. "Federal Regulation of Telecommunications in Canada", in English (ed.) Telecommunications for Canada, p.417.
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13. Ibid., p.98. Instant World, p.74-5, 199, 201.
14. Ibid., p.72-3.
15. Ibid., p.73. See also Instant World, p.69.
16. Telecommission Study 2(a), p.5; Instant World, p.69, 75, 156, 201, 216.
17. Beigie, "Economic Framework", p.98; Instant World, p.201. In the latter, this arrangement is referred to as the "Grey Group".
18. Telecommission Study 2(a), p.3.
19. The description of TCTS is compiled from: CRTC Documents (1977). Testimony before the CRTC on Telesat's application for approval of Telesat-TCTS Agreement, Vol.II-XVIII. re TCTS organization and procedures, see Vols. II - 290-97, Vol. X 1737-1800, Vol. XI 1858-1911, 1945-2000, Vol. XII 2110-40, 2160-2293.
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21. Ibid., p.21-24, 25-30.
22. Ibid., p.10.
23. V. O. Marquez, Address to Canadian Manufacturing Association, Globe & Mail, Toronto, 7 June, 1972, B2 quoted in Clement, N. Continental Corporate Power, McClelland and Stewart, Toronto, 1976, p.20. See also Science Council Special Study #22, Section III, Research and Development, Technology and Innovation in the Subsidiary.
24. Instant World, p.75, 106, 111, 200. For example, see Bell Canada's submission to the Royal Commission on Corporate Concentration. For discussion of the issue in the Canadian context, see Beigie, Economic Framework,

- p.91-100. The Combines Investigation Branch of Consumer Affairs has been investigating the Bell-Northern relationship along with other aspects of the telecom equipment industry for the past eight years. No conclusion has as yet been announced.
25. For the other side of the argument, see further testimony before the Restrictive Trade Practices Commission as mentioned above. For discussion of U.S. experience, see Irwin, M. and Trebing, H., "A Survey of Problems Confronting the Communications Industry in the United States, in Telecommunications for Canada, p.214-52 at 236. Also Instant World, p.199-202.
  26. Bell Canada submission to Royal Commission on Corporate Concentration, reprinted in Rea & McLeod (ed.) Business and Government in Canada (2nd ed.), Methuen, Toronto, 1976, p.237.
  27. Telecommission Study 2(g), p.41.
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  29. Beigie, Economic Framework, p.98.
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48. See Szablowski, G. J. "The Optimal Policy Making System: Implications for the Canadian Political Process" in T. A. Hockin (ed.) Apex of Power, Prentice Hall, Toronto, 1977; also see Doern, "Recent Changes in the Philosophy of Policy Making in Canada", Canadian Journal of Political Science, No. 2, Vol.IV, p.254-260.
49. Government of Canada, PPB Guide (rev.ed.), September, 1969, p.14.
50. Doern, "Policy Organization", p.39-42.
51. Szablowski, G. J., "Optimal System", p.140. Szablowski notes the move had no formal announcement. The Treasury Board issued a Press Release, January 26, 1967 which received little if any critical attention.



52. See Szablowski, "Optimal System"; Doern, "Changes in Philosophy of Policy Making", p.254-260; Robertson, "Changing Role of PCO", p.489-91; also Robertson "Canadian Parliament and Cabinet in Face of Modern Demands", Canadian Public Administration, Vol.VXI, Fall 1968, p.272-9.
53. Johnson, "PPB and Decision Making", address delivered June 18, 1970, Conference of Society of Industrial Accountants in Toronto, cited in Szablowski, "Optimal Systems", p.140.
54. Robertson, "Changing Role of PCO", p.488-91; Doern "Changes in Policy Making", p.254-60.
55. Doern, "Policy Organization", p.39-42.
56. Doern, "Changes in Philosophy of Policy Making", p.243-50; Szablowski, "Optimal Systems", p.135-6; see also PPB Guide.
57. Canada, House of Commons Debates, March 5, 1970, p.4423-4.
58. Doern, "Policy Organizations", p.41.
59. Robertson, G. "Changing Role of PCO", p.500-506.
60. See Johnson, A.W., "Treasury Board of Canada and the Machinery of Government in the 1970's", Canadian Journal of Political Science, Vol.IV, No. 3, September 1971. See also Hicks, M. "Treasury Board", p.186; White, W. L. and Strick, J.C., Policy Politics and the Treasury Board in Canadian Government, Science Research Associates Ltd., Don Mills, Ontario, 1970.
61. White and Strick, Policy, Politics and Treasury Board, p.3-4; Johnson, "Treasury Board and Government", p.348-50.
62. Doern, "Policy Organization", p.69-71; Johnson, "Treasury Board and Government", p.350.
63. Doern, "Changes in Philosophy of Policy Making", p.249; also Steve Langdon, "A Liberal Parties Who's Who", Weekend Magazine, February 25, 1978; Doern and Phidd, Politics and Management of Canadian Economic Policy, MacMillan, Toronto, 1978, see appendix C, p.568-69. R. B. Bryce should also be included among these officials who are most often mentioned as powerful and influential senior civil servants.

64. Robertson, "Changing Role of the PCO", on development of the committee system, see pages 489-91; also in "Canadian Parliament and Cabinet in Face of Modern Demands", at p.272-7.
65. Kernaghan, "Responsible Public Bureaucracy: A Rationale and Framework for Analysis", Canadian Public Administration, Vol.16, 1973, p.573.
66. Doern, "Horizontal and Vertical Portfolios", for his updated comments see Politics and Management, p.92-3.
67. Mahon, "Canadian Public Policy: The Unequal Structure of Representation".
68. Doern, "Policy Organization", p.48.
69. Address to the Annual Meeting of the Canadian Textile Industry, reprinted in the Canadian Textile Journal, June 1964, p.38.
70. Mahon, "Canadian Public Policy: The Unequal Structure of Representation", p.176-82.
71. Stegeman, Canadian Non-Tariff Barriers to Trade, sponsored by Canadian Economic Policy Private Planning Association, Montreal, 1973, p.36-7.
72. Janisch, "The Role of the Independent Agency".
73. Department of Communication Act, RSC 1970, c.C-24, Organization of Government in Canada, Canada, Ottawa, January 1975, p.801.
74. Doern and Phidd, Politics and Management, p.92-3.
75. Ibid., p.416. The determination of an "efficient" marketplace and the role of competition have important implications for economic policy given our economic structure. These points will be discussed further in following sections on the explanation of a historical rationale.
76. Ibid., p.419, 445, 448. Doern and Phidd have relegated the DCCA to that of "administrative responsibilities". Its functional role is not conceived of as being a priority influence in determining economic policy. In relation to Mahon's thesis, this congruency of opinion is significant when understood in the context of our economic structure and power relations.

77. Doern, "Policy Organization", p.48.
78. Science Council of Canada, First Annual Report, Ottawa, Queen's Printer, 1967, p.26; see also, Canada, House of Commons Debates, 27 Parliament 1st Session, p.2841:
79. Doern, "Pressure Groups and the Canadian Bureaucracy: Scientists and Science Policy Machinery", in Kernaghan (ed.), Bureaucracy in Canadian Government, Methuen, Toronto, 1969.
80. Doern, Ibid., p.115-18; see also Doern, "The Role of Central Advisory Councils - The Science Council of Canada", in Doern and Aucion, Structures of Policy Making in Canada, p.248.
81. Science Council Annual Report, 1967, 1968. Also Science Council of Canada Report #4, Toward a National Science Policy for Canada, Ottawa, 1968.
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83. Doern, "Science Council", p.260.
84. Doerr, A.D., "Role of White Papers", in Doern and Aucion (ed.) Structures of Policy Making in Canada, p.179-203 (184).
85. Wilson, V. Seymour, "The Role of Royal Commissions and Task Forces", in Doern and Aucion, Structures of Policy Making in Canada, p.122-6.
86. Ibid., p.124-5.

CHAPTER FOUR - CONTEXT

1. SETTING THE STAGE

The perception of a necessity to create a policy arises out of specific economical-political-social conditions. Attention was drawn to the issue of the usage and control of satellite technology by its unique characteristics and the implications they fostered for its implementation. A satellite system was perceived as threatening or advantageous, depending on the interest group. The governmental spokesman for these interests, in instigating a policy proposal, crossed departmental responsibilities and policy formulation exceeded the traditional policy channels.

First it is necessary to acknowledge the characteristics of the new technology in order to explain why it could be perceived as a threat to the traditional telecommunication facilities operators. The potentials of the hardware take on a particular significance given the political climate and economic concerns of the time period in which the technology is heralded.

a. Hardware

The transmission of signals via satellite affords certain advantages over land-based systems. The significant difference and inherent advantage of a satellite system are that costs are independent of distance. Also, since the transmission from the space segment can cover a large

portion of the hemisphere, distributing signals point to point or to multipoint, the earth segment or ground stations of a satellite system will determine the system's capabilities. The space segment by nature of its function, is a two-way system. Ground stations can be designed for general purposes or specialized functions. They can be to receive or transmit only, or perform both tasks, for the carrying of signals by analogue or digital techniques for the transmission of voice, video or data.

The location of the earth station can be an important factor. The closer the ground station antennae are located to the originating transmission and end-reception points, the greater the economic advantage. Services destined for urban centres are currently received and transmitted at ground stations located outside the urban core (due to congested air waves in population centres). Accessing the satellite then requires facilities (usually the telephone companies') from the urban core to the ground station. Recent developments in designing the satellite system to use a different (higher frequency) bandwidth of the radio spectrum to avoid frequency interference, allow the antennae to be placed in close proximity to the end points (e.g. roof top antennae). These changes eliminate the need for "back haul" facilities and therefore reduce costs for the users of the satellite system.

Further developments in the design and capabilities of satellite systems increase its potential advantages over current microwave and cable technologies. (Note: Fibre optics are being developed, particularly by the telephone companies, as an innovative feature compatible with their established facilities which would drastically improve capacity and capabilities suitable to cable hardware.)

b. Usage - Implications

The hardware of a satellite system can be integrated with existing facilities or developed for services separate from existing communication services. How it is used will determine the potential nature of the threat the technology harbours. Satellite usage has so far necessitated a dependence on integration with the telecommunication common carrier facilities, as the role of the satellite system has been that of a medium for carrying and distributing signals. Due to the fact that a variety of telecommunication services requires access to the end facilities traditionally controlled by the telephone industry, interconnection of the systems is crucial to the functioning of the satellite system. The telephone companies' position on interconnection will be determined by the extent of the perceived threat of the relative competitive or complementary role of satellite technology. Since

telephone or data services, for example, require access to the switching and local loop distribution and end facilities of the telephone companies, policy and regulatory decision-making will be responsible for structuring the nature of competition in the telecommunications market.

Communications satellites offer an attractive alternative to land-based systems for the provision of long haul transmission of point to point services with telephone, telegraph and computer, and point to multipoint for broadcast services. Innovative technologies are attempting to defy the preserve of the established institutional structure. For instance, the significance of a communications satellite operating in conjunction with cable television operators is evident from the following proposition:

"Suppose that the existing over the air broadcast facilities and the existing land based telephone and telecommunication facilities including microwave and coaxial cable components were to be eliminated. Then using cable television and communications satellites the same services now provided might be performed, probably more efficiently and cheaply than is the case at present." 1

Cable television has already disrupted the staid institutional structure of the telecommunications and broadcasting industries. It has the technical potential

to provide an alternate means for conducting the switching and pick-up and delivery functions of both broadcasting the telephone/telegraph services. The jurisdictional battle over the effective control of the technology has created an institutional struggle between the power base of the established structure (telephone companies) and the purveyors of the new technology of cable television systems. For the time being the economic power base of the common carriers is the dominant force.

Central to the nature of the threat inherent in the new technical systems is the integral relationship yet to be forged of the dynamically growing industry of data processing and transmission. The new services offered by the computer industry are increasingly dependent upon communication lines. The controversy is forming as to who has the right to control the terminals, their interconnection with existing systems and be the transmission provisioners. As information transfer by networking increases, the common carriers are exceedingly reluctant to relinquish control over such a lucrative sector of the economy. So far they have been aided by policy stipulations which have restricted entry to anything of the form like that of the specialized common carriers in the United States, and are only currently



resolving the interconnection issue between Trans Canada Telephone System and CN/CPT, a decision which will clearly set an important precedent.

In an economy often characterized as shifting from a manufacturing orientation to a service orientation, a transformation described as entering the post-industrial economy phase, with estimates that place 46% of the United States GNP associated with information transfer and processing, control over the informational technology is a powerful tool. Dr. Manley Irwin has remarked:

"A key development to this transformation is the movement toward a knowledge or information oriented economic system. To the extent the economy becomes communication dependent, communications will play a crucial, vital and critical role." 2

Therefore, the institutional structure of the communication industry is crucial to defining power relationships in an information-based economy. It is not surprising then that there were controversial implications regarding the entry of satellite service to the market dominated by the existing telecommunication institutions. It raised questions such as: Is the role of the new technology to be used competitively with the existing facilities or is it to be complimentary to them or rather subservient? Who will control the technology, thereby defining its uses? Is the new technology to be

directed by established arrangements and distribution of economic and political power inherent in those arrangements, or are institutional arrangements going to be determined by new technological conditions?

The process of decision-making in policy and regulation will determine the criteria of the market structure and thereby the power relationships of the economic forces in a post-industrial society. As Dickson has said:

"Technology does not just provide in its individual machines the physical means by which a society supports and promotes its power structure, it also reflects, as a social institution, this social structure in its design. A society's technology can never be isolated from its power structure, and technology can thus never be considered politically neutral." 3

The introduction of satellite technology had to face each of these questions and their implications. Though technically, satellite services seem integrally related to telecommunication systems, the issue to be determined was control. The perception of the technology as a threat to the established industry structure is an understandable rationale for the telecom firm's reservations. But the potential advantages of the new technology prompted support from the science community and associated manufacturing sector, and potential users, to implement the satellite system.

#### c. Developmental Efforts

Early developments in Canadian experience with satellites

provided impetus for the idea that Canada should develop a communications satellite system for domestic purposes. Canadian terrain and demographics seemed particularly appropriate for the application of satellite technology. The potentials of the developing technology carried with it high expectations and the emotional appeal of the "new spectator of the space age" should not be underestimated. Satellites were hailed with revolutionary zeal to be the answer to many of the nation's ailments. The political, social and economic climate generated enthusiasm from various interest groups, such that the issue of satellites was perceived as important by others than those affected within the traditional telecommunications industry structure.

The Canadian common carriers had had limited input into the early stages of technical development. Canadian involvement in space research had grown out of international commitments to satellite development.

Within a year of the U.S.S.R.'s launching of Sputnik I (1957), the U.S. joined the space race by launching Explorer I and creating the National Aeronautics and Space Agency (NASA) for intensified developments of experimental space technology. By 1960-1, with encouragement from President Eisenhower for private enterprise to develop and adopt satellites for commercial purposes, the U.S.

Bell System's Laboratories launched Echo I and later Telstar. Although Bell had developed the first commercial satellite in orbit, its early technical characteristics appeared uneconomical. It was the Syncom series (1963-4) developed by Hughes Aircraft (adapted for Intelsat) which demonstrated the advantages of a geostationary satellite for commercial purposes. Canada had participated in a joint experimental research program with NASA.

In 1962 in anticipation of a global communications system, Comsat was formed to represent the U.S. This was followed by the establishment of the International Telecommunication Consortium (Intelsat) in 1964 to operate a global system. Canada had also entered the Intelsat agreement represented by the COTC (now Teleglobe).

Canadian scientific research, involving the development of space technology for upper atmospheric study, had been underway for some 20 years, largely under the conduct of the Defense Research Board. Developmental efforts were components of the Telstar and Relay I (NASA satellite) were designed and built in Canada by the Defense Research Board. It was the Alouette-Isis program that aroused considerable interest, since these satellites were built entirely in Canada (Defense Research Telecommunication Establishment) and launched by NASA. The joint experimental program with NASA was agreed to after the successful launching

of Alouette I in 1962. "One of the conditions made by the Government of Canada was that Canadian industry should be brought into this program to the fullest extent possible in order that by the end of the program a skilled industry should exist in Canada for spacecraft development".<sup>4</sup> A special Parliamentary vote was provided to fund the program through the Defense Research Board.

It was on the basis of the Alouette-Isis and ground station experimental program that the eventual proposal for a domestic satellite program was defended with respect to having confidence in Canadian scientific capabilities.

R.C.A., deHavilland and Northern Electric and other companies, including Computing Services of Canada, had contributed to the Canadian space program, as did a large part of university research. By 1965-1966, the year's figures for expenditure in space research projects was about \$30,000,000. \$17,500,000 was federal government expenditures, \$4,500,000 from the United States participation, and nearly \$6,000,000 was spent by industry.<sup>6</sup> By 1966 the research and development sectors of government and industry were heavily invested in a commitment for the usage of satellites for commercial purposes. The need for developing a market for Canadian

expertise in products and personnel for satellites was gaining support.

Studies of the national economic structure and of the economic prospects were directing attention to the national question of developing an industrial strategy.<sup>7</sup> There was an expressed need for the promotion of a secondary industry capacity in the manufacturing sector.

Technological innovation was considered a key factor in an industrial growth strategy.<sup>8</sup> Satellite technology, an area in which Canada was gaining recognition and proving capabilities, was promoted by the scientific community and the aerospace manufacturers. It also became a claim for national identity. Technological progress was seen as a promotional tool for unity and an aid to reversing the "brain drain" of young skilled Canadians to the United States.

#### d. Contributing Concerns

Other issues were also contributing to the national climate of the time and affected the early development of satellite policy.

After Diefenbaker's victorious campaign slogan of "northern visions", northern development had become analogous with taming Canada's last frontier.

Connotations of the north tend to an economic, as much as geographical, interpretation, as it is often used

synonymously with that which is undeveloped and correspondingly designates much of the vast territory above the southern east-west band of Canada's population and base of economic activity. As the west had been exploited for development of the east, so was the north sought for the enhancement of the economic base of the south, and particularly the multi-national corporations' resource extraction industries. As the transcontinental railroad had aided an earlier period of economic development, so now were telecom facilities sought for fostering economic growth.

"Telecommunications are an integral part of the economic infrastructure and are essentially vital for a region of slow growth as their availability can compensate for some of the physical disadvantages of location in such a region." 9

National identity and national unity had become a preoccupation as Canada was approaching her centennial, with the question "Who are we?" as the national pastime. The American giant was not considered quite so comfortable to be sleeping beside anymore. It was a time for re-examination of what it meant to be Canadian.

There was growing civil unrest in Quebec and strong movements for Quebec nationalism. The Royal Commission on Bilingualism and Biculturalism had been initiated and Canadians were grappling with their dual national heritage.

Satellites were considered a technological marvel which would bind the nation by facilitating communication and two-language broadcasting services across the land. A united Canada was considered a protection of identity.

It was a technology which tended to be viewed in an idealized capacity as a political tool. The issues of the time had set the stage, the parts for the players were related to their interest in the issues and their past experience. The possibilities of the script held a diversity of appeal to the numerous interest groups, forcing the issue of satellite policy to be considered beyond the scope of the traditionally defined role of relationships between the telecom industry and the government sector responsible for its regulation and direction. And, from that, the policy making process took on a unique character. Policy formulation took place outside the established departmental policy channels and regulatory framework.

## 2. SETTING THE POLICY PROCESS IN MOTION

The interests represented within the process of policy formulation were beginning to bare their constituents. Because of the interpreted significance of the new technology, a variety of interests were seeking a say in how a proposal to deal with it could be organized.



a. Staking Claims

In spite of the rapidly increasing investigation in space research by the early sixties, no common objectives for Canadian activities in this area had been defined. The scientific efforts had been fragmented between several departments and agencies of the government, universities and some sections of industry. The Royal Commission on Government Organization (January 1963) had called attention to this lack of coordination and suggested that it be consolidated into a single agency.<sup>10</sup> However, it made no specific recommendation as to the appropriate agency. It was noted by the Commission, though, that the Department of Transport should not be encouraged to set up its own facilities in response to consolidating space research. Space technology was realized as an issue which entailed considerations beyond the confines of the vested interests of the existing telecom structure.

The common carriers being interested in the advent of satellite technology, sought to engage in activities which would influence its potential development. The Ministry of Transport, the federal Department responsible for their sector, represented the common carrier's concerns in the ensuing governmental discussions.

i. Private Interests

Bell Canada was the first of the Canadian telecommunications carriers to express interest in the potential applications of satellite technology, and moved in the direction of staking a claim for the course of such development. In the spring of 1966, Bell Canada applied to the Department of Transport for licensing two experimental ground stations capable of telephone, data, television and broadcasting services to northern communities.

Bell's mandate for servicing northern regions, a potential benefactor of satellite technology, was the basis for Bell's application. Bell's proposal included that Northern Electric would design the ground station with research and development financed by Bell. Bell's application was supported by the Minister of Transport. In a memorandum to Cabinet on the issue of ground station ownership, the Minister expressed the following:

"On the whole, given the present domestic common carrier pattern, it appears that we should permit the major domestic entities to provide their own ground stations if they so desire, so long as the federal government retains control of access to satellite circuits through licensing under the Radio Act. This would mean that either the TCTS group or the CN/CP group, or both would be permitted to provide ground stations if they so desire for domestic purposes only and subject, of course, to the necessary clearance on technical planning with the Department." 11

As there was no government department or agency directly responsible for the new technology, the application was heard by Cabinet and the inter-departmental committee. The licences were approved by Cabinet in July, 1966.

Also during the summer of 1966, the Science Secretariat of Privy Council commissioned a technical study under Dr. J. H. Chapman, Upper Atmosphere and Space Programmes in Canada (released February 1967).

Bell submitted a brief to the Chapman study in September 1966 which suggested the principal application of a domestic satellite communication system should be to extend reliable communication service to the north, while taking a more cautious attitude to applying the technology to the southern east-west market. It was Bell's position that only the established common carriers could adequately meet the criteria for implementing a domestic satellite system in Canada. This brief included the suggestion that satellite communication techniques should be introduced in an "orderly manner" so that possible dislocations of sources of revenues to common carriers may be minimized and consequent penalties to the public at large avoided.<sup>12</sup>

The concern for non-disruption of revenue flows indicates the possible reluctance of the prairie provinces to

endorse a satellite system. The prairie provinces' telephone systems were heavily dependent on revenues from toll traffic routed through their microwave facilities, and hence not amenable to jeopardizing that income. TCTS attempts to maintain a unified approach within its membership, and Bell as a leader of that association, reflected that position. The concern for penalties to the public is indicative of the regulatory system which allows cost penalties to the telephone companies to be directly passed on to the consumer. A change in the flow or level of revenues would likely be accounted for by adjusting the rate structure.

In November 1966, Niagara TV, in connection with Power Corporation and R.C.A., reacting to what was seen as a profitable future oriented industry, sought a piece of the action. They applied for the licensing of a new television national network which envisaged a satellite corporation for distribution purposes.<sup>13</sup> The proposal introduced into the Canadian context the U.S. debate regarding the development of domestic satellite systems on the issue of whether the system should be designed for multipurposes or for dedicated services and how control of the industry should be structured.

Shortly after the move by Power Corporation, the Minister of Transport sent a memorandum to Cabinet regarding the development of satellite communication (November 1966).

In it the Minister recommended that the interdepartmental committee on telecommunications be authorized to develop policy recommendations relating to ground station ownership of a satellite system used for domestic communication, and at the same time that "consideration of issues regarding ownership of the space segment be postponed pending clarification of United States policies and completion of technical studies then underway in Canada".<sup>14</sup> By implication, this raised the possibility that initially satellite spaces for domestic communication might be leased (presumably on Intelsat system) rather than being part of a fully-integrated domestic satellite system. Again this position was consistent with Bell's.

Bell's submission to the Science Council proposed that the leasing of satellite space initially followed by ownership (whether independent or jointly with other common carriers) would appear to be the most suitable evolution. The submission also included a strongly expressed preference for the industry retaining ownership of the ground station.<sup>15</sup> COTC had also favoured the possibility of leasing channels for domestic purposes from Intelsat.<sup>16</sup> Their preference had likely anticipated that COTC would manage such an arrangement like their U.S. counterpart, Comsat. However, for COTC to enter the domestic scene would require an amendment to COTC's charter.

ii. Internal Influences

Following the initial Cabinet discussions regarding the Minister of Transport's memorandum, Gordon Robertson of the Privy Council Office prepared for Prime Minister Pearson a confidential memorandum on "Space Satellite Communications Systems for Domestic Use in Canada". This was submitted to the Prime Minister in February and circulated to Ministers for consideration prior to their March meetings.

Robertson's memorandum was critical of the approach taken by the Minister of Transport on the separation of issues with respect to the earth and space segments. He claimed that the highest priority should be given to the development of an overall and comprehensive policy on satellite communications. Robertson was most enthusiastic about the potentials of the new technology for the Canadian context.<sup>17</sup>

"The mind boggles at what this means for a country like Canada where communications over vast uninhabited distances preferably in two languages are obviously essential and have always been a source of enormous expense." 18

The economies to be achieved with the technical capacity of satellites being independent of distance and the capacity that could be provided for telecommunication services were proffered with technological idealism

as an opportunity for Canada, "far greater than the other communication systems of the past ever envisaged".

But Robertson was also aware of the threat postulated by the potentials of the new technology to the established industry and was skeptical of the role such vested interest should be given by the policies adopted:

"There is no doubt that by making older technology obsolescent for some purposes, the satellite threatens the position and even the survival of the companies whose operation have been based on these technologies. Canada must avoid domination of its communications from abroad, by American public and private interests, and at home by such commercial giants as the Bell Telephone Northern Electric complex." 20

In March 1967 Cabinet passed over the recommendations of the Transport Minister and instructed the Interdepartmental Committee on Telecommunications to report not only on issues of ground station ownership but on questions relating to the space segment as well. The Committee membership was expanded to include representation from the Science Secretariat of the Privy Council Office, Cabinet Secretariat of the Privy Council Office, External Affairs and the Registrar General.

While awaiting a government response, the common carriers, TCTS and CN/CP, put forth a joint application for ownership of a domestic satellite system, and while government deliberations continued, other proposals

were in preparation. (R.C.A. submitted a bid for operation of a satellite system in September 1967, and Northern Electric did so in January 1968.)<sup>22</sup> Committee discussions were still grappling with the fundamentals of what the system could do and how it should operate, and therefore were not in a position to accept specific applications for ownership.

The Interdepartmental Committee, with its varied representation of interests, was responsible for weighing the contending opinions. The stakes in the issue were coming into focus.

A report prepared for the Science Council released in July of 1967 entitled "A Space Programme for Canada", had not been synonymous with the Chapman Report for the Science Secretariat.

The Chapman Report was largely a technical report based on the views of the interested technical community. The Science Council had taken a broader policy oriented approach, and where the Chapman Report reflected the views of certain vested interests like the established telecommunications carriers in respect to satellites, the Science Council saw the development of satellites in terms of a dynamic and important opportunity for a



broad-based Canadian scientific endeavour exceeding the vested interests of common carriers in the telecommunications industry. The Science Council stated that: "It is very important to recognize that the interests involved are much broader than those of the telecommunication industry."<sup>23</sup>

The Science Council's recommendations represented a strong space lobby of the scientific and industrial communities' promotion for a space program.<sup>24</sup> The Science Council believed that decentralized research in the applied sciences would allow Canada to achieve the goal of promoting industrial development.<sup>25</sup>

C. M. Drury, Chairman of the Interdepartmental Committee on Telecommunications, was also Minister of Industry, Trade and Commerce, and represented the manufacturing sector. Much of the industrial capability developed in the earlier space programs fall into this sector.<sup>26</sup> Drury's input on the Committee indicated he was sensitive to the needs of the manufacturing sector, particularly for the development of suitable markets for space products. The private industrial sector had raised expectations from the predicted industrial benefits likely to accrue to them. This perception is attributable to the U.S. model of space programs. American industry had been mobilized by the military and space program. The expectation was that Canadian

industry would also be mobilized, not for military purposes, but under the aegis of socio-economic goals.<sup>27</sup>

The Minister of Transport, I. W. Pickersgill, continued to put forth a position sympathetic to the common carriers. In July of 1967, in a letter to C. M. Drury, he expressed his views on the role of the common carrier in relation to a domestic satellite system. The Minister felt that the relationship should be non-antagonistic. The satellite system, he argued, would require ground linkage with the telephone companies' facilities and hence he concluded their cooperation would be essential to the planning of a system. This conclusion was in part based on the premise that long distance message traffic would be carried by satellite and linked with the local distribution facilities of the terrestrial carriers. Pickersgill contended that the cooperation of the terrestrial carrier would be essential to the effective use of a satellite system. He reaffirmed his support for the carriers' claims by emphasizing the importance of the ground station ownership issue as a means of securing that cooperation. With respect to the ownership of space segment facilities, the Minister suggested a tripartite division, the federal government, the common carriers, and other private interests. He included the federal government on the rationale that

"it would ensure a proper role with regard to those matters of overriding national significance as distinct from purely commercial considerations".<sup>28</sup>

Although the debate on further development of satellite technology had taken place largely among the represented vested economic interests, how it would be adopted for implementation, under whose control and for what purposes had also been forced to be considered in a socio-political perspective. The political sensitivity of the issues had been brought to light by the Prime Minister's key advisors in the Privy Council Office. In the early stages of discussion, Gordon Robertson's report had played a strategic role in widening the parameters of representation in the decision-making process. The "national" significance of a policy proposal in the current economic-socio-political climate was becoming evident.

By the summer of 1967 it was clear there were conflicts within government and that those conflicts also represented potential conflicts within industry and between industry and the public. What would be determined as the "national interest" was not clear. A Task Force was commissioned to study and advise on the question of satellite communication in the Canadian context.

The Task Force was headed by John Chapman who had earlier been responsible for the Science Secretariat study on the

Upper Atmosphere and Space Programme in Canada. Its function was mandated July 14, 1967 to examine Canada's future activities in the use of satellites, in particular, communication satellites and their potential role in Canadian telecommunication services. In preparing this report, the Task Force carried out interviews with numerous government departments, the telecommunications industry, aerospace manufacturers, broadcasting organizations and international centres involved in space programs. The findings of Chapman's Task Force were submitted to Drury.

FOOTNOTES AND REFERENCES

CHAPTER FOUR

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15. The carriers' position as stated in the Chapman Report was that the carriers would not accept the risk or underwrite the costs of developing a Canadian communications satellite system, p.88.
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17. Wyman, Telesat, p.6.
18. Robertson, R. Gordon, (Clerk of PCO) quoted in Wyman, p.6-7.
19. Ibid.
20. Ibid., p.7.
21. Wyman, Telesat, p.6.
22. White Paper, p.38.
23. A Space Programme for Canada, p.10.
24. Doern, "Science Council", p.256.
25. These inclinations are suggested in the Science Council Annual Reports of 1967, 1968. Their ideas are further developed as stated in Report #4, Toward a National Science Policy for Canada. For a discussion of the Council's framework for policy action, see Doern, "Science Council", p.249-65.

26. The Department of Industry sponsored a number of programs directed at space activities. Some of those included were: HARP (McGill research), development of the Black Brant rocket, development of meteorological rocket systems, components of RCA research in satellite communications, and the PAIT program for research in the development of ground stations. The Chapman Report stated that the "major programs sponsored by DOI and DIR were in response to export market surveys which revealed a potential future foreign market for products resulting from such programs". p.81.
27. Doern, "Science Council", p.258.
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CHAPTER FIVE - OPERATION OF DECISION-MAKING

1. FORMULATION

a. Statement of Intent - A Policy Proposal

The Task Force submitted its report in November, 1967 and on March 28, 1968, the White Paper entitled "A Domestic Satellite Communication System for Canada" was made public by the Minister of Industry, Hon. C. M. Drury. The White Paper was largely based on the work of the Task force.<sup>1</sup> Its main premise was that primary concern should be given to the creation of a Canadian-owned and operated domestic satellite system. This is the first public disclosure of the government conclusion that "a domestic satellite system is of vital importance for the growth, prosperity and unity of Canada and should be established as a matter of priority".<sup>2</sup> It embodied an accepted conclusion that there was an established need, and that satellites were the answer. As Dalfen notes, this "conclusion" preceded the formal discussion of satellite policy and appeared to represent a consensus of opinion, a practice which was not consistent with traditional policy processes.<sup>3</sup>

The White Paper outlined the background to the development and use of satellites for communication purposes and Canadian participation in that development. It rested its decision on the proposed benefits of television broadcasting services in both languages to all parts of Canada, on the advantages of increased services for the



north and on the need for increased capacity to meet east-west communications traffic demands. The decision to get into satellite technology on a domestic basis was considered to be of some urgency in order to retain orbital "parking" slots for the space segment, and to maintain a place for Canadian research and development in the advancement of satellite technology. To achieve these objectives, the satellite system was to be a national undertaking, operating as a single system, in a corporate form.

The document was based on an emotional appeal to the expectation of social and political benefits to be derived. But yet to be implemented were the institutional arrangements necessary to achieve creation of the entity within the specified parameters. The White Paper on policy for the introduction of satellites became the vehicle for the enunciation of the national objectives of the time as the system's objectives.

i. National Objectives as System Objectives

Northern Development

Northern development had become a national objective. Resource exploration was flourishing. The satellite system was an inducement. The rationale for securing a satellite system for furthering economic development of the north became explicit during debate of the Bill. The promotion of satellite service is couched in terms

of "communication needs in the north" but the assumptions of the White Paper are implicative of the purposes a satellite system was expected to serve.

The policy assumption that is continually reiterated with respect to northern service, is that Canadians expect and are entitled to high quality communication services.<sup>4</sup> Therefore it was seen that the satellite was the economic solution for the provision of communication services. But with respect to its implementation in the north, this is based on accommodating the needs of the imported southerners involved in the economic development of the north. This idea of northern service is based on the disadvantages associated with a lack of facilities for economic and government activities in the north.

"The reduced sense of isolation that this would achieve could have a marked beneficial influence in attracting personnel to government and industrial projects in remote areas... In addition to mining and industrial interests, there are many government departments and agencies with responsibilities in remote areas. Their efficiency often depends to a very large extent on adequate communication facilities." 5

Northerners were not consulted in assessing the applicability of satellite services.

#### Scientific and Industrial Progress

Technological progress was promoted as a national objective. Strengthening the industrial capacity was seen as a

nationalistic endeavour. Again the satellite system was sanctioned as a means of promoting scientific expertise in an area in which Canada had already demonstrated competency, and which could claim international applause in contributing to the space race.

"National identification is ultimately associated with technological progress. The programs such as this to attract and hold scientists, engineers and others and to cause them to identify their own aims with those of Canada cannot be ignored." 6

Increased research and development in the establishment of a satellite system and industry would alleviate the Canadian predicament of having to buy back expertise as imports, while strengthening an indigenous Canadian aerospace industry. It was an industry Canada could handle. Canadian electrical and communication manufacturers and operating industries had established competency in earth and satellite design and manufacturing.<sup>7</sup> The branch plant status of major corporations in the aerospace industry were not considered non-Canadian beneficiaries of such a policy.

The space program had developed largely on public money, therefore it was a useful political argument to promote further public input as an anticipated beneficiary of the proposed system. It would serve as a means of practicalizing the development financed in the Alouette-Isis satellite series by public funds as a domestic

satellite system could recoup such expenditures for national purposes.<sup>8</sup> Further, the government considered its participation "would facilitate the involvement of Canadian industry, encourage the advancement of Canadian science and technology, permit the reflection of the interests of various levels of government and otherwise best serve national interests."<sup>9</sup>

#### Scarce Resource

Another argument for urgency in proceeding with the development of a domestic satellite system was the need to grab a parking orbit, as orbital slots or parking spaces for geostationary satellites in orbit had become defined as a limited resource. The scarcity argument has been contested<sup>10</sup> but at the time it was argued that slots that would be convenient for a Canadian satellite would also be geographically convenient to the United States, and therefore it was seen as a national priority to stake territorial claims.<sup>11</sup>

In most instances of radio frequency use, formal national recognition of a country's requirements tend to be achieved on a first-come-first-served basis. There was, therefore, a sense of urgency that planning the Canadian domestic satellite system should proceed apace.

### National Unity

Another national objective had come to be the emphasis of a dual national heritage. A satellite system would make the extension of broadcasting services in both languages economically feasible and politically convenient.

"The extension of national television services in French and English languages to all parts of Canada is an important element of Government policy." 12

Two-language broadcasting was repeatedly stressed as a priority item most applicable to satellite distribution.

"It will also meet the special challenge which exists in Canada to improve TV programme distribution, throughout the nation, in our two founding languages." 13

In light of the fact that there was the possibility of plans for Quebec arranging "feeds" from the Franco/German Symphonic Satellite System was perhaps another rationale for the government's prevailing sensitivity to Quebec's concern.<sup>14</sup>

The appeal to the strengthening of our cultural heritage makes no provisions for the specific nature or design such a service may take, but the assumption seems to be that by merely having the capability to provide it, the "problem" would somehow dissipate.

Control over communication arteries was recognized as a highly significant strategic tool for political, economic and social purposes. And the government had established a policy that "control of communication is a basic element of national security".<sup>15</sup> A communication system was extolled as the backbone and nervous system of the country.<sup>16</sup> Satellites, therefore, were professed to be the key element to extending the electronic network and resulting, presumably, in stimulating cohesiveness while asserting territorial sovereignty. The satellite system had become the envisioning of a vehicle for national policies.

ii. The Proposed Entity

It was for these objectives that the satellite system was to be created. The entity proposed for the task was formed by the following criteria: a national undertaking, as a single system in a corporate form.

The White Paper recommended that the system be a national undertaking under the jurisdiction of the government of Canada.

With respect to ownership, the government decision was that it should participate in "an appropriate manner with private interests".<sup>17</sup> The White Paper suggested

no specific pattern, but announced that the government intended to initiate discussions with interested parties in the private sector with the expectation that "the pattern of ownership needed to maintain effective government control in these matters involving the national interest will emerge from these discussions".<sup>18</sup>

The White Paper intended that the satellites and earth stations together "would form a single system under the control of a single management".<sup>19</sup> The unified system approach was justified on the grounds that it: "would provide operational and technical control which is essential to facilitate the progressive incorporation of new technology and so fulfil the minimum conditions for financial success".<sup>20</sup>

The third criteria to be met was that the system should have a corporate form:

"in order that it may sell its services efficiently to the common carriers and television systems; in order that it may compete effectively in those areas where competition is appropriate; and in order that it may finance its activities through a suitable combination of equity and debt capital." 21

For regulatory purposes, the proposed satellite system was considered to be "related intimately with the regulation of terrestrial communications and that such

regulation was needed to protect the public interest regarding rates and cost allocations, the avoidance of wasteful duplication of facilities and the interconnection of all facilities into national and global networks.

It was concluded that:

"government is already enquiring into new legislation which will ensure comprehensive regulation of telecommunication services both terrestrial and satellite." 22

With respect to the usage of the system and its relation to the existing common carriers, the White Paper stated the government's position that it recognized the importance of securing interconnection with the terrestrial based circuitry controlled by the telecommunication common carriers.

"No satellite system envisaged could operate with maximum benefit without being extensively linked into existing and future terrestrial systems." 23

Essentially the White Paper was an emotionally charged political document which committed the government to participation and ownership in a domestic satellite system with certain objectives of a particular form, as a priority item of government business. It leaves unresolved the nature and extent of private participation and the question of the role of the terrestrial common carriers in relation to the said corporation.



The most crucial and fundamental details were yet to be negotiated, for it was the critical elemental relationship of the common carrier to the system that would determine how and whether the objectives would or could be met.

The intentions of the satellite corporation were to provide all types of services - broadcasting, telephone and data - as a multipurpose system. In so doing, it was considered too important a matter to be left to the discretionary powers of private interests, yet it is paradoxical that the role the government was to take vis-a-vis the common carriers was the least defined. The issue of the role of technology as a complementary or competitive force to existing systems was left unresolved.

"preference for competition is faced with the unpleasant fact that interconnection cannot be circumvented. The potential competition of satellite to terrestrial systems in the long run is a matter of major proportions in discussions leading to establishment of the corporation." .24

The negotiation of this relationship would have to contend with the most powerful of the interest groups, the telephone companies, specifically Bell Canada.

b. Recommendations for Action

Following publication of the White Paper, the government established a Project Office to initiate and coordinate

the planning activity to establish both a satellite system and the corporation to own and operate the system. R. M. Mackintosh, General Manager of the Bank of Nova Scotia, carried out the principal financial and corporate studies for the Office, during which time he reported on a confidential basis to C. M. Drury at the Ministry of Industry, C. M. Drury also being Chairman of the Cabinet Committee on Satellites.<sup>25</sup>

Mackintosh was a key figure since his task of designing the corporate structure and financial participation was a delicate matter of defining the role and nature of commitment of the interested parties. The resulting legislative Bill delineating the corporate form and structure of the satellite system was largely drawn from the basis of the Mackintosh report. Mackintosh's private negotiations with the industry representatives was an exercise of concession-making. His recommendations provided the foundations for compromise, a compromise which merely subsumed the conflicts but did not resolve them.

Mackintosh's recommendations included the following:

1. ownership of corporation should be on a tripartite basis;

2. that initially, the satellite system should serve only the telecom carriers and broadcasting networks;
3. that the corporation should act with the motivations of a private corporation.

i. ~~The Tripartite Arrangement~~

The concept of tripartite ownership was similar to that proposed by the Minister of Transport a year earlier with the significant exception that it included earth station ownership. Mackintosh expressed considerable sympathy for the carriers' plight, both privately to Drury and in his report to the federal government submitted in July.<sup>26</sup> Rather than pursuing the carriers' claim for earth station ownership, but sensitive to their apprehension of how the system would be used, he suggested a balanced ownership arrangement which would provide the carriers with decision-making power on the management of the system.

- The proposal to remedy the situation was tripartite stock ownership (federal 30%, including 4.5% for CN; common carriers 30%, excluding CN; and 40% general public) under the assumption that:

"the general public part should be large enough to prevent either of the other two groups from exercising control although not large enough to prevent the other two groups from combining to exercise control." 27

The tripartite ownership proposal put an institutional constraint on the corporation since owners would be cross purposes. The carriers have a vested interest in limiting the satellites from exhibiting advantages over the terrestrial system.

ii. Usage Relationship

With respect to usage of the system, Mackintosh recommended with a view to promoting the corporation's profitability, that the satellite system in the beginning should sell its services only to the television broadcasting and existing telecommunications carriers.

"it (the proposed domestic satellite corporation) should not become a cream-skimmer. They (carriers) feel that if the ground stations are not owned by the carriers that the satellite corporation would become the thin edge of the wedge which would lead to competitive rate cutting in Canada to the detriment of the common carriers." 28

The main concern of the carriers was that the satellite corporation might pose a serious competitive threat. The carriers' argument as reported to Drury by Mackintosh was that the satellite system, if used competitively in the long haul east-west traffic market would siphon off the profitable market which the carriers needed to cross subsidize other basic services. TCTS pursued the issue on the basis that competitive inroads would not be in the "public interest".<sup>29</sup>

The cream-skimming argument is a standard response to the possibility of entry for a competitive service. Beigie has stated that:

"there is no a priori basis for evaluating the argument that entry into the telecommunications field must be blocked to avoid cream-skimming on high profit services or routes." 30

The cream-skimming argument is based on the carriers' claims that high density traffic routes subsidize other services.

Subsidization practises, their form and extent of impact on rate structures in telecom services, are not explicit if employed at all. Recognizing this, the economic recommendation then would be that entry should be allowed if it increased efficiency and any consequent subsidy payments made explicit if required for social policy purposes. There is no data available to determine the validity of the argument pro or con the Canadian context. The CTC, in 1969, began a cost-separation study which is still underway, now under the auspices of the CRTC.

In testing ATT's argument on "cream-skimming", United States studies of practices within the Bell system demonstrate that cross-subsidies based on a social policy of uniform pricing occur within individual monopoly services and therefore the entry of a new competitor holds no threat of cream-skimming between services.<sup>31</sup>

Cross-subsidies not in the public interest as have been practised by U.S. Bell, have been shown to occur between monopoly services where monopoly users, in effect, subsidize the competitive sector of Bell's services.<sup>32</sup>

TCTS rate structures are not regulated but within Bell Canada's operation, data relating to rate of return per class of service has not yet been made publicly available, but it would not be entirely unlikely to find corresponding practices used by Canadian carriers.

Mackintosh's proposal for limiting satellite services to telecommunications carriers and broadcasting precludes the possibility of it being a competitive threat and, in fact, hinders his promotion of corporate profitability. By suggesting the "carriers' carrier" role for the satellite corporation, he evades the difficulties of facing the issue of interconnection should the satellite system take on a competitive position.

Mackintosh did make note that in the future, with respect to satellite communication "that telecommunication regulatory authority should give long and hard consideration before authorizing any further terrestrial long haul system." <sup>33</sup> (The second TCTS network was authorized and seriously precluded the possibility of satellites as viable in east-west markets.)

### iii. Corporate Objectives

Mackintosh emphasized that it was an important principle that the satellite corporation so far as possible

should act with the motivations of a private enterprise. He considered government participation in the financial arrangements should be kept to a minimum to be consistent with the government purpose as outlined in the White Paper. The White Paper had stated that the proposed organization was to have a corporate form in part, "in order that it may compete effectively in those areas where competition is appropriate".<sup>34</sup>

The only areas in which the satellite could be economically viable and therefore a competitive threat, were in the east-west traffic market. Mackintosh's compromise by means of tripartite ownership with emphasis on the corporation acting with private enterprise motivations, puts the proposed corporation in a delicate bind. The White Paper had suggested, as had earlier been stated by the Science Council, that the system was too important to be left in the hands of private interests and that at least some degree of government ownership was required in order to ensure the attainment of national objectives. The stipulation that the corporation, acting to the fullest extent with private enterprise motivations, is at cross purposes with achieving the social objectives established in the White Paper unless they are economically viable.

The three elements of compromise; tripartism, carriers' carrier role and economic viability, impose institutional constraints on the proposed corporate entity. The constraints are contradictory. To be economically viable, the corporation must operate in a profitable market (for example, the east-west southern band), but if only allowed to carry broadcasting or carriers' services, it eliminates the potential market for private data services and cable arrangements. Usage of the system therefore is restricted to the demands of its potential competitors.

The carriers have a vested interest in not using satellite services. To do so would demonstrate the advantages of the satellites and thereby possibly open the market. Also, the regulatory environment permits the costs of the terrestrial system to be calculated in the carriers' rate base and revenue level requirements. The costs of using a satellite cannot be covered in the same manner. Further, the ownership arrangement provides that the contradictory interests involved have input in investment decisions. This is highly significant in light of the decisions which were made on the size and cost of the system established by Telesat and the resulting rate structure for its usage.



Mackintosh's main task for defining the corporate structure of the proposed entity revolved around securing the cooperation of the telecom carriers. The concessions made in those negotiations demonstrated the government's unwillingness to offend the established institutional structure by means of a confrontation of any significant degree. A critical point of the negotiations was in accepting the arguments of the dominant corporations as valid and legitimate and therefore reinforcing the notion of their status. Similarly, the notion that the government participation should be kept to a minimum is also contradictory to the anticipated objectives of the system. On one hand, the government promotes satellites as a political and social tool while restraining it to economic criteria of success. And, if the system could be economically successful, and since its development has been based on public expenditure, it was now expected to be limited in the recoupment of that investment. The satellite system, then, appeared to offer that social costs will be publicly covered while economic benefits will be guaranteed for the private sector. The recommendations and their implications indicate a reluctance to accept the proposition that a publicly supported corporation should compete with private interests in a viable market.

The perceptions which precipitated these recommendations have, I would argue, been ideologically conditioned by the historical relationship of government to industry, particularly as evidenced in matters of national policy. The ordering of priorities in the negotiations reflect value laden assumptions.

## 2. IMPLEMENTATION

### a. Legislative Process

#### i. The Telesat Canada Act

The Project Office's report and that of the special consultant, R. M. Mackintosh, were submitted to the Minister of Industry in July 1968. An election was held during this interval and under a Liberal majority government, Bill C-184, based on the work of the Project Office was introduced by Hon. Eric Kierans, the new Minister of Communications on March 24, 1969. The national objectives described at length in the White Paper were not embodied in the Bill. Instead the replacement consisted of the corporate objectives specified as:

"Section 5(1) The objects of the company are to establish satellite telecommunication systems providing on a commercial basis, telecommunication services between locations in Canada." 35

Section 5(2) prescribes certain policy considerations relating to Canadian content in the research,

development, design and construction of the satellite systems, which reflects to some extent partial fulfilment of one of the objectives as explained earlier.

The powers of the company described in Sections 6 and 7 permit the proposed corporation to design, construct, operate and maintain satellite systems: to enter into suitable launching arrangements: to enter into contracts for the provision of telecommunication services by satellites: to conduct research and development work: to assume most of the powers set out in Sub-Section 16(1) of the Canada Corporations Act: to acquire and sell shares of similar companies on the recommendation of the Minister; to issue and allot fully paid up shares of the company: to carry out the objects of the company: and to do other things incidental or conducive to the attainment of the objects of the company, and to enter into arrangements other than amalgamations. (This clause is significant regarding the TCTS-Telesat agreement.)

The duties of the company in Sections 8 and 9 relate to the utilization of Canadian skills and content in satellites and earth stations, and require the company to submit proposals to the Minister of Communications for approval. Negotiations with foreign states are

proscribed except under direction of the Minister.

Under the heading "Capitalization", the authorized capital of the company is prescribed, together with directions relating to the issuance, distribution and convertibility of shares. Head Office as prescribed in Sections 11-17, defines the number, qualifications, powers and duties of directors. Sections 18-27 cover the Transfer and Transmission of Shares, the Register of Transfers and the Voting of Shares, authorized shareholders and allotments to be approved. Sections 29-37 refer to application of Statutory Provisions, particularly the Canada Corporations Act and other corporate limitations.

Federal government participation is covered in Sections 28-44 relating to acquisition, disposal, holding and voting of shares, and the extent of holdings. Section 41 provides authority for the Minister of Finance to lend money to the company, and that the government may guarantee the repayment if funds borrowed by the company, and that any federal department or agency engaged in related research and development may enter into contracts with the company.

Two schedules are annexed which list the approved telecommunications common carriers, and set out conditions affecting the acquisition and holding of shares by the general public.

The conditions of ownership of the satellite system became one of the main points of contention during the Legislative proceedings. The proposed Act, while not specifying precise proportions, reflected the tripartite concept suggested by Mackintosh. Section 27 authorized three categories of shareholders of common stock: the federal government, approved telecommunications common carriers, and the general public (in accordance with statutory conditions specified in Schedule II).

The board of directors, with the approval of the Governor-in-Council, had the right to determine the proportions of the shares issued.

ii. Government Explanation

Ownership Financing

On introducing the Act before Parliament (on second reading) on April 14, 1969, the Minister of Communications suggested that the approximate split of shares in three equal parts was the government's anticipation, but it was not included (with a precise breakdown of the allotment) in the legislation as it was still subject to the completion of negotiations with the

common carriers. The legislation was said to break new legal ground as no existing corporate entity in Canada consisted of a tripartite arrangement.<sup>36</sup>

This structure was said to provide that there would "be no power without financial responsibility and no responsibility without power".<sup>37</sup> But Kierans admitted the success of the project lay in the negotiations of crucial importance being carried on with the principal users and participants. The pattern of ownership needed to maintain effective government control in those matters involving the "national interest" was expected to emerge from these discussions.

"specific interests that are at times competitive have to be reconciled with the national interest and the national interest has in turn to be balanced against the need to ensure an adequate return on investment by the shareholders of the corporation. This legislation I am confident achieves these aims." 38

The government stated that it had rejected full ownership proposals by the carriers because the project serves a national purpose.<sup>39</sup>

Mackintosh later replied during the Committee Proceedings that his rationale for keeping government financial involvement to a minimum was:

"There was a certain financial stringency on government which I assumed would be on-going from the beginning of 1968 when I became associated with the project, for several years. Therefore one of the objectives would be to minimize the financial obligation to the Government of Canada while at the same time trying to preserve a degree of government involvement which would reflect the very important role of government in this affair." 40

Mr. Kierans had defended the rationale of common carrier participant ownership with respect to the necessity of raising the required capital on the ground that: "this is a capital short country, we have to take advantage of every asset that we have here."<sup>41</sup>

Since the financial commitment of the parties was still subject to negotiation, the issue of usage had no statutory definition. The Minister's view of the relationship of the common carrier to the corporation was stated as follows:

"Aside from their expertise in telecommunication the common carriers will be the principal users of the system. They will rent its services to retail to their own customers. The corporation will operate as a complement, not as a competitor to the common carriers. Except in the instances of the Canadian Broadcasting Corporation and of certain possible purchasers of a complete undivided television channel on a sustaining basis, the sole customers of the corporation will be the common carriers." 42

### Corporate Objective

During the Broadcasting Committee Hearings, the Minister of Communications interpreted Section 5(1) relating to the provision of service "on a commercial basis" in the following manner:

"In Clause 5 I think on a commercial basis, by which we mean that we want Telesat to be a viable corporation. There are some viable corporations in the government: the Canadian Overseas Telecommunication Corporation is an extremely profitable corporation... Further, that it is on a profitable basis... on a self-sustaining basis, that is what commercial basis means... rather than by government subsidy." 43

In response to a subsequent question, the Minister added a statement not unlike the sentiments expressed in Mackintosh's report as referred to here earlier:

"I think they (the carriers) have some confidence that this is going to be managed in approximately the same way as a private corporation would be managed... certainly with the same motivations." 44

Profitability was considered to be a determinate of the structure of the corporation. This was based on Kierans' expectation that the system would be a "compact" model rather than a "Cadillac". The smaller version, i.e. a 6-channel satellite, was expected to guarantee full channel usage by the carriers and the CBC.<sup>45</sup> This was highly significant, given



that Telesat, once established, commissioned the larger system.

Throughout these tactical manoeuvres, Kierans, though aware of the political threat posed by the common carriers and their supporters, was more worried about the economic arguments posed by the terrestrial operators.<sup>46</sup> Despite the proposed commercial nature of the system, the considerations which resulted in the decision to employ a satellite system for domestic purposes, were not wholly or even primarily based on economic criteria, as was evidenced in the rationale of the White Paper. The establishment of a domestic system had been pursued as a vehicle for national policies.

During the tenure of Chapman's Task Force, a cost-benefit analysis had been prepared, and it concluded that the benefits outweighed the costs. However, it did not indicate the nature of the comparative advantages<sup>47</sup> of satellites over microwave technology in cost-benefit terms. The Deputy Minister stated the specifics of the cost-benefit analysis were not available and would not be made available when Opposition members requested such documents.<sup>48</sup>

### Purpose

The government's presentation relied on promoting the social and cultural benefits, emphasizing the system's usefulness in political rather than economic terms. The general theme running through the government's proposal and defence of the Bill is captured in the following:

"But our problem here in Canada is that we have to lay the groundwork for nation-building. Therefore you can say that in building it now we are ahead of ourselves and you could also point to the fact that no other nation is as far advanced along the road to a domestic satellite communications system in Canada. I am very proud of it for the fact itself, but I am even prouder of it because we have at last recognized the need. We have done it before. We did it in the time of railway building." 49.

Northern development was the basic promotional tool for implementing a satellite system. It was lauded as a national policy and supported by various Cabinet members, their departments and constituents. It was a theme which had meaning to many but for various anticipated benefits.

"When it is national policy to try to open up the North, to make these vast regions more attractive and develop the resources, the philosophy of the Bill and of the Government is that this system can create the capability of transferring the character of the North over a longer period." 50.

Chretien, Minister of Indian Affairs and Northern Development, presented to the Commons his belief that the satellite system would relieve the problems of attracting qualified people to the North and, with recent successful oil exploration in Prudhoe Bay, the MacKenzie Valley and the Arctic Islands, high quality communications into these remote areas was paramount.<sup>51</sup>

Kierans had introduced the Bill for Telesat with the analogy that it "amounts to a Northern vision for the 1970's", and continued to reaffirm Telesat as the vehicle for the development of the North:

"One of the deterrents to investment up there is precisely the lack of communication. A great many people would go there if there was not this complete isolation when they got there." 52

### iii. Political Opposition

There was general agreement among the Parliamentary representatives on the desirability of establishing Telesat. The satellite system had become synonymous with the national policy goals it was expected to fulfil. The emotional appeal of the political arguments used to promote the system considerably reduced the manoeuvrability of the political opposition parties. The question of: "Do we need a

satellite system?" was not at issue. There was an accepted conclusion that a domestic system should be established. The only form of political contention was on the issue of ownership.

Repeatedly throughout the proceedings, New Democrat Party members, Saltsman, Schreyer, Skoberg and Lewis argued for a Crown corporation to assure that the distribution of profits would be to the public rather than to business, to assure that the system would be adequately regulated, and to assure that foreign stock ownership would significantly affect Telesat operations.

As Hon. Mr. Lewis argued, the tripartite arrangement would, in effect, put 70% of the enterprise "in private hands that are motivated by interests that have nothing to do with the public interest".<sup>53</sup> He continued to point out that Canada has long recognized the importance of public ownership in transportation and communications in this country, so why are we handing over to the corporation control of what the Minister called the nervous system of our society?" and that to do so was to promote "vertical integration of the most evil kind!"<sup>54</sup> The situation as proposed by the Minister, in effect, provides a public

guarantee for private investors whereby if the corporation is profitable it is a benefit, but because it is also an "essential" (the satellite system) for Canada, we would have to make good its losses.<sup>55</sup>

Mr. E. Schreyer (then New Democrat Party - Selkirk) argued that the company should be entirely publicly owned as a Crown corporation and that any other format would be "a sellout of the Canadian public interest".<sup>56</sup> He stated his belief that for reasons of constitutionality and better federal-provincial relations the corporation should be established with 51% of shares held by the federal government and the balance allocated proportionately and appropriately to the Crown in the right of the provinces. To do so would be doing Canadian unity a great tangible service.<sup>57</sup> Schumacher for the Conservatives repeatedly protested that "Government enterprise never built anything in an efficient manner."<sup>58</sup>

#### iv. Carriers' Response

The carriers, on the other hand, were not about to openly sanction the proposed system nor condemn it. They were still negotiating their own position with

TCTS and Bell as the principal play-makers. Being the dominant corporate interest likely to be affected by the new corporation, their bargaining position shifted with their anticipation of accruable benefits. Their arguments shifted to focusing on the economics of the system.

The carriers were concerned that the satellite might be utilized in competition with the existing technology. Lester, Vice-President of Bell, had commented before Parliament:

"I do not really think that the long term future of telephone facilities is via satellite. I think this lies more in some of these other directions of wave guides and lasers." 59

A. J. deGrandpre (Pres. of Bell) stated that using the carriers' figures, the conclusion was that the satellite system would be uneconomical.

"We came to the conclusion that the cost of providing transmission via satellite is more expensive than using terrestrial microwave facilities." 60

Originally the carriers suggested that 25% of the per annum increase (referring to east-west traffic requirements growing at 20% per annum) be assigned to satellites. By the time of the Committee Hearings,

however, it was clear that they would not be the sole owners of the Telesat system, and the Chairman of the Trans Canada Telephone System was no longer prepared to support the White Paper's assertions.

"Krupski's objective now was to try to restrict usage of the system to carriers, reserving for the carrier the possibility of opting out of Telesat were his objective not granted." 61

He now argued that the east-west microwave system was capable of meeting current needs and could be expanded to meet future needs. He saw the satellite as useful merely for bringing television to remote areas.

"The main benefit from this satellite system will be for the distribution of television signals... As far as telephone service to the far north is concerned a satellite system of this type will offer initially only marginal improvements... The advantages of the satellite system for east-west telephone communication will also be marginal." 62

Satellites, according to Krupski, are an uneconomical venture and that for carriers to be involved would mean that the general public, as telephone subscribers, would bear the burden of cross-subsidy.<sup>63</sup> And that if the satellite was to provide service on a competitive basis, it would be unfair to expect the telephone companies' cooperation. Should the corporation offer its services to users other than

the carriers, it would mean that the members of the Trans Canada Telephone System would have invested in and be supporting a corporation with which they would be in direct competition. TCTS argued that such action by the System companies could be to their detriment and might be considered prejudicial to the interests of their owners, i.e. the shareholding public.<sup>64</sup>

Subsequently, TCTS, during the Committee Hearings of May 6, sought to convert the earlier statement of the Minister regarding Telesat's role as a complement not competitor, into a statutory commitment by proposing an amendment to Section 5(1) which would have legally restricted Telesat to a common carrier's role except for sales to the Canadian Broadcasting Corporation for television distribution and other governmental uses.<sup>65</sup>

On May 20, Kierans, Minister of Communications, rejected the proposed amendment as unacceptable.

"The Trans Canada Telephone System, when they proposed this amendment, did not make any offer, for example, to confirm that they themselves would be customers of the corporation. In other words, they want to bind the corporation into a position where the corporation could sell only to them but they were not necessarily bound to buy from the corporation." 66



Nevertheless, the Minister calmed TCTS' anxieties by re-emphasizing the view that Telesat would be a complement, not a competitor, to the existing telecommunications common carrier, adding:

"Further, I will say plainly that it would be inequitable to invite such companies to compete against themselves. The apparent difficulty can, I believe, be resolved, and I have already proposed this to the common carriers, namely that in signing contracts of participation that Telesat Canada should only sell to customers who require a complete television equivalent channel on a sustaining basis." 67

TCTS, somewhat placated, withdrew the amendment and issued the following statement:

"In restating Telesat Canada's role as a complement, not a competitor to the common carriers, Mr. Kierans observed that it would be inequitable to invite such companies to compete against themselves, and indicated his belief that the question could be satisfactorily resolved in contractual arrangements between Telesat Canada and the common carriers. The Trans Canada Telephone System concurs with his proposal and agrees that a stipulation in a contract to reflect the above intent could satisfactorily resolve the matter. In view of this, we now feel that the amendments recommended in our brief to your Committee are no longer required." 68

The Bill was passed virtually unaltered on Third Reading on June 13, 1969 by the House of Commons, passed on Third Senate Reading and Senate Committee on Transport and Communication Hearing, June 17-26, and received Royal Assent on June 27 as Telesat Canada Act C-51 (1969).

Telesat Canada was incorporated in September 1969. Mr. D. A. Golden was appointed as President, and Mr. J. A. Ouimet as Chairman of the provisional seven-man board of directors. Golden had acquired knowledge of satellite technology while serving as director of the Air Transport Association. Mr. Ouimet was the immediate past president of the Canadian Broadcasting Corporation.

b. National Objectives and System Performance

The Telesat Canada Act had stipulated the corporate objectives, not the national policy goals as associated with the White Paper, even though the defence of the Bill continued to be engineered on the basis of national objectives. From the time of Telesat's inception, the corporation has continued to act in accordance with its legislated mandate, with the primary objectives and motivations of a commercial enterprise. Its corporate responsibilities have subordinated any anticipated social purposes to spin-off benefits secondary to the economic objectives and operational performance of the system. Telesat's performance in terms of meeting the proposed national goals of increased industrial capacity, northern development, national identity and unity is characterized by the following evidence.

i. Industry Benefits

Securing a domestic satellite system was intended to be an impetus to the aerospace industry and manufacturing sector associated with the development of the Canadian space program. A significant example of Telesat's fulfilment of the intended benefits is evident from the controversial incident of awarding the initial contracts for supplying the system's hardware.

In early 1969, it was still uncertain as to who would get the contract for building the proposed satellite. The two main contenders in the Canadian market were Northern Electric for the electrical system, and RCA of Montreal for the spacecraft portion. During discussion of the Telesat Bill it was admitted that a Canadian developed system would be more costly than buying a "package deal" from American enterprises.<sup>69</sup> As a matter of policy, it had been decided that in light of the anticipated residual benefits of an all-Canadian system, the American offer was to be rejected.<sup>70</sup>

Shortly after Telesat's incorporation, RCA was commissioned to study the technical specifications and report on cost and delivery schedules. The

study was to be used for recommendations on the awarding of contracts for designing and building the first two satellites. In the spring of 1970 after the announcement of the U.S. policy on domestic satellites, Hughes Aircraft approached Telesat with a proposal to construct a satellite for \$30 million. This was half of the RCA cost estimates.<sup>71</sup>

Hughes Aircraft had developed the Syncom series for NASA in the early 1960's, which had demonstrated the potential of geostationary satellites. Hughes had been the prime contractor for satellite spacecrafts for the Intelsat program, having produced the first five space vehicles. While Canada was proceeding towards establishing Telesat, Hughes had been involved in the twelve-year controversy surrounding the implementation of a domestic system in the United States. Research and development at Hughes' operations were in full gear by the spring of 1970. The Hughes' bid had jostled RCA. Later that summer RCA submitted a revised proposal for a \$42 million scheme.<sup>72</sup>

The debate over awarding the satellite contracts was a politically sensitive issue. Telesat President, D. A. Golden and (then) Finance Minister Benson, opted for the more economical deal offered by Hughes.

The Minister of Industry, Trade and Commerce, Pepin, Treasury Board President Drury, and the Science Council of Canada argued furtively that it should be a Canadian industrial undertaking.<sup>73</sup> Drury had initially represented the manufacturing interests as former Minister of ITC and Chairman of the Satellite Committee in the early stages of policy formation.

The Science Council's political strategy had been that of a "behind the scenes advocate", relying on informal persuasion rather than public confrontation. It had endorsed the establishment of Telesat on the basis of the anticipated objectives. When it appeared that these objectives were being contravened by the possibility of accepting the Hughes bid, the Chairman opted for a strategy of open criticism of the government position, but it was too little too late.<sup>74</sup> Hughes was awarded the contract on July 31, 1970 by Cabinet order. Kierans, the Minister of Communications, had authorized the approval, lamenting that with regard to the time and price constraints which pressured the decision, that was "the price we have to pay for being Canadians."<sup>75</sup> Proponents of the Canadian system resigned themselves to the decision and Kierans later remarked "sooner or later even the

Americans will discover they don't have enough money to do everything they want to. Some opportunities for us are bound to open up."<sup>76</sup>

Hughes' bid was considered by some financial and technical opinions as a loss leader which would pay off later in terms of establishing itself a corner of the market. Why RCA was not willing to take the risk of short term losses in order to do the same was rationalized as being due to their unwillingness to pursue patent suits involving Hughes, and that Hughes, being the pioneer in synchronous satellites held the upper hand in preparation.<sup>77</sup> Northern Electric had earlier teamed with Hughes through technical service licences for use of Hughes satellite technology.

By 1968 Northern Electric and Hughes had negotiated a licence agreement with the aim of establishing in Canada the ability to design and manufacture satellite system equipment.<sup>76</sup> Hughes had also been responsible for one of the technical sections in a study by Northern Electric (Northern Telecom) for DOT in 1966.<sup>79</sup>

The Hughes bid provided for 12% Canadian content, (RCA had offered 65% Canadian content.) in which Northern Electric would provide the electronics

system and Spar Aerospace (earlier research and development part of deHavilland Aircraft) would provide the space craft structures.<sup>80</sup> When the contract was signed in September, Canadian content was established at 20% for the three satellites. It was also agreed that Northern Electric and Spar would provide parts for 15 more spacecraft on the world markets. (Hughes later sold a similar package to Western Union at a significantly reduced price.)<sup>81</sup>

The consequence of the contract awards had limited the industrial beneficiaries of the aerospace industry and thus not induced a broad based space industry. The main subcontractors have acquired dominance in specialized fields, but other potential industrial capacities for the space program have not developed. NASA launching facilities have been used consistently by Telesat as a more economical arrangement than developing such facilities in Canada. Spar Aerospace Ltd., in particular, has grown substantially as subcontractor for Telesat's three series of satellites. Since 1968 assets have grown tenfold, sales revenues have increased from \$5 million to \$70 million, and net operating income has jumped from .056 to 1.3 million.<sup>82</sup>

Spar has acquired Astro Research of California (1972), a space research and development firm, plus RCA assets in space technology, and Northern Telecom's space electrical manufacturing assets. Other contracts for Spar have been the government (DOC) assignment for Hermes (CTS), the experimental satellite from a TRW contract for a joint venture of NASA and Western Union.<sup>83</sup>

Spar is now the prime contractor for satellites in Canada and is seen as the "Canadian core company to break into the international satellite market."<sup>84</sup>

The aim of developing satellite industrial capacity in the aerospace industry is technological specialization through a consolidated industry effort and penetration of the export market.<sup>85</sup>

ii. Northern Service, Northern Development

In terms of meeting the objectives for northern service, the government, during 1972-1973, perpetrated an extensive public relations campaign which flaunted the social and educational benefits that Anik I and II would bring to Canada, especially in northern areas. No amount of public relations material could disguise the fact that the needs of the north had not been considered prior to the satellite system's establishment and operation.<sup>86</sup> The major selling point which was



advanced was the availability of television services, but the fact that the content of the transmission was of little relevance to native northerners was of little concern.

"TV for the North with no attempt to make it relevant to the northern context is definitely not in accord with the desires of the northerners. In fact it could well raise the social temperature, raising people's aspirations when the developing economy is not ready to satisfy them." 87

"Canada's North is populated by people of different ethnic backgrounds, interests and heritages. It often happens in such a situation that one of the ethnic groups is dominant and pursues its own interests at the expense of others. The Task Force believes this is happening in Canada and that one manifestation of this phenomenon is evident in the field of northern communications." 88

However, Telesat has made possible the extension of CBC broadcasting services. Under the Accelerated Coverage Plan adopted in 1975, the CBC is attempting to extend services: radio to every community of 50 or more and TV to every community of 200 or more, many of which depend on satellite coverage, particularly in the north. The other national network, CTV, has not utilized the satellite services. CTV is distributed via the TCTS microwave network and maintains that the costs of renting satellite space are too expensive to be economically feasible.<sup>89</sup>

Though studies have since been undertaken to examine

the real communication needs in the north for residents, it has had a negligible effect on content in existing services. Broadcasting services remain a one-way system, where information is "dumped" on northern people in a systematic process of cultural domination. Though telephone service has been extended, service remains poor and intra and inter local community service is either non-existent or too expensive to meet the needs of the residents. The main benefits, as was intended, have accrued to imported southerners and the industrial community. Northern gas and oil exploration enterprises, particularly with the advent of the proposed MacKenzie pipeline, were the logical benefactors of the satellite system. The installation of initial ground stations in the north have a remarkable coincidental pattern with resource communities.

Non-commercial use of spare satellite channels has not been allowed on Telesat. Its corporate objective of acting with the motivations of a private corporation has been the basic operating policy. The results of this situation are clearly illustrated from the following scenario. Dr. H. McGuire, a physician on the Queen Charlotte Islands, had tried unsuccessfully to utilize two channels on Anik to transmit specialized

medical service to remote areas. Upon learning that three oil companies were being allowed free satellite time to test the system's capacity in winter conditions, Dr. McGuire again approached Telesat with his proposal. He was told: "We are a commercial venture whose main responsibility is to our shareholders".<sup>90</sup> The commercial objective of the corporation takes precedence. Social aspects flaunted as national objectives by government have not been pursued. Government representation within the Telesat management bears a concomitant interest in the corporation's profitability.

The pace at which Telesat offers services for northern area applications will depend on its economic viability. Since there is little prospect that extension of communication services to small northern communities will be commercially viable in the near future, its implementation will be considerably influenced by the availability of subsidies, likely from the federal government and without undue pressure on the carriers to fulfil their mandates for service.

### iii. National Unity and Identity

Attempting to evaluate Telesat's performance with respect to the objectives of promoting national unity

and strengthening a national identity, is a somewhat intangible task. But the objectives themselves were based on an emotional appeal and rhetoric rather than a definition or practical design for measuring achievement. One aspect of the nebulous concept was to provide two-language broadcasting. The satellite system was to be an economic boon for such a policy, but given the circumstances of Telesat's corporate history, the cost of using the satellite has not been significantly cheaper for the broadcasting industry. CBC's use of the satellite system has likely benefited Telesat's economic picture more than CBC's expenditure account. Two-language broadcasting has been implemented mainly through CBC policy and perseverance, not by the simple availability of technological capability. The Canadian culture debate and its ramifications for policy remains a national question.

The resulting achievements or lack of them in national policy objectives demonstrates in this instance the beneficiaries of decisions made on the basis of national interest rhetoric.

If we examine the real beneficiaries of the system, it seems that firstly, those awarded industrial contracts and those in a position to use the system where other facilities would not have sufficed, for instance

multinational resource interests and government personnel in the north, appear to have gained the direct benefits. The structure of the telecommunications industry has been protected from "competitive inroads" by the contractual arrangements and corporate character of the satellite company.

The explanation of these results lies in an understanding of the real constraints operating on national policy decisions. That is, the events surrounding satellite development need to be considered in relation to the national economic structure and pattern of national policy decisions to see where the real definition of the "national interest" lies. The national objectives such as technological progress and industrial development and northern development, resource exploration and the corporate character of the protected telecommunications industry, are signposts to an understanding of government-industry relations in this country. By understanding what these objectives mean in practice, one can determine the effective meaning of the national interest in government policy beyond the example of the satellite issue. Satellite policy then, must be interpreted in relation to the constraints imposed by the effective definition of the "national interest".

In the specific objectives of the satellite system as a viable corporation in the telecommunications market, more problems emerge. Instituting Telesat Canada as the means of implementing a commercial satellite policy makes

manifest the contradictory nature of the structure of relations it supposedly has acquiesced by coming into being. The corporate history of Telesat identifies the effects of the power relations based on the institutional constraints inherent in Telesat's corporate structure. The corporate history of Telesat continues the conflicts which had been submerged by its corporate form, but neither resolved nor eliminated. The key issues remained centred on the corporation's relation to the dominant interest group of the telecommunications structure, the telephone companies, on the criteria of ownership, usage and viability. Latent contradictions surface and the renegotiation of a suitable compromise is formed.

c. Telesat Corporate History

i. Financing

Initial financing of Telesat was in the form of a \$9.8 million loan from the Government of Canada, which was repaid by December 1970 at the time of the first issuance of common shares.<sup>91</sup> The Telesat Canada Act provides that authorized capital of the corporation shall consist of:

1. 10 million common shares without nominal or par value; and
2. 5 million preferred shares with a nominal or par value of \$10 per share.<sup>92</sup>

The distribution of Telesat stock ownership was determined during the period November 1970 to March 1972. In November 1970 Telesat made arrangements to issue 6,000,000 common shares without par value at \$10 each over a period ending March 31, 1972. Under the plan, the Government of Canada and the thirteen approved telecommunications common carriers subscribed for shares, providing \$60,000,000 in equity capital. Distribution among the carriers was as follows:

<u>Subscriber</u>	<u>No. of Shares</u>	<u>Per cent.</u>
1. Members of Trans Canada Telephone System	2,469,000	82.3
Bell Canada	1,475,000	49.0
B.C. Telephone	330,000	11.0
A.G.T.	279,000	16.0
Manitoba Telephone	99,900	
Saskatchewan Telephone	99,900	
Maritime Telephone	73,800	
N.B. Telephone	79,000	6.0
2. The CNR and CPR, each	225,000	15.0
3. Others: Quebec Telephone	60,000	
Island Telephone	6,000	3.0
Ontario Northland	15,000	

The Government of Canada and the common carriers each had 3 million shares, while President Golden had one, in his capacity as a member of the general public who fulfils the statutory conditions. Although tripartite ownership with public shares was planned upon establishment of successful operation of Telesat,

no public share offering has been attempted thus far.

As Mr. Golden has said:

"That it is expected that the Government loan would be repaid from the proceeds of a public issue of shares at an appropriate time when the corporation has achieved successful commercial operation and subject to prevailing market conditions. No decision in this regard would be made at this time and the whole question of timing of a public share issue will be kept under constant review with the corporation's financial advisors." 94

It is Telesat's interpretation of its performance that adequate conditions for the issuance of public shares have never been met by the company. Thus, Telesat's ownership and control has remained with government appointees and the carriers.

The balance of Telesat's financing requirements has been realized through loans under a short term borrowing arrangement with the government. The borrowing constraint under Section 41(4) of the Telesat Canada Act is that Telesat cannot have loans outstanding to the government in excess of \$40 million. In July, 1972, after equity financing was complete, Telesat entered an agreement with the government to provide borrowing of up to \$30 million in order to have available the necessary cash to complete the base line system. Loans totalling \$25.5 million were drawn (11.5 in 1972 and 14 in 1973) and scheduled



to be repaid in 1974-1977. At the time of the proposed agreement (1976-1977), all loans had been repaid and Telesat had no outstanding debt. During 1973-1976, no further borrowing was completed with the Government of Canada or any other source.<sup>95</sup>

In late 1975 the Telesat board approved a plan for procurement of the company's fourth satellite, Anik B, which involved loans to be supplied by the Government of Canada and the Toronto-Dominion Bank. However, at the time of the agreement, this financing arrangement had not been, and appeared not likely to be, completed. Coincidentally and subsequently, Telesat negotiated an arrangement with the Department of Communications whereby the Department would lease channels of the 14/12 GHZ band of Anik B for experimental purposes. The Department of Communications will prepay Telesat \$27.9 million (9 in 1977 and 18.9 in 1978) for services to be rendered in 1979 and 1980. In addition, once service begins, the Department of Communications will pay \$168,000 to Telesat for 24 months, for a total consideration of over \$31.9 million.<sup>96</sup>

For the Anik C program, Telesat has tentatively arranged for medium term loans with the Toronto-Dominion Bank

which would provide the sole source of debt financing for Anik C. The Department of Finance, according to Telesat's understanding, was unwilling to commit adequate financing to Telesat.<sup>97</sup> (No representative of the Finance Department was available at the hearings to substantiate Telesat's position, making this a controversial point.) The Telesat-Toronto-Dominion arrangements were pending the approval of the Telesat-TCTS agreement.

ii. Hardware

Telesat Canada launched its first satellite in November 1972 and commenced commercial service on January 11, 1973. Anik II was launched in April 1973. Since then Telesat service and facilities have been utilized almost entirely by its own shareholders (Bell, CN/CP, TCTS) and Crown corporations (Teleglobe and Canadian Broadcasting Corporation).

Space segment facilities in operation include three satellites which operate in 6/4 GHz band. Each has 12 channels (transponders) capable of providing point-to-point telephone and data services and point-to-multi-point broadcasting (television and radio) services. 12 channels are made up of ten operating and two back-up channels (except Anik A-F-1 where one transponder is no longer operational), for a

combined channel availability of 35. Each channel on 6/4 has the capacity to transmit one television program with audio or a maximum of 960 one-way voice channels.<sup>98</sup>

Although there are three satellites in geostationary orbit, only one, Anik A-F-3 is in full-time service. The others are available for back-up use and for occasional services. Of the 35 RF channels available (29 if allowing for six back-up), only 6 are used full-time and one transponder (sometimes two) is used occasionally by Canadian Broadcasting Corporation and Teleglobe. Even full period RF channels, especially those leased for telephone message traffic, have not been fully used.<sup>99</sup> Thus, capacity has been greatly underutilized in the number of channels used and actual time usage.

Telesat's earth segment facilities in operation include a total of 74 earth stations. Characteristics and the application of earth stations are classified into eight basic types:

1. Two Heavy Route Stations - Allan Park, Ontario and Lake Cowichan, B.C.;
2. Network Television Stations - six across southern Canada;

3. Two Northern Telecommunication Stations - Frobisher Bay and Resolute, transmit and receive services;
4. Twenty-six Route Stations - for voice circuits used in the remote areas of Ontario, Quebec and North West Territories;
5. Thirty-eight Television Stations - used in remote areas across Canada;
6. Seven of the above are Frontier Television Service Stations located in the Yukon; and
7. Two types of Transportable Earth Stations - one used for originating local television programs, the other originating message traffic - both in remote areas where terrestrial earth stations or microwave facilities do not exist. 100

Many of these stations have had facilities added so that they can function in a dual capacity as Remote Television and the Thin Route Stations or as Network Television and Northern Telecommunication Stations. Telesat services some 75 communities and earth stations are being added at a rate of fifteen per year.

### iii. Usage

From the beginning of its operations, Telesat has followed a practice of leasing whole transponders to

customers (who can utilize continuously), i.e. a full RF channel. The contractual arrangement with customers involved the leasing of one or more RF channels for a period of five years (with an option to extend one year), for the purpose of providing satellite telecommunication between designated earth stations. Contracts are only with the carriers, Teleglobe and Canadian Broadcasting Corporation.

Charges for services and facilities have been payable in instalments over sixty months. Contracts do not segregate charges associated with space segment (RF channel) and ground segment (earth station).<sup>101</sup>

Telesat charges customers for services roughly allocated on a 2/1 basis between space segment and earth segment under participating carriers' agreements.

Telesat received \$30 million over five years for two full RF channels. This is \$6 million a year, or \$3 million per channel. Of the \$6 million, Telesat revealed that \$4 million is derived from space segments and \$2 million from earth segments. Thus, for each transponder \$2 million, \$1 million for earth station facilities for each channel. This applies to two-way point-to-point telephone and data services (e.g. accessing the earth stations at Allan Point and Lake Cowichan). Other agreements provide for point-to-

multi-point broadcasting services which require many earth stations. Thus, additional charges are made for the provision of more earth station facilities which are above the standard point-to-point use.<sup>102</sup>

The bulk of revenues are derived from tariffs associated with the leasing of full transponders and their related earth stations. The balance of revenues are achieved through the provision of service additions to new and existing earth stations.

#### iv. Operational Constraints

With respect to the domestic satellite system usage for east-west traffic as a supplement to microwave facilities, only two channels have been rented (TCTS and CN/CP) for southern markets, each of which has seen only limited use. In late 1970 Telesat Canada was negotiating potential customers and President Golden acknowledged that it was a problem selling facilities to potential customers who are also the owners.<sup>103</sup>

At the time preceding the Telesat-TCTS agreement, the original contracts were coming up for renewal and future prospects in channel leasing to the carriers did not look encouraging. The southern east-west traffic market continues to expand and by the 1980's the Communication Research Centre study had concluded

that significant amounts of long haul voice traffic could be routed through the satellite in an attractive cost-effective manner.<sup>104</sup>

But due to the present institutional arrangements, it is unlikely that this will occur. The two main reasons were considered to be:

1. that without two-tier regulation with federal jurisdiction over interprovincial and inter-connection rates and agreements, Telesat cannot compete directly with terrestrial carriers for southern voice traffic. Though the federal government has often considered such a regulatory procedure, it has not moved to implement the scheme, one reason being the strong opposition of the prairie provinces.
2. that the institutional arrangements imposed constraints on the usage of Telesat by the Trans Canada Telephone System for southern market traffic. One reason being that prairie provinces, as members of TCTS, rely heavily on revenues from toll traffic use of their facilities and therefore have an incentive to minimize usage of satellites. Also, all TCTS members are biased towards usage of their own terrestrial networks, since these investments can be calculated in their rate base for

regulatory purposes. The costs of channel leasing on satellites do not presently offer this advantage as they are treated as an expense.<sup>105</sup>

The carriers have a disincentive to demonstrating any cost effectiveness which may be realized from satellite usage, since to do so would encourage support for those who favour Telesat as a competitive alternative to the terrestrial common carriers. To this end, the carriers, as owner and customers of Telesat, are in a strong position to influence Telesat's pricing policies in a manner that portrays Telesat as not being cost-effective in comparison with the terrestrial network. When using a pricing policy of uniform prices per channel in southern voice traffic in the competitive arena, the cost comparison that the terrestrial carriers would find relevant to use would be the marginal cost of additional investment in microwave facilities as opposed to the average lease rate of additional rental of satellite facilities. To employ such a methodology for comparative purposes is exceedingly likely to favour the land-based facilities, at least with the existing state of facilities.

#### v. Merger - The Proposed Solution

As early as 1975, Telesat and its customers were



considering possible future arrangements for satellite usage.<sup>106</sup> The original contracts were nearing expiration. Usage of the system was minimal, given the available capacity. The "built-in profitability" that had been anticipated did not materialize, largely because the system had never resembled the compact model as intended. System capacity had never been geared to the level of demand. The development of the technology, more satellites with new innovative features, continued regardless of marketing arrangements for available services. (The DOC was heavily involved in experimental satellites for non-commercial usage.) The decisions to build more satellites, thus requiring large capital expenditures and suitable financing arrangements, and the negotiations for new contractual arrangements, all proceeded within the same time frame, concluding with the proposed membership of Telesat in the Trans Canada Telephone System. Telesat and TCTS maintain that these concurrent negotiations were unrelated. The following diary of events suggests otherwise:

- Early in 1975, Mr. Thompson of TCTS put forward to Telesat's management the idea that Telesat might become a member of TCTS.
  
- By mid-1975, TCTS had undertaken an examination of satellite applications<sup>107</sup> for their usage

in consideration of the options of a bulk lease or membership arrangement. They concluded that satellites should be part of an integrated system.<sup>108</sup>

- In late 1975, Telesat had decided to proceed with the new generation of satellites in 14/12 technology and sought financing for the implementation of the Anik B series.<sup>109</sup> Telesat maintains that this decision was unrelated to any notion of a membership agreement.
  
- In February, 1976, discussions commenced between TCTS and Telesat as to "some type" of membership arrangement. Also, at this time TCTS initiated a study on the possible increased future use of the Telesat system and requested Telesat's cooperation to which Telesat provided input in March and April.<sup>110</sup>
  
- On April 21, 1976, Mr. Golden held discussions with the Deputy Minister of Finance concerning Telesat's current financing requirements and clarification of the government's policy on loans and advances in 1976-1977. Telesat maintains that adequate financing arrangements would not be forthcoming from the government. (No government witnesses were available at the hearings to dispute this interpretation

of the events that transpired between Mr. Golden and the government's Finance representative.)<sup>111</sup>

- On May 18, 1976, Telesat and TCTS met with senior representatives of CN/CP to explain to them the background regarding Telesat's possible membership of TCTS. CN/CP was not favourably impressed by the idea, reacting to what it saw as an extension of the power base of the telephone companies over the satellite corporation to the exclusion and anticipated determinate of CN/CP as a limited competitor of TCTS.<sup>112</sup>
- On July 12, 1976, Telesat's board of directors discussed the options for Telesat's future and approved in principle the TCTS membership proposal.<sup>113</sup>
- During the summer months, TCTS made presentations to the provincial governments with authority over telephone services (i.e. the Prairie and Atlantic provinces) on the advantages of an integrated system of satellite and terrestrial facilities. TCTS refutes the notion that this was a selling tour for the proposed membership agreement.<sup>114</sup>
- In early August, CN/CP approached the Minister of Communications, Mme. Sauve, inquiring on the position

of government policy with respect to the proposed arrangements. Following this discussion, CN/CP submitted a proposal to Telesat as an alternative to the exclusive membership bid in TCTS. The CN/CP arrangement contemplated the establishment of a new entity comprising CN/CPT, TCTS and Telesat. After discussions, TCTS sent a document to CN/CPT attempting to alleviate CN/CPT's anxieties over possible future discrimination on using the satellite system, should the two proceed with the membership proposal.<sup>115</sup>

- On September 1, TCTS notified CN/CPT that their plan was unworkable. The following day, Telesat officially rejected the CN/CPT proposal on the grounds that it could not guarantee Telesat's expansion plans nor its profitability.<sup>116</sup>
- On September 7, Telesat requested confirmation from the Minister of Communications that the government "does not dissent" in Telesat's membership with TCTS. A draft memorandum of understanding and terms and conditions of the agreement were submitted.
- Later in September, CN/CPT requested that Telesat and TCTS reconsider the CN/CPT proposal. Both TCTS

and Telesat again rejected it. CN/CPT then notified Telesat of its intention to review its projected requirements for satellite usage.<sup>117</sup>

- On November 23, the Minister of Communications informed Telesat and TCTS that Cabinet had accepted the proposal for membership, subject to certain considerations and without prejudice to the role of the Canadian Radio-Television and Telecommunications Commission, the authorizing regulatory agency.<sup>118</sup>

- On November 26, the CRTC Chairman informed Telesat of the need for a public hearing in order to adjudicate on the proposed agreement.<sup>119</sup>

- In early December, the TCTS board of management accepted Telesat as a member.<sup>120</sup>

- On December 7, Telesat replied to the Minister of Communications, assuring compliance with the considerations included in the government's approval and that such conditions were included in the terms of the agreement. Telesat then proceeded to put forward the agreement to the shareholders for ratification. It was endorsed and a press conference held to announce the Telesat-TCTS agreement effective January 1, 1977.<sup>121</sup>

- On December 14, the Minister of Communications informed the CRTC of the agreement and of the government's conditional approval. The CRTC responded on December 31 and inquired as to whether the stipulated considerations had been met to the government's satisfaction.<sup>122</sup>

- On January 1, 1977, the agreement became effective subject to CRTC approval. On the 18th, Telesat sent a copy of the definitive agreement to the Minister of Communications, and on the 21st, submitted it to the CRTC.<sup>123</sup>

It was not until February 10 that the Minister replied to the Chairman's request of December, at which time the CRTC was informed that Telesat had given its assurance that the agreement complied fully with the concerns of the government. On February 16, the CRTC issued notice of a public hearing concerning the proposed Telesat-TCTS agreement to commence April 25.<sup>124</sup>

### 3. REGULATION

#### a. The Regulatory Arena- A New Forum

The regulatory arena under the auspices of the CRTC, was a new stage for the main actors, Telesat and TCTS. The Canadian Radio-Television and Telecommunications Commission received an expanded mandate by inheriting

jurisdiction over the regulation of the telecommunications sector, previously the preserve of the Canadian Transport Commission, by virtue of Bill C-5 (1976).<sup>125</sup> Prior to the application for approval of the Telesat-TCTS agreement, the only other regulatory proceedings the CRTC had engaged in with the telecommunications industry was the rate hearings for Bell Canada (concluded in May 1977), and for B.C. Tel (concluded in April 1977), just as the Telesat proceedings were getting underway.

i. ~~Previous Responsibility for Satellites~~

In the case of satellite policy where there has never been a definitive policy statement since Telesat was incorporated, the regulatory agency has little direction for broad regulatory purposes. Telesat, as a corporate body operating in the telecommunications sector, moved into the CRTC's jurisdiction with the telecommunications industry, but had engaged in no regulatory business with the CRTC prior to the application for approval of the agreement. (TCTS, as noted earlier, does not come under any regulatory supervision.) While under the CRTC there had been no real supervisory status over Telesat, Telesat's autonomy was influenced by the overall policy towards telecommunications as conceived and implemented by decisions of the DOC. Commercial satellite services had been treated by DOC statements of 1973-1975<sup>125</sup> as an adjunct of the telecommunications industry. The lack of a public disclosure of policy

initiatives in commercial satellites, however, should not be assumed as a lack of interest on the part of the DOC. The DOC has been committed to the acceleration of satellite technology, research and development. The DOC was actively pursuing non-commercial satellite projects in the experimental field, and had earlier promoted the introduction of Anik I and II as the new era of communication services in the north. Further to the DOC's influence on Telesat is the note that as government negotiator in federal-provincial relations on communication matters, the DOC had developed a sensitivity to the concerns of regional carriers in connection with the role of the satellite corporation.

Telesat's only other constraint on autonomy had been due to the fiscal restraints of the Telesat Canada Act, which restricted government financial responsibilities. The Department of Finance, as the government liaison with Telesat on such matters, has also had limited influence on Telesat and therefore satellite policy by virtue of its economic policies.

#### ii. A New Adjudicator

##### The CRTC

The Canadian Radio and Television Commission, as it was originally known, was created by the 1968 Broadcasting Act which sought to propose a broadcasting



policy and regulatory framework for Canada. The CRTC was the new regulatory agency, whose "objects will quite be to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the policy"<sup>127</sup> as stated in the Broadcasting Act. The agency was to be an "independent body" and thus insulated from the political process of governments. Its inception and design prompted Communications Law expert, Penny, to remark that:

"whereby the major problem with departments like the DOC - the low visibility of its decisions and the difficulty of ensuring public scrutiny of its policies - is alleviated by giving these decisions to an independent body that operates in the public view." 128

The responsibilities of the agency have changed in relation to the changing definition of the "industry" it regulates. Where broadcasting issues originally were the concern of the Board of Broadcast Governors (an executive arm of the CBC) and its mandate which took a more cultural form, as the growth of private broadcasting has increased and changes the structure of the industry, the creation of the CRTC, with its independent regulatory mandate reflects the changing structure of interests in the area of broadcasting.

(For instance, where CBC as the public broadcasting system, had been the substantial basic service and all private broadcasting acted as complement, the

reality of the situation is now much the reverse.) This is also evident with the growth of cable systems, the requirement of regulatory supervision as broadcasting receiving undertakings and the impact of cable technology on the economic structure of the broadcasting industry. With the telecommunications industry brought over to the CRTC, the CRTC's jurisdiction has grown to include the whole technological structure of telecommunications facilities and, with it, the agency's functions have been oriented away from the broad policy issues to a more narrowly conceived notion of regulatory authority.

From its inception, the CRTC had operated in a policy oriented manner, holding hearings on issues of policy questions and defining policy goals and objectives in the broadcasting industry. With the move to include telecommunications regulation, the DOC has also moved to increase its own responsibilities in overall communication policy matters. The legislated changes in Bill C-5 and subsequent Bills 24 and 43 have altered the structure of control internal to the agency's jurisdiction and in its relation to the Department and Cabinet.<sup>129</sup> The rationale is that policy is a political responsibility.<sup>130</sup> The CRTC is seen to be the implementor of the government policy position

with Cabinet and the Department providing direction.

### The Proceedings

The regulatory proceedings were framed by the precedents of telecommunications policy and procedures. The Commission was confined by the Railway Act to grant approval or deny the application of the proposed agreement.<sup>131</sup> The criteria for approval was deemed to be the "public interest". The CRTC, in conventional style, required a public hearing as part of the regulatory process to attempt to derive a meaning for this vague criteria.

The CRTC announced the public hearing for April 1977 and invited interventions from any interested parties. The Commission proceedings were framed by the formal style of the hearing process which was reminiscent of the quasi-judicial administrative procedures of the CTC rather than the informality common to many CRTC community hearings. Both the applicants and the opposing intervenors provided expert testimony and both sides were represented by counsel for cross-examination purposes. In the adversary style, the applicants presented their case April 25-27, 1977, then from May-June, witnesses for both the applicants and the intervenors were cross-examined. The hearing

concluded with the final submissions of the written arguments from the applicants and participating intervenors.

iii. The Participants

The applicants and supporting intervenors presented the case for the Telesat-TCTS agreement. Bell Canada and B.C. Tel, the largest telephone companies in TCTS, played a major role in the hearings on behalf of the applicants. The Prairie provinces' telephone systems, publicly-owned corporations, also supported the agreement, with Saskatchewan Telephone appearing and Manitoba Telephone and Alberta Government Telephone filing written interventions. Provincial representatives for the Atlantic provinces, whose telephone systems are subsidiaries of the Bell system, appeared in support of the applicants.

The major intervenors, appearing in opposition to the proposed agreement, fall into three basic interest groups: private corporations, government, and public interest groups.

Opposing private corporations were CN/CP, CCTA and Arctic Gas. CN/CP was at the forefront of the proceedings since it considered itself a competitor to

TCTS and potentially, if not already, a competitor of Telesat. The agreement seemed to CN/CP to be a dangerous anti-competitive move which, by excluding CN/CP, would provide TCTS with increased strength and extension of its monopoly position. CN/CP would have preferred an arrangement which included itself as part of the monopoly structure for telecommunications in Canada, as was their suggestion for a joint venture proposed during the Telesat-TCTS negotiations.

The Canadian Cable Television Association (CCTA) opposed the agreement to protect its position which sought to distribute television signals from satellite to cable systems by by-passing the carriers. They felt that the agreement would make such arrangements with Telesat difficult, if not impossible. As was discussed earlier in relation to the threat of new technologies to traditional market structures, cable systems have changed the nature of the broadcasting industry. Cable technology, if operated in conjunction with satellites, would alter the telecommunications industry with sufficient impact to alter the power structure of traditional carrier firms.

Arctic Gas, which was anticipating the construction of the MacKenzie Valley Pipeline, wanted assurance that its prior arrangements with Telesat (1974) would not be jeopardized by the proposed agreement.

Government representatives, who appeared in the proceedings hoping to deny the agreement, were from the provinces which do not control their telephone systems, Ontario, B.C. and Quebec. Federal government intervenors were conspicuous by their absence, particularly the DOC and the DOF. Although Cabinet had approved in principle the proposed agreement without "prejudice to the authority of the CRTC", there was a general understanding among the participants that the government's mood was prone to the applicants. The DOC provided no information to help abate such rumours. The opinion of the DOF would have provided particular clarity to certain controversial issues, since there was conflicting testimony as to the DOF's position on possible commitment of capital necessary to Telesat's procurement plans. The one federal department represented at the hearings was the Anti-Combines branch of the Department of Consumer and Corporate Affairs (DCCA). Their case was adamantly opposed to the proposed association for its anti-competitive aspects.

The Consumer Association of Canada (CAC) appeared in opposition to the agreement on the grounds that it would inhibit innovation and efficiency in the system and therefore be detrimental to telephone subscribers in particular, and any potential users in general.

The Inuit Tapirisat were also represented in the proceedings, arguing that the agreement would be of no value to northern peoples and would likely retard the already slow and deficient implementation of services in the north.

It is important to note that this is the first time that the "public", in this sense defined as consumer interests and affected users, was represented in the process of decisions which constitutes satellite policy in the making. The prior decisions which had effectively determined the course of events to this time offered little, if any, entry for a "public" voice. The notion of a public interest had been obscured by the rhetoric of a national interest which the system supposedly represented.

b. The Issue: Debate of the Proposed Agreement  
A Summary of the Arguments Presented

The arguments presented during the hearings fell into several major themes for both sides of the issue. Since the evidence presented and points raised were common to many of the participants, the following digest of material has been framed to represent the case for and against, rather than by individual submissions.<sup>132</sup>

The thematic framework for the arguments developed around six main issues. These include: the development

of satellite technology; financial stability and viability of Telesat; economic considerations; integrated planning; competitive implications; and regulatory complications. The applicants stressed the benefits of the agreement in accordance with the first four categories, while denying that the agreement would be detrimental for competitive or regulatory aspects. The opposing intervenors argued from a different set of priorities which began with questioning the perilous nature of Telesat's viability. Their arguments proceeded to remark upon the detrimental effects of the agreement as they were interpreted to affect the particular interests involved.

i. Development of Satellite Technology

1. One of the main arguments on behalf of the applicants was the need for the timely continuation of the development of satellite technology in accordance with Telesat's view of its mandate from the Telesat Canada Act to optimize development and maintain Canadian leadership.<sup>134</sup> The expansion of the satellite system into the utilization of 14/12 GHz technology with its particular advantages and attendant cost savings, enabled Telesat to view its provision of satellite facilities and services as becoming cost competitive and therefore more



attractive to users.<sup>135</sup>

The cost benefits of applying the new technology and the retention of parking spots was considered to be dependent upon the rate of innovation.<sup>136</sup>

The continuing development of satellite technology was deemed essential to and consistent with the policies and objectives of Telesat's view of their legislated mandate. Therefore, in order to fulfil these obligations, the timely introduction of technological innovations was considered an imperative. Telesat stated that for this to proceed was directly dependent upon the approval of the agreement.<sup>137</sup>

2. With respect to the introduction of new satellite technology, for instance the 14/12 GHz equipment, most intervenors were impressed with its capabilities and potential for cost benefits and would like to have seen it proceed with or without the agreement. There was some concern though, with how and when to introduce further expansion in the system due to the necessary financial expenditures and presently low demand for usage.<sup>138</sup>

The intervenors' fundamental concern with the agreement and its effects on the development of

satellite technology was its implications for the rate of innovation if TCTS were to have the decision-making power over new technologies, their installation, usage, and speed of innovation.<sup>139</sup>

The fact that this control would rest with the telephone companies which are the technological competitors of satellites, brought about apprehensions over possible conflicts of interest which may arise in the form of higher rates, less flexibility and responsiveness to user requirements and in limiting entry to potential new markets. The submission of Parker, Hudson and McPhail (for CAC) voiced concern regarding the agreement's possible effects on constraining growth of information-based services and influencing the rate of innovation of Pay-TV, electronic mail, teleconferencing, etc.<sup>140</sup> Professor Irwin's testimony (for DCCA) declared that it would curtail the incentive to exploit satellite technology.<sup>141</sup> CN/CP stressed that development would be dependent upon the interests of TCTS.

Factors which would inhibit full development were:

- that it would be cheaper to expand microwave terrestrial systems; and
- that the calculation of capital costs of terrestrial systems are part of the rate base and give rise to a share in revenue settlements.<sup>142</sup>

Other intervenors affirmed this likelihood that the effectiveness of the new technologies may be minimized, and that the agreement would restrict research and development to the desired ends of the telecommunications companies.<sup>143</sup>

It was not accepted by the intervenors that possible jeopardization of orbital slots was a critical issue in consideration of the agreement.<sup>144</sup>

ii. Financial Considerations.

1. Telesat perceived its financial position as one in which it had failed to acquire an adequate flow of revenue due to lack of growth in the east-west traffic market.<sup>145</sup> Lack of growth, and presently increasing costs, did not provide in their assessment a likelihood of improvement of their financial position in the near future. Rather, the opposite situation was expected. The negotiations for contract renewals for 1978-1979 were hampered by resistance to proposed rate increases, and would likely result in further decreases in utilization.<sup>146</sup>

These factors had contributed to a rate of return deemed unsatisfactory in comparison with the industrial average. The inadequate rate of return had increased the cost of debt and restricted

Telesat's ability to raise the capital necessary for the expansion of the system from institutional sources.<sup>147</sup> Its interpretation of its legislative mandate was that they were to operate on a commercial basis without subsidization from the federal government. Telesat stated that it has never had government subsidies, although it did have access to low-interest government loans. It was Telesat's position that it did not have access to government funding of the nature required.<sup>148</sup>

Given these constraints, the agreement entered into would provide Telesat with a stable level of revenues and a guaranteed rate of return.<sup>149</sup> The guaranteed rate of return would permit Telesat to operate commercially without seeking governmental financial assistance.<sup>150</sup> These assurances, coupled with TCTS's commitment to the expansion of the system, would provide accessibility to financing and reduce the cost of capital. The financial settlement formula would provide a rate of return on equity increasing from 6% in 1977 to 9% in 1980. After 1980, Telesat revenues would be split on a 50/50 basis with TCTS.<sup>151</sup> This improvement in finances would allow Telesat to negotiate rate adjustments for services at least than the anticipated increases assuming non-membership.<sup>152</sup>

2. The intervenors generally accepted that the rationale for Telesat entering the proposed agreement with TCTS was to absolve Telesat's financial difficulties in order that it may proceed with the development of satellite technology. It was agreed by the intervenors that the agreement superseded these problems in their immediate form, and that it imposed alterations which had serious implications for the overall structure of the telecommunications industry in Canada.

However, several intervenors did express concern with Telesat's interpretation of its financial situation, and therefore, with the provisions of the agreement which are meant to improve its financial status.

While it was generally agreed that Telesat's revenues were insufficient to meet its planned requirements, the controversy revolved around why they were insufficient, how they could be better obtained, and what the financial aspects of the proposed membership implied.

Firstly, Telesat's assessment of its perilous viability as a commercial entity is questioned.

It is argued by CN/CP representatives that Telesat's performance has not been as deficient as the applicants have indicated. In response, they noted that Telesat

has repaid its government loan, has no outstanding debts, has been paying a modest dividend and, by virtue of its monopoly on the provision of satellite services in Canada, its prospects for the future were encouraging. This optimism was reiterated by other intervenors who considered that Telesat had provided an "ultra-conservative" estimate of future revenues.<sup>153</sup>

For example, the Consumer Association of Canada, citing the evidence of Parker, Hudson and McPhail, regarded the expected growth of new services suited to satellite distribution as reason for optimism regarding the potential growth market.<sup>154</sup>

Secondly, with respect to the need for further capital financing, particular intervenors rejected the notion that government financing would be unavailable to Telesat.<sup>155</sup>

Overall, the intervenors were unsatisfied that Telesat had adequately explored all possible alternatives to meet its financial requirements.

A number of alternatives were suggested.<sup>156</sup>

The most emphasized proposal for attending to Telesat's financial constraints was the call for a change

in its marketing policies. This was deemed the major obstacle to increased utilization and corresponding lack of revenues. Telesat's policies with respect to channel leasing and earth station ownership were considered to be the prime factors in limiting the market for satellite services.<sup>157</sup>

If changes were to be made in the policy of restricting consumers of satellite services to the leasing of whole RF band channels, and in relinquishing Telesat from its role of a carrier's carrier, and in allowing for users to own earth stations, the results would invigorate Telesat's performance as an independent entity. It was argued that the capital released from earth station investment would significantly decrease the need for external financing.

A less restrictive channel leasing policy would make satellite services easier to market with resultant increases in utilization and therefore a more adequate flow of revenues.<sup>158</sup>

Thirdly, in the financial consideration of the intervenors was the effect of the provisions of the agreement with respect to the guaranteed rate of return and the revenue settlement formula. It was argued by the intervenors that a guaranteed rate of

return would be a disincentive to competition by not encouraging the needed improvements in utilization.<sup>159</sup> It was also contended to be a factor that would inhibit the rate of innovation and thereby retard operational efficiency.

Further, it was argued that a guaranteed rate of return was merely a short run solution which created greater problems in the long run in regard to competition and regulatory control. It was pointed out that the expected rate of return in the future, without membership, would be "substantial". It was also suggested that those responsible for guaranteeing a rate of return are also the prime beneficiaries, the shareholders.<sup>160</sup>

### iii. Economic Considerations

1. Improvements in profitability and stability in Telesat's financial structure, the applicants suggested, would enable the possibility of public participation as shareholders in the corporation, a statutory commitment constrained by Telesat's performance thus far.<sup>161</sup>

The economic arguments put forth in support of the agreement stated that membership was the only alternative that would produce the desired



economies of scale. Such economies, it was argued, would benefit both the suppliers and consumers of communications services in Canada. More particularly, Telestat stated that the major issue facing satellite operators was that of ensuring high utilization to bring unit costs down.<sup>162</sup> This was said to be achieved with the agreement through greater cost sharing, joint planning and technical integration with the telephone companies.<sup>163</sup> Further, it was expected that the marketing resource and expertise of TCTS would add further utilization.<sup>164</sup>

In the applicants' opinion, considering the need for a long term financial commitment for the expansion of the system, a strong marketing force to reach potential users, and the advantages of integration and economies of scale, membership was the only viable alternative.<sup>165</sup>

The applicants argued that the terms of the agreement would result in a beneficial effect on users of telecommunications services in Canada. The agreement guarantees that satellite services would be continued. A cost-effective and technically advanced satellite system, as envisioned via membership, was said by Saskatchewan Telephone, to reduce costs to all carriers in providing and extending services. This was of special importance to users in northern and remote areas.<sup>166</sup>

With respect to Northern Services, Telesat noted that although it does not intend to introduce 14/12 GHz band services within the time frame under consideration (to 1987), it will continue to provide quality services to the North, using the 6/4 GHz technology. It is also noted that the ability of Telesat to provide new services to the north would not be affected by the Telesat-TCTS agreement, as the decision for new services lies with broadcasters and local common carriers.<sup>167</sup> Bell stated that an advantage of integration was that it would enable Bell to provide better service to the north at lower cost.<sup>168</sup>

Expansion of television distribution would be possible as a consequence of distance - independent costs in service extension by satellite. The representation to the Commission by the Atlantic provinces stressed the importance of satellite technology in the distribution to TV signals, cable and Pay TV, throughout the remote regions of Canada. In agreement with this position, B.C. Tel stated the advantages of the low incremental cost of expanding service to additional communities.<sup>169</sup>

The applicants stressed that users of telephone services provided by TCTS would not experience increases in telephone toll charges or costs as a

result of the agreement. It was stated that studies had indicated that only a slight risk of any financial burden on the average telecommunications customer would occur as a result of the guaranteed rate of return undertaken by the TCTS. A negative effect on subscribers of Bell and B.C. Tel was foreseen, only in the unlikely event that the expected utilization failed to materialize.<sup>170</sup>

2. The agreement, rather than enabling eventual public participation as argued by the applicants, was said by the intervenors to foreclose such a possibility. This was argued to be directly contrary to government policy which envisioned a tripartite ownership. The agreement, it was argued, enhances the tendency of control by the carriers, and was contrary to the public interest.<sup>171</sup>

The position of the intervenors was that the possibility exists for cost-averaging to be applied between satellite and terrestrial facilities which may mask the expected benefits, for instance, of distance-intensive costs inherent in the technology. According to evidence submitted by Professor Irwin and CAC representation by Parker, Hudson and McPhail, there is a tendency for carriers to ignore lower cost

alternatives which would threaten their existing investment in terrestrial systems. Such circumstances would not provide any assurance that the benefits of satellite technology would be fully explored. The captive consumers of monopoly services may require protection from practices of cross-subsidization of the competitive services.<sup>172</sup> It was assumed that it may be difficult to establish that consumers will receive the best possible service at just and reasonable rates.<sup>173</sup>

The Inuit-Tapirisat were opposed to the agreement on the grounds that it would have little or no influence on the existing range of communications services available in the north, while simultaneously constraining the introduction of options that may be made available in the south. They see the agreement as reinforcing the policies and practices of Telesat which have hindered the extension of service to the north. These constraints are considered to be the marketing practices regarding leasing restrictions and earth station ownership.

Their statement explained that the structure of the satellite system determines the service offered and

at what price, and that the existing structure has constrained the fulfilment of the potential benefits of satellite service.<sup>174</sup> For instance, the north is presently inadequately served by the 6/4 technology and the 14/12 GHZ technology is not planned to be introduced in the immediate future. Yet, it is the 14/12 technology, with its specialized capabilities which is best suited to the characteristics of the north. For example, it would allow for less costly and mobile earth stations or direct-to-home service, which are particularly valuable characteristics to provide service to a scattered and mobile population.

For the north to have access to new services such as government or educational TV, Pay TV, telemedicine, electronic mail or other video services, would require the supplier to lease channels on both the 6/4 GHZ and 14/12 GHZ bands. Thus costs would be doubled, making their implementation unlikely. The agreement does not provide for the introduction of TWX service at Thin Route locations by Bell, nor will it affect the availability of direct distance dialing or WATS. Bell's inflexible circuit procurement program will also remain the same.

It was therefore concluded by the Inuit-Tapirisat, that for the positive potentials inherent in a satellite system to be realized by northerners, it is more likely to occur under an independent Telesat.

The submission representing Arctic Gas, sought assurance that the proposed agreement would not alter the 1974 Telesat-Arctic Gas negotiated proposal for the provision of communication services for the Arctic Gas pipeline. Their final argument stipulated their concerns that they should be able to maintain authority of the system development to ensure its technological integrity and cost effectiveness. They "must retain visibility and control over development of a dedicated pipeline communication system".<sup>175</sup>

iv. Integrated Network Planning

Evidence submitted to the Commission by Bell Canada, B.C. Tel, and Telesat Canada, in support of the proposed agreement, stressed the importance of integrated planning of future developments of satellite systems in Canada. The parties to the agreement argued that

integration of terrestrial and satellite technology and services was essential for the development of a viable and economical telecommunications network capable of serving the needs of the Canadian public. A close working relationship between members of the Trans Canada Telephone System and Telesat Canada was regarded as necessary to ensure maintenance of high quality, diversified services which meet consumer demands at reasonable costs.<sup>176</sup> Telesat Canada stated that "both Telesat and TCTS concluded that the integration of the satellite system with TCTS telecommunications network was feasible and would lead to a very large expansion of the satellite system."<sup>177</sup>

The advantages inherent in this new 14/12 technology of Anik C would be maximized in a coordinated terrestrial satellite network. Back-up capability and existing terrestrial routes, and elimination of the need for capital expenditures in expanding the terrestrial facilities, are foreseen as added benefits.<sup>178</sup>

The applicants argued, further, that joint planning and system integration would serve as a means to avoid costly duplication of capital resources and facilities.<sup>179</sup>

Telesat has stated that it is only through membership in the TCTS that it can share the risk of implementing a large satellite system with members of the TCTS who will utilize a considerable portion of Telesat capacity for their own requirements.<sup>180</sup> The membership arrangement gives both Telesat and TCTS access to information such that pooling of forecasts of future requirements can be made. In this way an optimum engineering solution, integrating telecommunications facilities, could be achieved. The outcome of this relationship was expected to be a more efficient utilization of resources such that a better match between traffic growth patterns and facilities to serve them, can be achieved.<sup>181</sup>

2. Those opposed to the agreement argued that the reason TCTS insists on membership to achieve optimum planning is that it wants to manage and operate the system.<sup>182</sup> Under the terms of the agreement, Telesat's business will be managed by the board of management of TCTS, such that "no positive action requiring board of management approval can be undertaken unless all the members agree". Thus, TCTS members will be in a position



to influence the future design of technology and services available, as well as the cost of services.<sup>183</sup> Increased control over the design of satellite systems by the carriers would preclude development of future technology and capability in close consultation with customers.

A further argument presented by the applicants regarding the need for integration for economies of scale, was countered by the evidence presented by Mr. Irwin, who stated that economies of scale are rescinded by economies of innovation, dynamism and technological change. Thus, integration would act to defer and to constrain the exploitation of satellite technology.<sup>184</sup>

It was also argued that if TCTS members' requirements for satellite capability are real, then Telesat, as the only supplier of channels, could handle this demand through long term leasing, and that a fully cooperative arrangement between TCTS and Telesat could prevail in attempts to achieve economies in service costs and quality of service, regardless of membership.<sup>185</sup>

v. Implications for Competition.

1. It was the applicants' opinion that "the agreement would have the effect of stimulating and facilitating competition between the satellite telecommunications system and the terrestrial telecommunications system". Telesat denied that membership in the TCTS would create monopoly control by TCTS members over satellites and stated Telesat would remain independent under the terms of the agreement. TCTS procedures require consensus approval of all matters brought before the board of management. Therefore, Telesat would retain an element of control by virtue of its veto power.<sup>186</sup> It was argued that Telesat is not currently competitive with terrestrial telecommunications carriers because of cost and urban access limitations, whereas expansion of the satellite system under the terms of the agreement would make technology more competitive with terrestrial facilities.<sup>187</sup> Furthermore, this was not regarded as detrimental to non-TCTS members as applicants stressed that TCTS and non-TCTS members would be subject to a non-discriminatory rate structure and would be able to deal directly with Telesat.<sup>188</sup> Bell Canada noted that the continuation of Telesat policy of selling whole RF channels as a wholesaler or carrier's carrier,

would place non-TCTS members on an equal competitive basis with TCTS members.

2. The anti-competitive aspects of the proposed agreement were stressed by the intervenors. A concern over the impact of the agreement was voiced with respect to both the nature of the general structure of the telecommunications environment in which the applicants operate, and the specific restrictive clauses within the agreement which would have a negative impact on future competition between carriers offering telecommunications services.

The intervenors argued that government policy with respect to competition in the telecommunications industry has been clearly stated by the White Paper, the proposed tripartite arrangement and general government policy respecting competition.<sup>189</sup>

The intervenors argued that approval of the agreement would initiate an irreversable change in the overall structure of the telecommunications industry in Canada. It was emphasized that a competitive environment exerts a pressure on the industry to maintain flexibility and thus better serve the specific needs of users of communications services.<sup>190</sup>

CN/CP also noted the beneficial effects of competition on the ability of the industry to excel, innovate and create new markets and services.<sup>191</sup> The Government of Ontario stated that the agreement "if approved, would have a significant effect on the industry structure and that this effect would likely entail a lessening of competition".<sup>192</sup>

The Consumer Affairs Association noted that the structure of Telesat in which users and owners are on the board of directors constrained Telesat from being in a position to respond to natural market signals and demand to ensure a dynamic industry structure which is fully responsive to the needs and interests of all Canadians. It was concluded that the TCTS-Telesat agreement would result in a monopoly situation in which Telesat would become a "carrier's carrier" and in a competitive advantage for TCTS members over other carriers.<sup>193</sup>

Conflicting evidence was presented as to whether competition exists between Telesat and TCTS.

Mr. Thompson, representing TCTS, stated that "Telesat was not a competition of TCTS", while Mr. Golden, representing Telesat, stated that "TCTS and Telesat have been competitors".<sup>194</sup> Based on

the fact that Telesat does compete with the carriers for some purposes presently and will become increasingly competitive in the future as a result of new technology, it was CN/CP's opinion that "the elimination of competition between the satellite system and the terrestrial system is at least one of the purposes of the agreement before the Commission."<sup>195</sup>

CN/CP's position was that the proposed agreement would give TCTS members a competitive advantage over CN/CP whereby the telephone companies would control "the local distribution network, development and implementation of satellite technology, and access to the system" such that guarantees in the agreement of equitable treatment for all carriers were therefore illusory.<sup>196</sup>

Further anti-competitive points were seen to include the clauses in the agreement pertaining to marketing, channel leasing policy and earth station ownership, location and design.

vi. Regulatory Implications.

The agreement was considered by several intervenors from the perspective of the regulatory problems which could arise as a result of its implementation. The nature of the regulatory problems envisaged are outlined

by CN/CP as follows:

"Regulatory complications arising from the Revenue Settlement Plan only serve to magnify the problems in regulating a monopolistic system which competes in a relatively confined area of telecommunication. Effective regulation is essential both to the maintenance of just and reasonable rates for monopoly consumers and to maintain competition against non-compensatory and predatory pricing practices." 197

CN/CP noted that "it is much easier to regulate when there is more than one carrier, as the regulatory agency is in a better position to allow market forces to work".<sup>198</sup> DCCA also argued against the loss of a yardstick for comparison of performance of regulated companies.<sup>199</sup>

In opposition to the implications of the Revenue Settlement Plan, CN/CP submitted that the Commission should perform the task of regulating Telesat's rate of return, which it would be precluded from doing under the guarantee clause of the agreement.<sup>200</sup>

Mention was made by several intervenors of the problems likely to arise with respect to rate regulation. It was noted that the TCTS is not a regulated body and that seven of its members are not under federal jurisdiction, thus there will be no federal review of the rate making policy of TCTS and no test as to

whether rate averaging is occurring. It was submitted that if the costs of satellite communications facilities are amalgamated with the costs related to the terrestrial telephone communications facilities and microwave, it would be difficult, if not impossible, for the Commission to determine whether the telephone consumers are subsidizing satellite users.<sup>201</sup> Thus, an approval of the agreement would, in effect, promote cross-subsidization. The submission by the Director of Investigation and Research noted another area in which regulatory problems are likely to arise, that being the difficulty in determining whether carriers are making investment decisions that ignore lower cost alternatives.<sup>202</sup>

To summarize, it was the intervenors' contention that the function of the Commission in ensuring that Telesat as a regulated corporation, serves the public interest, and that that function would be curtailed if the proposed agreement was approved.

c. The Decision

i. The Commission's Deliberations.

Guidelines

The only official policy guideline which the regulatory Commission was expected to interpret and implement was contained in the stipulations of the White Paper, which

had, in turn, been constrained by the legislation of the Telesat Canada Act, and a few paragraphs referring to satellites in the communications policy proposals of 1973 and 1975. These were the only formal written public declarations of the government's position regarding the role of satellite communication in the telecommunications structure. Satellite communication policy as evidenced from the references in the Green Paper of 1973 and the Gray Paper of 1975 had been treated as an adjunct to the mainstream of telecommunications issues rather than as an integral part of overall policy considerations.

The 1973 Green Paper, Proposals for a Communications Policy for Canada, prepared when Telesat was barely operational, bares the following reference to satellites:

"Satellite communications involve a new mode of transmission which will increasingly have profound socio-cultural effects and a marked impact on the economics of established telecommunications systems. While Telesat Canada provides alternative transmission facilities to both established carriers and broadcasters, it is also a potential competitor to any customer willing to lease one or more complete channels..., (satellite communications) will, in the relatively near future, introduce yet another obscurity into the once relatively clear distinction between broadcasting and the point-to-point forms of telecommunication." 203



It was written at a time when the DOC maintained an optimistic assessment of the market demands for channels on the satellite system and the impact it would bring to bear on the telephone companies. The Gray Paper of 1975 was a revised paper accounting for provincial views, but offers no further specific references to satellite expectations of performance. In its conclusion, perhaps with most concern directed towards cable systems, the Gray Paper said:

"The principal conclusion to be drawn from all the studies of communications in Canada that have been undertaken in recent years is that all forms of telecommunications have both national and local aspects, and that these cannot be separated on the basis of the technological character of the facilities involved." 204

There was also no specific reference to satellite communications included in the recent legislation of the Telecommunications Act, Bill C-43 (now C-24), following from the policy proposal working papers.

The fact that the DOC seemed reluctant to commit specific policies to paper (if they had any) may have been advantageous to the Department, but it made it difficult to verify the existence of specific policies and to ascertain whether and what ranking was given to policy objectives. The CRTC was in a position of surmising the Department's concerns. On the basis of CRTC staff working papers and DOC actions and public statements, it

seemed logical to assume the following with respect to the DOC's position:

1. Safeguarding the financial position of the regional carriers. It was understood that the Department tried to maintain the level of revenues of regional carriers that were derived from cross-traffic usage. It seemed that the Department felt it necessary to protect these interests from any adverse effects on their revenues should the satellite be used on a large scale for Canadian long distance traffic. The CBC's use of Telesat facilities had already reduced the terrestrial carrier's revenues. This could be one explanation for why the federal government had not contracted with Telesat for all of its long haul traffic requirements.
2. Considering provincial interests: The cable issue had raised a number of jurisdictional questions affecting federal-provincial relations, particularly where the carriers were provincially owned. The DOC, being politically sensitive, had to take heed to the implications of their concerns. Provincial opposition to increased competition, whether from CN/CP or Telesat, seemed to take precedence over Ontario's concern for increased competition.

3. Interconnection requirements. So far the terrestrial carriers had cooperated in ensuring that the interconnection needs of the satellite system with the land-based facilities had been provided. There was the possibility that if the satellite corporation entered into a position of direct competition, that this cooperation would be withdrawn. It was assumed that the Department would avoid the possibility of confrontation that this situation would propose.
  
4. Demand-capacity relations. The Department seemed to be concerned with matching capacity with need as far as possible to minimize any increased over-investment. Though the Department could affect the provisions of microwave facilities through denying licensing, and therefore shift usage from land to space systems, it does not seem to have acted in this manner. This objective seemed to have taken a low priority.
  
5. Telesat as retailer. Telesat has been limited to whole channel leasing by the provisions of the "Participating Carriers Agreement" between Telesat and the common carriers valid for the five-year term of the initial contracts for usage. If Telesat exercised its right at the end of the

present contracts to leasing of less than whole channels, it would effectively become a retailer as opposed to a carrier's carrier. This could place the Department in a difficult position vis-a-vis the first three points of the above. The Department generally discouraged possibilities for increasing competition in the telecommunications business.

#### Evaluation

CRTC staff had researched the Telesat case well beyond the confines of addressing the application in a "yes" "no" manner. A number of possible scenarios had been considered with their attendant implications. For instance, they had attempted to consider various ramifications in the event the decision went either way.

The Commission was aware of certain benefits which would result from sanctioning the agreement. These being the possibility of:

1. a better integration of satellite and terrestrial networks with mutual planning and coordination, resulting in increased utilization of the satellite system;
2. an assurance for the financial well-being of Telesat;

3. an assured proceeding with the next generation of satellites;
4. limiting Telesat's dependence on the federal government; and
5. that it would be the well preferred arrangement of many of the provincial governments and thus contribute to improved federal-provincial relations.

The Commission also saw possible grounds for denial of the agreement as resulting from the following effects of the proposed arrangement:

1. if, in effect, TCTS would be subsidizing Telesat's operations (at least initially) then it would have a detrimental effect on telephone subscribers;
2. that there may be potential limitations on the use of satellites by the broadcasting sector and others if the determination of earth station locations is influenced by TCTS;
3. that non-TCTS carriers could experience detrimental effects from the result of TCTS being in a position of controlling the use and application of satellite technology;

4. that cost-effectiveness of satellite technology will be submerged by the pricing policies of terrestrial services;
5. that many of the proposed benefits could be achieved without the agreement, particularly (1) above, since TCTS is part owner and board member of Telesat; and
6. that other more attractive alternatives (i.e. in the public interest) had not been explored and that Telesat should remain open to options until the benefits of satellite technology can be further explored.

If the Commission denied the agreement, it would be faced with certain implications. For instance, Telesat would require additional funding, probably from the federal government. The carriers would continue to resist using the satellite system by not renewing present contracts, or by resisting interconnection if Telesat pursued a more competitive status. To be competitive, Telesat would have to become a retailer of less than whole channels, which would further irritate the carriers, perhaps to the point of withdrawing capital from Telesat. Should Telesat become a retailer, it would also likely upset the

provinces, which would be pressuring the federal government against such a role. And, inevitably, the Commission was faced with the possibility that a denial of the agreement may cause the applicants to seek a reversal through the Minister of Communications and Cabinet.

#### Jurisdiction and Conclusions

The Commission's basic jurisdiction for adjudication of the proposed agreement arises from section 320(II) of the Railway Act, where any contract, agreement or arrangement relating to the interchange of service or management, working, or operation of the parties' systems, requires regulatory approval before it can be in effect. By section 320(II) of the Railway Act and sections 57 and 58 of the National Transportation Act, the powers of the Commission to approve, deny, alter and amend proposed agreements are limited, in this case to granting or withholding approval. The criteria for reaching a decision in such instances is considered to be the "public interest". The problem of defining the nature of the public interest as regards the Telesat-TCTS agreement was an interpretative act on the part of the Commission. The Commission chose two categories for dividing the appropriate public interest considerations.<sup>205</sup>

The first category pertains to traditional guidelines for public utility regulatory issues. This includes the effect of the agreement on the requirement under section 321(I) that rates be just and reasonable and on the effective regulation of such rates, and under section 321(2) that there not be unjust discrimination or unreasonable preference. In the second category, the Commission widened its interpretation of the public interest to include the question of general public policy. These include consideration of the effect of the agreement on:

1. the powers and autonomy of Telesat;
2. the availability and expansion of services; and
3. competition in telecommunication services.<sup>206</sup>

It was the Commission's determination that the public interest would not be served in either category.

At the conclusion of the proceedings, Telecom Decision CRTC 77-10, released on August 24, 1977, stated:

"In view of the consideration and conclusions set out in the decision, the Commission has decided that the proposed agreement under which Telesat would have become a member of TCTS, would not be in the public interest. Accordingly, the Commission does not approve the agreement." 207

It concluded that:

"the Agreement, if approved, would prejudice the process of effective rate regulation, contrary to the public interest." 208



And with respect to the latter consideration of general public policy:

"the erosion of Telesat's decision-making capacity, which would be caused by the Agreement, would not be consistent with the intent of the statute to create an independent, autonomous corporation, providing satellite services on a commercial basis." 209

With respect to satellite services, the Commission found that the evidence was not conclusive to demonstrate that the agreement was necessary to achieve the proposed system, and that in consideration of competition policy as an appropriate public interest concern, the Commission concluded:

"that there were grounds for concern that a potentially competitive situation in the long haul data and video of other private service would be restricted by the agreement in a manner that does not appear to be justified." 210

#### An Assessment

Though the Commission's formal explanation of the decision follows very closely upon the relevant statutes for its regulatory decision, it is the Commission's interpretation of their application which is significant.

For instance, in the issue of rate regulation and the criterion of just and reasonable rates. Since the agreement is not a direct case of the adjudication of rates and revenue requirements upon which an

assessment against the above principle is based, the Commission's concern was directed toward the influence and effects the proposed agreement may have on future costs and therefore rate applications for satellite service. In this manner, the Commission's assessment was enabled to encompass a broader scope than has traditionally been applied under this criteria.

It was considered that the effect of the agreement would be to place significant difficulties upon the regulatory process, and thus was contrary to the public interest. Since Telesat's rates are subject to regulatory ratification, the anticipated difficulties lay in the Commission's ability to adequately assess rate applications which are based on costing methodologies, if the two different technologies are integrated in such a manner that comparative differences and benefits are further masked rather than disclosed. The results could be such that cost separations and therefore an assessment of rates, would impose a greater burden of complexity on the regulatory process. Hence, the regulatory mechanism, already a cumbersome tool for monitoring industry behaviour, and market conditions, would be unduly accentuated in its expectations of fulfilling its function and purpose in the absence of yet another "market yardstick".

Similarly, in reference to the application of the regulatory principle referring to prevention of unjust discrimination or undue preference, the Commission was concerned with the nature of possible restrictions which may affect Telesat's service and facilities under the terms of the Agreement. In this case, judgment on this principle was the effects of the agreement likely on access to satellite facilities and services to all market participants, including potential customers. The Commission also considered what effects the proposed agreement would have on the provision of services to the north and CBC broadcasting, both of which are very dependent on Telesat at present. It was found that the advantages to TCTS members, as a result of the agreement, raised the substantial likelihood of undue preference which, in addition to specific marketing restrictions on Telesat customers, proposed real advantages for TCTS members, though in a subtly biased manner. Under such conditions, the Commission considered that its ability to rule on issues of discrimination would be handicapped by the difficulty of discerning "the facts" pertaining to such a claim.

It was clear that the Commission did not consider that the application had demonstrated that the public

interest would be served by the accruing benefits resulting from approval of the proposed arrangement within the industry. From this perspective, it was considered that the proposed potentials of efficiency of integrated systems and a stabilized financial prospectus for Telesat, must be proven to outweigh the implicit possibilities of a less orderly development of satellite services and facilities in a more competitive situation, whereby an independent, yet vulnerable, satellite corporation would be forced to operate for the benefit of its users on the basis of its technological advantages without masking or protection of TCTS and their technology.

Public interest considerations were interpreted by the Commission to go beyond the regulatory principles prescribed in the above mentioned criterion, and the Commission took upon itself to consider its regulatory mandate in telecommunications to be one which would develop a consistent policy thrust by virtue of its decisions, rather than relying on a traditional case-by-case approach.

The CRTC could be considered as having used the occasion to test the limits of its power and its regulatory mandate. The CRTC was indeed cognizant of the risk it was taking in choosing to interpret the issue

underlying the specific decision so broadly. But it would appear that in some senses the agency was testing its independence and scope in the telecom sector with its firmly entrenched market relations. The agency could also be seen as testing its power vis-a-vis the DOC, for the CRTC had both its legitimacy as a policy-making body and its power to make specific decisions on the line.

The CRTC assessment was a new experience for the carriers in particular. Though its adjudication was constrained by precedents of existing regulatory statutes, its considered interpretation of the public interest considerably exceeded the practices of the CTC. The substantial difference was that the CRTC's concern and criteria were based on the implications of its immediate decision on future regulatory proceedings and the question of "general public policy".

The CRTC considered its Telesat Decision to be the most important communications issue of the decade.<sup>211</sup> With respect to the nature of regulation in a monopoly dominated industry such as communications, the CRTC was aware of the need for flexibility in its approach to policy implementation, whereby the public interest may be furthered by means of modification to the industry structure with the aim of fostering market competition as an inducement to a more desirable industry performance. The CRTC's

perspective on regulatory policy in telecommunications has been substantially influenced by the particular thrust in American regulatory theory, and recent U.S. practices towards a more competitive structure in the telecom industry where the protected status of traditional natural monopolies has been increasingly questioned.

Although the economic characteristics of the industry may suggest the same questions in similar issues for both countries, the basis for an evaluation and recommendations may in fact be quite different. The CRTC, recognizing the similarities and in evaluating American experience, found that regulatory measures which altered the institutional arrangements, particularly to the industry by limiting monopoly power, would promote a more desirable market structure. It is an assessment based not only on the role of regulation in a monopoly structured industry, but on a basic assessment of monopoly versus competition in the market sphere. On a broader scale, however, and in view of historical precedents in this country, the question of the role of regulation and the question of monopoly versus competition have not merited the same concerns and responses as in the U.S. The assumptions inherent in the assessment of these questions in the Canadian context will be addressed in a subsequent

section. At this point it can be said that the CRTC appeared to be acting on what it had deemed to be the appropriate action to be taken in this instance, regardless of past assumptions of what such questions may infer in national and historical terms.

ii. Response

The Contending Parties

1. The response of the applicants (Telesat with supporting appeal from Bell) was an immediate appeal to Cabinet. The procedure in this case (as opposed to broadcasting decisions) is made possible under Section 64(1) of the National Transportation Act, where a Cabinet Order can vary or rescind a decision of the Commission. The power was rarely used in the decisions of the CTC. A similar (but less powerful) ruling is also available to Cabinet for CRTC broadcasting decisions, and likewise, has rarely been invoked. The regulatory agency's rulings can effectively be overturned by Cabinet, but they cannot be taken to court for matters other than law or jurisdiction.<sup>212</sup>

The applicants restated their case in their petition to Cabinet, arguing that the CRTC had misinterpreted

the implications of the agreement and had failed to give sufficient weight to the evidence of the applicants. Their presentation related the benefits of the agreement as being for the good of Canada.<sup>213</sup>

2. Those that had opposed the agreement and were therefore in favour of the CRTC Decision, were wary of the appeal process open to the applicants, given the mood of the government.

The Consumer Association of Canada directed its response to the Prime Minister on the "unsatisfactory nature of appeals to Governor-in-Council from decisions of regulatory tribunals".

"To characterize the petition, as has been done by the Privy Council Office, as a private matter between the petitioner and the Governor-in-Council, is totally unacceptable, inconsistent with the notion of a statutory appeal and a fundamental violation of the notion of fairness or natural justice." 214

The CAC argued that the only reasonable solution



would be for the Governor-in-Council to decline jurisdiction in the matter and Telesat could seek appeal through the Federal Court. To do otherwise, the CAC felt, would undermine public confidence in Cabinet's accountability and equally undermine public confidence in the independence of the regulatory process.

3. CN/CP in lieu of the possibility that Cabinet may reverse the CRTC Decision, began preparing its case for the courts on the issue of the "illegality" of the proposed agreement between TCTS and Telesat. (CN/CP's appeal to the courts, after Cabinet's decision, was rejected).<sup>215</sup>

#### Government

1. An opinion

The Department of Communications and Minister Sauve had refrained from any public statements of intervention in the CRTC proceedings while the hearings were underway. But while the Commission may have lacked any formal position statement or

policy guideline for considering the proposed agreement, the Minister's opinion on the matter was certainly less obscure. In an interview with Jeanne Sauve, as published in Canadian Communications Reports, July 1977 (while the Commission was still in deliberation), the Minister, remarking upon the Telesat-TCTS merger, stated that the proposal was the "only way to go" if we wanted to maintain our presence and our use of space technology. She continued that the priority in the development of telecommunications was in space and the developing of industrial capacity in space technology.

"It's very difficult for one country to be able to do everything and Canada embarked on a policy several years ago to develop areas where it felt it could develop a certain excellence. We have reached that point and we've got to maintain it. So it is very important that we see to it that satellites are used for communication and that was the only way it could continue to be used." 216

She proposed that such an arrangement would encourage usage and lead to rate reductions for communications services.

2. The Cabinet Decision

On November 3, 1977 the Governor-in-Council issued an Order that had the effect of overturning the decision of the CRTC. Subsequently, the Telesat-TCTS agreement became effective retroactive to January 1, 1977. The government rationale accompanying the announcement was that the proposed agreement involved a broader national concern than the regulatory agency was expected to consider. Minister Sauve had said that though the CRTC had no choice but to accept or reject the agreement, Cabinet had to view the matter in broader national terms.<sup>217</sup>

iii. Attempts to Explain

Hutchinson, in the Definitive Story on the Telesat-TCTS Affair, suggests that the Minister can place conditions on Telesat that the CRTC could not, and the power to do so should be sufficient to appease those concerned by the merger proposal.

"Although it might appear that the government undermined its regulatory body, the Order-in-Council placed conditions on Telesat, a power not available to the CRTC." 218

The "conditions" were initially put to Telesat when the corporation first submitted the proposal in the fall of 1976. Telesat assured the Minister that these conditions had been met in the final draft of the agreement. This information was clearly available to

the CRTC and considered in its deliberations but in the CRTC's opinion still failed to alter the components of the agreement sufficient to justify its approval in the public interest.

Other explanations have been offered, one of which centres on the apparent rift between the CRTC and the Minister.<sup>219</sup> This explanation of the decision then suggests that the decision reflects the on-going power struggle between the Minister of Communications (and her Department) and the Chairman and regulatory agency, over jurisdiction for policy matters. Evidence to this effect would point to the events surrounding the issue of Pay-TV, federal arrangements with Manitoba over cable issues, and the legislation which seeks to formally place policy issues in Departmental hands. The problem with this explanation (and its interpretation in the press) is that it personalizes the issues to a Boyle-Sauve personality rift. Though certainly these events have contributed to a less than complementary arrangement between the Department and the agency, the explanation is not sufficient. The Minister alone did not have the power to reverse the Commission's decision. It was a Cabinet Order and the Minister's persuasion for a reversal would have to include justifications to garner the support of a majority of ministers in the

more influential posts within Cabinet. It was reported that a senior Assistant Deputy Minister in DOC had sent an internal memo to Sylvia Ostry, Deputy Minister of Consumer and Corporate Affairs, advising that the Departments of Justice, Finance, External Affairs, and Industry, Trade and Commerce were all in agreement that the merger was in the best interests of Canada.

The memo asked whether DCCA would now be prepared to drop its opposition.<sup>220</sup> DCCA Director of Investigation and Research, Bertrand, had been the only federal government participator in the CRTC hearings, and argued strongly against the merger.

Another opinion seeks to explain the decision as a result of lobbying efforts.<sup>221</sup> This explanation is based on the assumption that powerful interest group pressures managed to obtain beneficial results, those being the extension of the monopoly powers of the telco's (especially Bell Canada). It would be naive to refute the contention that lobbyists were at work and particularly Bell, which has sufficient stature as a corporate citizen to sway certain political opinions. But clearly an explanation of the events cannot be simply deemed an act of political patronage. However, it does bring Cabinet's accountability into question and the rationale for political agreement with the lobbyists.

It would be useful to examine Cabinet's basis for deeming its decision as a national advantage.

In examining the specific relationship of the "national interest" as it refers to the intended advantages of the Agreement, it becomes apparent that it raises the following points:

1. An integrated satellite and terrestrial network will provide substantial advantages to TCTS members and avoid any confrontation between the carriers and the government which may have arisen under a more competitive atmosphere.
2. An assurance for Telesat's financial position which ensures the proceeding with the next generation of satellites and is consistent with government intent to continue space in the development of space technology and industrial capacity to maintain a dominant Canadian presence and further penetrate international markets.
3. A means of limiting Telesat's outright financial dependence on the federal government, particularly important at a time of financial stringency, and to alleviate the embarrassment of Telesat's inability to achieve the intention of a corporation with built-in profitability.

4. The arrangement, by appeasing some of the provincial telephone systems, would contribute to improved federal-provincial relations where communications had been a jurisdictional controversy between the two levels of government.

These points are criteria for assessing the interpretation of the application of the national interest in this instance. Recognition of these benefits as being in the national interest and outweighing the possible disadvantages as ascertained by the Commission as contravening their interpretation of the public interest, demonstrates the incongruency of the priorities upon which Cabinet, as opposed to the CRTC, operated. Their priorities have been conditioned by value assumptions prevailing from the historical pattern of government-industry relations and the regulatory environment specific to those relationships.

Although Cabinet and the CRTC saw themselves as acting in the public as well as the national interest, they used different yardsticks in judging the relative merits and problems of the application. Priorities and criteria are intrinsically linked to the values and assumptions operating in the decision-making process. Neither the CRTC nor Cabinet acted in a vacuum. Their interpretations

of what is important to consider will reflect the community of interest they see themselves representing. The manner in which considerations of importance are recognized is conditioned by value assumptions. To understand Cabinet's criteria and therefore the underlying value assumptions, it is necessary to understand the state corp rel and reg environment which have historically conditioned notions of what is important in national decisions of economic policies.



FOOTNOTES AND REFERENCES

CHAPTER FIVE

1. Dalfen, "Telesat Canada", p.183.
2. White Paper, p.8.
3. Dalfen, "Telesat Canada", p.183, 185-6.
4. Kierans, 113 Canada, House of Commons Debates, 28th Parliament, 1st. Session, at 7492, 7498 (hereinafter cited as CHCD).
5. White Paper, p.34.
6. Ibid., p.52.
7. Ibid., p.50-4, p.70-4.
8. Ibid., p.52-4, p.70-4.
9. Ibid., p.56.
10. Smythe, Dallas, "The Orbital Parking Slot Syndrome and Radio Frequency Management", Quarterly Review of Economics and Business, 1972.
11. White Paper, p.64-6.
12. Ibid., p.56.
13. Ibid., p.32, also p.14, 56, 70, 36.
14. Dalfen, "Telesat Canada", p.191. Further, see Minutes of Proceedings and Evidence Respecting Bill C-184 Before the Standing Committee on Broadcasting Films and Assistance to the Arts, 28th Parliament, 1st Session (1969), at 1525, 1526, 2152 (hereinafter cited as Committee Proceedings). See also CHCD 9810.
15. White Paper, p.15.
16. White Paper, passim. This analogy was used repeatedly by speakers and witnesses during the proceedings of the legislative process in reference to telecommunications systems.
17. White Paper, p.58.

18. Ibid., p.50, p.70.
19. Ibid. p.46.
20. Ibid., p.46.
21. Ibid., p.46.
22. Ibid., p.60.
23. Ibid., p.12.
24. Ibid., p.46.
25. Dalfen, "Telesat Canada", p.183.
26. Wyman, Telesat, p.13.
27. Ibid., p.13.
28. Ibid., p.12,13.
29. Ibid., p.12-13.
30. Beigie, "Economic Framework", p.177. See also section on "Basic Policy Issues", Ibid., p.176-195, and "Conclusions and Recommendations", Ibid., p.196-212. See also Instant World, p.189.
31. Melody, W.H. "Competition and Natural Monopoly in Regulated Telecommunications: Economic analysis of Basic Concepts", prepared for ad hoc Committee for Competitive Telecommunication, September, 1976.
32. CRTC working paper, Study of Relevant Factors in Rate Assessment for Interstate Message Toll Service, specifically, see F.C.C. Docket 18128, October, 1976, 61 FCC 2d.
33. Wyman, Telesat, p.14, re 2nd TCTS network.
34. White Paper, p.46.
35. Telesat Canada Act (1969). In 1973 this was amended to (a) between locations in Canada; and (b) subject to appropriate intergovernmental arrangements to and between other locations. This amendment was made so that Telesat could lease transponders to U.S. carriers for servicing Alaska.
36. (Kierans) CHCD at 7493.

37. (Kierans) CHCD at 7473.
38. (Kierans) CHCD at 7497.
39. (Kierans) CHCD at 7497.
40. (Mackintosh) Committee Proceedings of May 15, 1969, at p.1935.
41. (Kierans) Committee Proceedings of May 27, 1969, at p.2150.
42. (Kierans) CHCD at 7496.
43. (Kierans) CHCD at 7494.
44. (Kierans) CHCD at 7494.
45. (Kierans) CHCD at 7494, 7495.
46. Dalfen, "Telesat Canada", p.190. Also Committee Proceedings, at 2049.
47. Committee Proceedings at 1483; Canada Senate Debates, 28th Parliament, 1st Session (1969) (hereinafter cited as Senate Debates), at 1605.
48. CHCD at 7500, CHCD 9828, Gotlieb, Committee Proceedings, at 1605.
49. (Kierans) Committee Proceedings at 1598.
50. (Gotlieb) Committee Proceedings, at 2009-10.
51. (Cretian) CHCD at 7509.
52. (Kierans) CHCD at 7492, Committee Proceedings at 1489.
53. (Lewis) CHCD at 10101.
54. (Lewis) CHCD at 10102.
55. (Lewis) CHCD at 10103.
56. (Shreyer) CHCD at 7503.
57. (Shreyer) CHCD at 7527.
58. (Schumacher) CHCD at 9840.

59. (Lester) Committee Proceedings at 1879.
60. (Grandpre) Committee Proceedings, at 1853.
61. Dalfen, "Telesat Canada", p.190.
62. (Krupski) Committee Proceedings, at 1677, 1879, 1912.
63. (Krupski) Committee Proceedings, at 1694, 1706-08, 1740.
64. (Krupski) Committee Proceedings at 1742.
65. (Krupski) Committee Proceedings at 1743.
66. (Kierans) Committee Proceedings, at 2049.
67. (Kierans) Committee Proceedings, at 2049.
68. (TCTS) Committee Proceedings, at 2125.
69. Dalfen, "Telesat Canada", p.191. The U.S. had offered to sell Canada a satellite at 2% less cost and twice the capacity.
70. CHCD at 7495. Kierans said there was no need for a larger satellite (12 as opposed to 6 channels). The costs of a Canadian system, though higher, were considered to be worth it for the spin-off and residual benefits.
71. "Emotions High Over Who Builds Satellite", Financial Post, 11 July 1970, p.1.
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98. CRTC Documents, Telesat Exhibit #1, p.11-13.
99. "Telesat: History and Background", p.B12.
100. CRTC Documents, Telesat Exhibit #1, p.23.
101. "Telesat: History and Background", B14.
102. Ibid., B14-16.
103. Golden, David, "Anik-Experiments with a Domestic Communications Satellite Serving the Public", presentation to the American Institute of Aeronautics and Astronautics, Washington, D.C., January 29, 1974.
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105. CRC Study, quoted in Wyman, Telesat, p.22-3. Wyman's comments on two-tier regulation, p.31-2.
106. CRTC Documents, Testimony (Thompson) Vol. XI 1886.
107. Ibid., (Thompson).
108. Ibid., p.1888 (Thompson).
109. Ibid., Vol IX, 1417.
110. Ibid., Vol. IX, 1315, Interrogatory CRTC -102, Appendix C Attachment 1.
111. CRTC Documents, Interrogatory CRTC-102 Attachment 1.7.
112. CRTC Documents, Testimony (Thompson) Vol.X, 1823, Telesat Exhibit #5.
113. Ibid. (Thompson) Vol. VI, 939, and Telesat Exhibit #2.
114. \_\_\_\_\_. Vol.XI 2137.
115. \_\_\_\_\_. Vol.VI 987, 982, 986, and Telesat Exhibit #5.

116. \_\_\_\_\_. Telesat Exhibit #5, Vol. IX 1477.
117. \_\_\_\_\_. Telesat Exhibit #2, Telesat Exhibit #5.
118. \_\_\_\_\_. Telesat Exhibit #2.
119. \_\_\_\_\_. Telesat Exhibit #2.
120. \_\_\_\_\_. Telesat Exhibit #2.
121. \_\_\_\_\_. Telesat Exhibit #2; testimony Vol. IX 1585.
122. \_\_\_\_\_. CRTC Exhibit #1, Telesat Exhibit #5.
123. \_\_\_\_\_. Telesat Exhibit #2; Testimony Vol II 236.
124. \_\_\_\_\_. Telesat Exhibit #2; CRTC, Telecom Public Notice, CRTC 1977-2 (Ottawa).
125. Bill C-5 (1975) An Act to Establish the Canadian Radio-Television and Telecommunications Commission came into force April 1, 1976. Referred to a Phase I of a two-step legislative process to establish a new comprehensive Telecommunications Act is further delimited in Bill C-43. Phase I amalgamated the former Canadian Radio-Television Commission and the Telecommunications Committee of the Canadian Transport Commission into a single regulatory body.
126. See policy proposals contained in the federal government's Green Paper of April 1973 and the Grey Paper of March 1975.
127. Canada, House of Commons Debates, November 1, 1967, p.3746.
128. Penny, R. G. "Telecommunications Policy and Ministerial Control", Canadian Communications Law Review, 1970, p.14.
129. The new legislation states, for the first time in telecommunications, sixteen policy objectives. The Act also allows for the Minister of Communications to enter into agreements with the provinces and authorizes the Governor-in-Council the power to authorize the sharing of certain regulatory functions with provincial agencies. Further, the Bill empowers the Governor-in-Council to issue broad policy directions to the CRTC with respect to

the national telecommunications policy. The Telecommunications Act will replace the Broadcasting Act, Telegraph Act, the CRTC Act, the Radio Act and those provisions of the Railway Act and the National Transportation Act which apply to telecommunications.

130. See Government of Canada, Department of Communications, News Release "Federal Government Reintroduces Communications Legislation", Ottawa, January 26, 1978. Also Buchan, Robert, J. "New Communications Legislation Explained" in In Search, Canadian Communications Quarterly, December 1977, p.16-18.
131. Railway Act, section 320(II) explained in CRTC Decision, August 24, 1977, p.19-25. Further regulatory considerations defined in p.25-42.
132. The arguments as presented here are compiled from all CRTC documents submitted in hearing Telesat's application for TCTS membership. These include interventions, interrogatories, testimony, final argument (written) and exhibits. For reference purposes the following abbreviations will be used to denote the sources. Page numbers denote testimony filed within Vol.I-XVIII; F.A. denotes written submission of final arguments, interrogatories and exhibits referenced by number and responded with the exception of CRTC 22 February 77 from Telesat Canada entitled "Rationale - Motivation - Alternatives - which will be cited as R & M.
134. Ibid., p.252; R & M p.23.
135. \_\_\_\_\_. p.204, 197; Telesat F.A.; p.247; R & M p.16; p.304.
136. \_\_\_\_\_. p.197, 262, 256.
137. \_\_\_\_\_. R & M p.23, Telesat F.A.
138. \_\_\_\_\_. p.2578, (CN/CP); CCTA - A.
139. \_\_\_\_\_. p.2799.
140. \_\_\_\_\_. CAC Exhibit #10.
141. \_\_\_\_\_. p.2890.
142. \_\_\_\_\_. CN/CP F.A. p.18-19.
143. \_\_\_\_\_. CN/CP, DCCA, CAC, CCTA, B.C. - F.A.'s.
144. \_\_\_\_\_. CCTA, CAC, CN/CP, DCCA - F.A.'s, p.2590.



145. \_\_\_\_\_. p.243, 238.
146. \_\_\_\_\_. R & M, p.13.
147. \_\_\_\_\_. R & M, p.5.
148. \_\_\_\_\_. p.245, 256, 283.
149. \_\_\_\_\_. p.336, 243, 333.
150. \_\_\_\_\_. p.338.
151. \_\_\_\_\_. Memorandum to Agreement, p.17-18.
152. \_\_\_\_\_. p.338.
153. \_\_\_\_\_. p.2581-6; DCCA, CCTA, CAC - F.A.'s.
154. \_\_\_\_\_. CAC Exhibit #10.
155. \_\_\_\_\_ CN/CP - F.A., p.26; CCTA - F.A., p.7.
156. CN/CP suggested that a reduction in the requirements for external financing could be obtained by:
1. Continuing further usage of the 6/4 technology while the satellites are still operational is by sharing protection services, leasing or selling Anik A1 or 2 occasional TV unprotected, alternate routing, or amending accessibility by reconfiguration.
  2. Launching another "b" satellite before proceeding with the Anik C series.
- This is expected to result in reduced capital expenditures "up in the air" while fully exploiting the available technology. The DCCA Director suggested that financing could be obtained through a government guarantee, provincial guarantee, shareholder guarantee, issue of shares to provincial governments, to users in the manufacturing and equipment industry, or investment by cable and broadcasting companies. The representative on behalf of the Ontario Minister of Transportation and Communication, concludes that the federal government should assume responsibility for short term financing.
157. \_\_\_\_\_. DCCA, Ontario, CN/CP, B.C. Inuit-Tapirisat, CCTA, CAC - F.A.'s.
158. CN/CP - F.A., p.29; DCCA, Ontario - F.A.'s, CCTA - F.A. p.8.
159. \_\_\_\_\_. B.C., CAC, - F.A.'s.

160. \_\_\_\_\_. DCCA, B.C. - F.A.'s, CN/CP Exhibit #2,  
CAC - F.A., p.49, CCTA - F.A., p.5, DCCA - F.A., p.14,  
B.C. - F.A. p.8.
161. \_\_\_\_\_. p.338, Telesat F.A.
162. \_\_\_\_\_. p.198.
163. \_\_\_\_\_. p.241, 356; B.C.-Tel - 1.
164. \_\_\_\_\_. CRFC-04; TCTS - F.A.
165. \_\_\_\_\_. R & M, p.5.
166. \_\_\_\_\_. Telesat F.A.; R & M, p.3, 4, 21.
167. \_\_\_\_\_. Innuvit, 101-5.
168. \_\_\_\_\_. Bell, F.A., p.385.
169. \_\_\_\_\_. B.C. Tel - 104.
170. \_\_\_\_\_. Bell F.A.; BC Tel - 103.
171. \_\_\_\_\_. CAC, B.C. - F.A.; DCCA - F.A., CN/CP - F.A.
172. \_\_\_\_\_. p.2785.
173. \_\_\_\_\_. DCCA - F.A.
174. \_\_\_\_\_. Innuvit-Taparizat - F.A.
175. \_\_\_\_\_. Arctic Gas - F.A.
176. \_\_\_\_\_. p.3070.
177. \_\_\_\_\_. R & M, p.17.
178. \_\_\_\_\_. p.306, 340.
179. \_\_\_\_\_. B.C. 101 - BC. Tel.
180. \_\_\_\_\_. R & M p.23.
181. \_\_\_\_\_. p.392, R & M, p.5.
182. \_\_\_\_\_. CN/CP - F.A., p.31.
183. \_\_\_\_\_. CN/CP - F.A., p.7, DCCA - F.A. , p.38, Ontario -  
F.A., p.13-4.

184. \_\_\_\_\_. p.2896-7.
185. \_\_\_\_\_. p.2750, CN/CP - F.A. p.31.
186. \_\_\_\_\_. Telesat - F.A.
187. \_\_\_\_\_. p.242, 260; Telesat - F.A., p.20.
188. \_\_\_\_\_. B.C. 219 - Telesat p.22; Telesat - F.A.
189. \_\_\_\_\_. CN/CP - F.A., p.46; DCCA - F.A., p.3; p.2772, Ontario, CCTA, CAC - F.A.
190. \_\_\_\_\_. CCTA - F.A., p.5.
191. \_\_\_\_\_. CN/CP Exhibit #2, p.5.
192. \_\_\_\_\_. Ontario - F.A. - p.16.
193. \_\_\_\_\_. CCTA - F.A., p.2; p.2890.
194. \_\_\_\_\_. p.1896-7, p.2447.
195. \_\_\_\_\_. CN/CP - F.A., p.13.
196. \_\_\_\_\_. CN/CP - F.A. - p.21.
197. \_\_\_\_\_. CN/CP - F.A., p.25.
198. \_\_\_\_\_. p.2769-70.
199. \_\_\_\_\_. DCCA - F.A., p.40; Ontario - F.A., p.16.
200. \_\_\_\_\_. DCCA - F.A., p.43; CCTA - F.A., p.15; CN/CP Exhibit #4.
201. \_\_\_\_\_. DCCA - F.A., p.41.
202. \_\_\_\_\_. DCCA - F.A., p.42; p.2893.
203. Canada, Proposals for a Communications Policy for Canada, Minister of Communications, Ottawa, 1973, p.22 (Green Paper).
204. Canada, Communications: Some Federal Proposals, Canada, Ottawa, 1975 (Grey Paper).
205. CRTC Telecom Decision (77-10), p.1.
206. Ibid., p.2.

207. Ibid., p.1.
208. Ibid., p.2 - explanation of Commission's decision regarding rates, p.25-34.
209. Ibid., p.3 - explanation of Commission's decision regarding discriminatory ruling, p.34-42.
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211. "Cabinet Ruling Allows Telesat to Join Telco's", Vancouver Sun, November 4, 1977, C9.
212. Wright, Arthur, "An Examination of the Role of the Board of Transport & Commissioners for Canada as a Regulatory Agency", 1963, Canadian Public Administration, 349 at 352-3, 362-3, 376-385.
213. Petition to Governor-in-Council by Telesat Canada, pursuant to Sec.320(II) of the Railway Act (September 15, 1977); Petition to His Excellency the Governor-in-Council by Bell Canada by virtue of Section 64(1) of the National Transportation Act for an Order varying or rescinding the decision of the CRTC, August 24, 1977 (September 15, 1977).
214. Consumers Association of Canada, Letter to Rt.Hon. P. E. Trudeau, Prime Minister, dated September 23, 1977.
215. CN/CP petition to the Supreme Court of Canada.
216. Interview with Hon.Min. Suave, quoted in Canadian Communications Reports, 6 July 1977, p.8-9.
217. CRTC Press Release, Ottawa, November 4, 1977, recording receipt of Order-in-Council, R.C. 1977-3152, in which Governor-in-Council has varied the Commission decision and approved the Telesat-TCTS agreement. "Federal Cabinet Overturns CRTC Decision" (CP) Vancouver Sun, November 4, 1977.
218. Hutchinson, "Definitive Story", p.16.

219. For example, see CCR interview with Sauve regarding "rift", p.10-11., Geoffrey Stevens, Globe & Mail, September 27, Ann Duncan, Vancouver Sun, November 4, p.C9.
220. Memo quoted in Geoffrey Stevens column, Globe & Mail, September 27, 1977.
221. Ibid.

PART THREE - AN EXPLANATION

CHAPTER SIX - AN HISTORICAL RATIONALE

The examination of the policy story surrounding Telesat, by placing it in its immediate historical context and tracing the decisions which represent policy, has shown how conflicts of interest arose to initiate policy making, how they were subordinated through temporary concessions and how a resolution of compromise was renegotiated in the form of the Telesat-TCTS agreement. The substantive analysis of this negotiation process begins with defining its historical rationale within the broader framework of political-economic relations. The examination of the general theme of the historical relationship between business and government begins to flesh out the framework with respect to patterns of conflict and the assumptions and values prevailing in the political environment which condition and constrain the immediate policy process. The regulatory environment then examines these dynamics within a specific relationship.

1. SIGNIFICANT FEATURES OF GOVERNMENT-INDUSTRY RELATIONS

The national economic structure is the distributive dimension resulting from economic policies through history. The distributive effects of national economic

policies have structured the economy in particular patterns. The principal features of attention here are:

1. that there is a high degree of corporate concentration that is controlled by an elite of the economic power structure; and
2. the elite is fractionalized by virtue of the sectors of the economy, their size, strength and nature of control exercised.

This arrangement of economic power is a consequence of the role of the state in our economic development, and has been established and maintained by the inter-dependence of economic and political structures.

The state's role, whether in nation-building or managing the economy, has been pervasive, but it has not significantly altered the power structure of economic relationships which dominate the affairs of the nation.

The interests and benefactors identified through the process of policy formulation and implementation as regards satellites has shown how a degree of conflict has been resolved through the Telesat-TCTS agreement on the justification of being in the national interest. The

intent now is to demonstrate how that process of events can be linked to an historical rationale to substantiate the prioritization of criteria upon which the Cabinet decision was based. The historical rationale attempts to offer a means of understanding that prioritization from a broader perspective. The features examined in the historical rationale attempt to describe a structure of economic power, its divisions and conflicts, and a relation to the role of the state in policy decisions which demonstrates a congruency between dominant economic interests and policy decisions, particularly national policies. Satellite policy developments similarly demonstrate a congruency between the dominant economic interests involved and the policy positions taken.

a. Characteristics of the National Economic Structure

By identifying characteristics of the national economic structure in terms of the level of concentration and the pattern of ownership and control, it becomes apparent that competition is a primary economic imperative, is lacking in the actual industrial structure and in the rationale behind the policies responsible



for the current corporate arrangement. These points are essential to the discussion of satellite policy in that they locate the corporate interests involved in the overall picture and substantiate their claims in the discussion of how competition as an issue is perceived within satellite policy negotiations.

i. Political Significance of  
Economic Characteristics

The level of corporate concentration and the nature of divisions within the elite are aspects of the Canadian economy which have important implications for understanding the relationship between the economic and political systems. These aspects are important since concentration of economic power is not compatible with traditional economic theory of an efficient market system. Nor does it sit comfortably with pluralist conceptions of society in liberal democracies. It forces recognition of the commonality to both; competing interests are not equal either in the marketplace or political system. As Rosenbluth has argued, the Canadian corporate structure reflects the inequalities which stem from the present concentration of economic power.<sup>1</sup>

Recognition of corporate concentration is an important factor for political analysis because of its

implications. Economic power, as a condition determined by the distribution of resources and control over economic activities, accrues as a result of concentrated ownership and produces an economic elite. Though economic wealth, in terms of the allocation of resources, does not necessarily translate into an equivalent degree of power, wealth in conjunction with reference to its strategic position in the economy will bear a correspondence with a congruent position of power. Therefore, the delineation of our economic structure represents a structure of power relations.

## ii. Patterns of Control

### Evidence of Corporate Concentration

That the Canadian economy does not now, nor did it in the past, resemble the competitive structure deemed appropriate to an efficient capitalist market economy, is generally granted in the literature. It is commonly recognized that our current economic structure bears a high degree of corporate concentration.<sup>2</sup> The findings of the Royal Commission on Price Spreads (1937), which followed the Berle and Means Report in the United States, when first published "caused considerable concern because they were sharply at variance with stereotypes of a competitive economy which were then prevalent in the minds of economists

as well as members of the public at large".<sup>3</sup> But even with the acknowledgement of the level and trends of concentration, policies to implement structural changes towards a competitive environment have not been pursued.

The Royal Commission on Canadian Economic Prospects (1956-57) recognized the increasing trend in corporate concentration but sanctioned the pursuit of such prospects as necessary for achieving economies of scale sufficient for developing specialized industrial capacities. In 1968, the Task Force on the Structure of Canadian Industry (Watkins' Report) provided an analysis and proposals which ran counter to established tenets of neo-classical economic theory, and particularly the influence of Harry Johnson, stalwart representative of continentalist beliefs. The response from the (then) Minister of Finance, Mitchell Sharpe, was that it represented only the personal view of a few academics and had no bearing upon governmental policy.<sup>4</sup> Kierans has described the economic structure of the 1970's as one in which "virtually every sector of the economy is dominated by less than a handful of huge corporations".<sup>5</sup> The recent findings of the Royal Commission on Corporate Concentration (1978) further endorsed the levels of

concentrated economic power as necessary and advantageous to Canadian economic growth.<sup>6</sup>

#### Who Holds the Power?

A critical feature of corporate concentration and the structure of economic power relationships is the pattern of ownership and control in terms of who holds the power. In Rosenbluth's study (1961) of corporate concentration, he found that on the issue of ownership and control of large corporations in Canada, those in control could be classified in two groups: "foreign, particularly U.S. business interests, and a small interlocking Canadian economic elite".<sup>7</sup>

With respect to the latter, he remarked:

"It is thus evident that Canadian domestic controlled dominant corporations are in the care of a small and homogenous group representing by class and social background a very narrow segment of the population." 8

Porter's sociological studies of the 1950's documented the vertical aspect of Canadian society contradicting the notion of horizontal pluralism and establishing the base for further study of the nature of "elites".<sup>9</sup>

Clement's more recent investigations of Canadian and continental corporations, have helped to identify the economic power structure and its relationship to the bureaucratic power structure of the state

apparatus.<sup>10</sup> What becomes evident from these studies is that there is an increasing interpretation between the corporate elite and the state and political systems, the importance of which is paramount to understanding the role of the state in face of the postulation that it performs an unbiased role as manager of society. Presthus' examination of Elite Accomodation in Canadian Politics, caused Rea and McLeod to remark that perhaps "we have failed to recognize the essence of our political economy as unrelated to liberal democratic concepts".<sup>11</sup>

#### The Wielding of Power

Finally, though ownership and control of Canadian corporations rests with the few, several authors now note the elite is itself subject to "divisions".

The notion of intra-elite conflicts is a key concept in defining the role and function of the state and the formation of policy.

The structure of the Canadian economic elite is segmented by the nature of control over various economic activities and the relative strength of each sector to the locus of power in decision-making in corporate planning and its effects on the Canadian economy.<sup>12</sup> The dominant foreign industrial giants

whose powerful influence affects the direction of economic development in Canada, by their transnational character are exercising decision-making often from outside Canadian boundaries. The indigenous capitalist strength which has developed internally must co-exist within the influence of multinationals (primarily U.S.) economic domination. It is evident from the studies of Naylor and Levitt<sup>13</sup> that the Canadian dominant elite have demonstrated a cooperation with foreign penetration, while subordinate elites, whose interests may conflict in specific issues, continue to share a concomitant interest in Canadian corporate development. The structural relationships of the economic elite in Canada compose a contradictory unity of the Canadian capitalist class. Our own capitalists are commercial, not industrial, which is the U.S. preserve, and have actively cooperated in the resulting suppression of an indigenous industrial force.

Foreign investment in Canada is concentrated in the manufacturing and resource sectors or sphere of production of the economy, while finance, transportation, utilities and mass media tend to be indigenously controlled. Clement's data on dominant corporations defines fractions of the capitalist class in

correspondence with dimensions of control, size and sector of the economic activity with which they are associated.<sup>14</sup> In Canada, he applies the following distinctions: the dominant indigenous, the middle range indigenous and dominant comprador, to the differing industrial and commercial sectors and their relative position in a hierarchical structure of power relations.

The seat of power in the Canadian economic structure is the dominant indigenous elite controlling finance, transportation and the utilities. The other powerful fraction located in branch plants of foreign controlled multinationals, is referred to as the comprador Canadian economic elite, as it functions as the go-between for the parent companies. The middle range indigenous fraction of the Canadian capitalist class is in a subordinate position to both of the dominant fractions. Its activity is mainly centred in small scale manufacturing.<sup>15</sup>

### iii. Structural Implications

The indigenous dominant capitalists have been shown by economic historians such as Innis, Aitken and Naylor,<sup>16</sup> to be historically tied to the imperial commercial capitalists who facilitated the staples

extraction. This was done through the provision of capital for transportation links which thereby established an alignment between financial institutions and the transportation sector which created the base for Canadian indigenous capitalist investment, and in the process they have been left controlling the means of circulation rather than production. The extraction and production industries, having developed from entrepreneurial to corporate to multinational capitalist endeavours, have remained largely in the control of foreign investors and have shifted with the locus of power of the economic metropolitan centre from British Colonial imperialism to U.S. economic control. An indigenous secondary industrial capacity has never fully developed in Canada and indigenous manufacturing, perhaps the weakest element in the Canadian capitalist class, has had its growth curtailed by the presence of multinationals and the dominant indigenous financial institutions which have not ventured to risk capital while more secure possibilities exist. As Levitt<sup>17</sup> has demonstrated the lack of development of an in-depth indigenous industrial effort is constrained by branch plant corporations which function to siphon off capital for imperial interests rather than reinvesting in



Canadian research and development or secondary capabilities.

The resulting dependency model of incomplete capitalism or of a hybrid capitalist economy as Canada has been termed,<sup>18</sup> is inconsistent with the growth model of liberal economic theory. Competition remains secondary to efficiency, and efficiency is sought through concentration of corporate ownership and control, and specialization rather than diversification. Satellite policy exemplifies this aim, both in the justifications for the merger of operating facilities (the Telesat-TCTS agreement) and in the area of developing ancillary industrial capacity. The elite in this structuring of economic interests is segmented or divided in correspondence with the sector of the economy with which they are associated and its strategic position within the maintenance of the national economy. Telecommunications is within the indigenous elite and a sector of increasing significance in the national economy. Bell Canada is the dominant firm within the industry and congruently a dominant power on a national scale.

b. National Policy: The Venue of Expression  
for Economic and Political Interdependence

In the examination of historical policy instances which have been fundamental to the development of the economic structure as described, the circumstances and nature of state interventionism bare particular characteristics. By tracing how the state has intervened in the past under conditions of national policies and in the national interest, these terms provide a specific historical meaning of "national interest" essential in understanding the creation of Telesat as the embodiment and expression of national objectives, the relationships it represents, and Cabinet's resolution for its sake.

i. A Tool of Nation-Building

That the arrangement of economic power as described has developed, is largely dependent on the role of the Canadian state in economic policy and the political and economic interdependence which permeates our history.<sup>19</sup> The interventionist mode of the Canadian state is central to national development. Much of government intervention has been classified as national policy essential to nation-building. Some examples of these will be offered in the following as a means of suggesting a pattern in the developmental process.

The term "national policy" has been applied to various descriptions of the state's role in shaping the organization of political and economic structures which distinguish this nation. Decisions taken in the "national interest" have a specific meaning in each period of national policy objectives but, taken together, they provide a legacy which is carried by the term today.

The term originates with Macdonald's National Policy of 1878, but is often used in reference to the strategies of the Macdonald-Laurier governments. More generally, it has been used to describe the post war efforts to establish a national economy and, more recently (since the 1960's) in reference to policy measures directed toward developing the industrial strength of the economy. For Macdonald's Conservatives, it specifically referred to the protectionist measures of the commercial policy taken by the Dominion. The efforts of post-Confederation governments (Macdonald-Laurier) to create a national economy, encompass what Macintosh referred to as three national decisions which often are taken to represent our first national policy.<sup>20</sup> These were:

1. the settlement and development of newly-acquired territories of Rupert's Land and the Northwest;

2. the construction of the transcontinental railway linking eastern and western Canada; and
3. the protective tariffs aimed at fostering industrialization in the Canadian heartland.

Usage of the term from this era on, takes on a more broadly defined interpretation of national policy, and is applied to successive and multiple policies undertaken by Canadian government to establish a national economy. From this perspective, the complexity of decisions which have shaped and stimulated economic activity denotes responsibility for national policy. In this sense the significance of the usage of the term, whether referring to explicitly directive decisions or the cumulative responsibility of decisions, lies in the impact these decisions have on the economic structure. The consistency of effect defines the useful meaning of the term. Instances of national policy decisions will be examined through three eras of development.

#### ii. Post-Confederation Efforts

The developmental efforts of the Macdonald-Laurier national policy in creating a transcontinental northern economy, enhanced the interdependence of the regional economies while promoting a mercantilist relationship between the metropolis of central Canada and the

western hinterlands. Referred to by R. Craig Brown as a political nationalism expressed in terms of tariffs and railways,<sup>21</sup> at the behest of dominant business interests of central Canada,<sup>22</sup> it reinforced the disequilibrium of integration that Innis criticized,<sup>23</sup> by tinkering rather than structuring the economy.<sup>24</sup> Creighton's analysis of the influence of the St. Lawrence merchants in setting the policy agenda implies the imperialistic tendencies of the metropolis described by Watkins as a policy of "vulgar materialism" which was an early manifestation of the Americanization of Canada.<sup>25</sup> Aitken has termed this process of nation-building as "defensive expansionism".<sup>26</sup>

The manner in which these policies came to be formulated was determined by the nature of the political and economic interdependence established by colonial imperialism. Fowke has analysed the design to transform British North America into a political and economic unit as the policy of the colonialists in which "confederation" was its main constitutional instrument.<sup>27</sup> In describing the political and economic structures as the manifestations of an impulse to establish a transcontinental economy, Smiley has remarked:

"The story is well known of how dominant business interests of British North America were frustrated from pursuing their objectives, first within an imperial framework by dismantling the British protective system and later within the continental one, by actions of the government of the U.S.A." 28

In collaboration with the colonial political leadership these interests thus turned to the creation of a transcontinental northern economy.

Innis, in his subtle manner, makes inferences to the nature of political and economic interdependence and national development:

"It is no accident that the present Dominion coincides with the fur trading areas of North America." 29

"The relationship which was existing with the opening of Western Canada in which important officials of the Hudson Bay Company were prominent in the activities of the Bank of Montreal, of the C.P.R. and of the Dominion government was not accidental." 30

The economic ties established through the creation of a staples industry in the colony required the political infrastructure of nationhood. Confederation permitted the necessary degree of protection both for and against each of the imperialist powers while maintaining the mercantilist capitalist economy of the developing nation. The national policies undertaken by the state in creating a national and

transcontinental economy were as much a political as an economic achievement. As to the manner in which policies were stated and implemented, and whether the initiative can be ascribed to private economic interests or government as a public body, the nature and extent of the political and economic interdependence is commented upon in the following as Aitken concedes that:

"The assertion that the state in the form of the federal government was merely acting as the agent or instrument of private economic interests - the same interests that had worked to achieve confederation, the sale of H.B.C. lands, and the chartering of a Pacific railroad - could probably be supported." 31

But he stipulates that the distinction between the state and private enterprise as applied to Canada often seems artificial. This lack of distinction has led to S. D. Clark's analysis of Canadian development of a political community and value system as essentially bureaucratic-elitist, marked by the "creation of business, political, religious and cultural interests seeking the establishment of a monopolistic system of control."<sup>32</sup>

Thus the national policies of Canada's first fifty years in its attempts to establish a national economy, entrenched a particular set of dependency relationships in the economic structure internal and external to

the nation, which were maintained by the political structure to which it was intrinsically tied and inherently fused.

iii. Post-War Efforts

The national policy program of the Macdonald-Laurier era was not seriously modified until the onset of the depression. After the First World War, the federal government found itself without a coherent set of national economic objectives. Fowke has characterized the inter-war years as "a groping towards a New National Policy".<sup>33</sup> The limited responses of the federal government to directing economic development during this period have been deemed inadequate by Smiley, who postulates what he considered to be two alternatives that can be regarded as surrogates for a national policy.<sup>34</sup> One is the formulation for financial arrangements set out in the report of the Royal Commission on Dominion Provincial Relations (Rowell-Serois) published in 1940. (The Rowell-Serois Commission had a profound effect on the evolution of financial arrangements of the Canadian federation and programs to cope with the depression and mobilization of resources for World War Two and after, for reconstruction.)<sup>35</sup> The other was the White Paper on Employment and Incomes



and the Green Book Proposals of the Dominion Conference on Reconstruction issued in 1945. Keynes' General Theory had influenced the proposal of a full employment policy.

The objectives of national policy at this time were with respect to public welfare, agricultural policy and monetary management.<sup>36</sup> It was apparent from the recommendations of the Rowell-Serois Commission for the economic and social conditions of the Dominion which had become painfully exposed in the years of the depression. Fowke's analysis of developmental efforts in this era with respect to agricultural policy concludes that "the major difference of the new national objectives relates to the modification of the national view concerning the price system in relation to the agricultural economy."<sup>37</sup> Particularly significant are the policies enunciated in the aims of monetary management and their effects on the economic structure. Policies to these ends were strongly influenced by Keynesian economic analysis. The Keynesian influence became manifest in government policy as its theoretical framework readily lent itself to implementation aided by R. B. Bryce and Macintosh who were committed to its practice.<sup>38</sup>

Since World War Two, corporate income tax has become a substantial tool of policy, which as Kierans points out in the introduction to Naylor's exhaustive study tracing the shape and structure of the Canadian business economy, does not support the notion that Canadian economic policy was committed to encouraging a competitive environment.<sup>39</sup> Rather, the tax system has been shown to favour the larger corporations in a manner which shows that "this has been the bias in the Canadian tax structure since World War Two, as government policy-makers have equated efficiency with size and discriminated against the employment of labour by favouring capital investment via tax concessions and subsidies."<sup>40</sup> Or, as Cy Gonick has referred to it, as the practice of "blue chip socialism".<sup>41</sup>

The aims of specialization through concentration has been a policy directive since the Royal Commission on Canadian Economic Prospects, where the case was made for encouraging corporate concentration on the rationale of the necessity for achieving economies of scale at the expense of forfeiting application of the Combines Investigation Act.

"In the circumstances we suggest that the Restrictive Trade Practices Commission in judging whether or not any concentration of production in fewer hands is in the public interest, should give considerable weight to the importance of secondary industry achieving the maximum possible economies of scale." 42

Further study of the tax structure as applied to corporations, has led Kierans to conclude that the single most important cause of this concentration of economic power has been and is federal policy. "Despite the lip service to laissez-faire capitalism, competition and the virtues of individual enterprise and initiatives, no Canadian government has ever believed in, to the extent of practising such a doctrine."<sup>43</sup> They could not afford to wait for the slow procession of natural diversified and balanced growth.

Comprehensive national economic policies of the order of the old national policies are absent in the post war years. National objectives such as a full employment policy and maintaining economic stability supplement full scale policy proposals for national economic development. The major role of the state lay in managing short term economic stability through the instruments of monetary and fiscal policy, international trade policy and public debt management. Smiley asserts that "the Keynesian prescription as it was received in Canada, was agnostic about the structure of the economy and the interprovincial distribution

of economic activity".<sup>44</sup> Imputations of agnosticism neglect recognition of the increasing degree of foreign penetration of the basic industrial capacity that was developing and of the extent of concentration of ownership and control through indigenous and multinational oligopolies.

iv. Contemporary Directions -  
"An Industrial Strategy"

Since the 1960's there has been an emerging national policy formulated by legislative and administrative measures often designated by the term "industrial strategy".<sup>45</sup> Smiley parallels this with the older national policy in that they both are directed towards deliberate action by the federal government to structure the national economy.<sup>46</sup> The earmark of the new policy is the prescription of a Canadian economy with a highly developed capacity for indigenous innovation and a progressive science policy to promote technological progress.<sup>47</sup> But as Watkins has forewarned, there has been a reluctance to acknowledge that national economic development requires domestic entrepreneurship to lead the growth process.<sup>48</sup> This process in Canada is highly dependent on the resource sector of the economy as the pace setter for development and that an industrial policy cannot ignore the problem of foreign ownership and control in addressing policy directed toward national economic development.

Central to the issue of industrial strategy is the debate on technological progress and policies such as an advocacy for reciprocal free trade or the escalation of world scale national corporations in the Canadian market. The technological debate is concerned with the advantages and disadvantages of promoting increased industrial capacity through indigenous technological innovation over importation of advanced technology. Advocates of importation usually align with free trade philosophers rejecting components of an industrial strategy as "flag-waving by select industries at public expense, misguided socio-political efforts and nationalism without economic content."<sup>49</sup> "Industrial strategy" defined by Gordon<sup>50</sup> as the establishment of World Scale National Corporations (WSNC) in the Canadian markets, contradicts the aims of the free traders, which, he claimed, would be disastrous to Canadian markets. WSNC policies are considered essential and the only feasible means of achieving increased industrial capacity. Government participation and cooperation is a basic element of the strategy.<sup>51</sup> Government performance directed to such policies assumes the required interdependence.

Postulations for a new national policy or industrial strategy viewed in consideration with the established arrangement of economic power, suggests a degree of institutional constraints which will direct the pattern of economic growth. Certain optimistic objectives will be affected by the direction and constraints as was demonstrated in the evidence surrounding satellite policy, the national objectives of the time and the experience of Telesat Canada.

Policies have done little to alter the balance of power in the economic structure and have further entrenched a dependency or rigidity model of economic growth. The pattern of national policies has been a function of the interdependence of the economic and political spheres. Telesat exemplifies the private-public capitalist endeavour which is consistent with the "industrial strategy" aimed at the growth of multinational corporate interests, directly in the telecom and manufacturing sectors, and indirectly through anticipated beneficiaries such as resource extraction industrialists in the north.

c. Interpretations of the Role of the State

Interpretations as to the role of the state in the intervention process provides opinions as to the

rationale for political tinkering in what is assumed to be a market system economy, that is, how is such interference justified and legitimated. The arguments provide the basis for analysing the results of policy against the image of intentions. Theoretical justifications of the state's role need to be assessed against realities. The creation and regulation of Telesat as an explicit form of state intervention, can then be assessed in reference to theoretical presumptions of how the state functions.

Although interpretations of the state's role vary, the dominant interpretation proceeds from the capitalist ideology and traditions of liberal democracy. An analysis of the state's role must deal with the functioning of the interdependence of political and economic factors.

#### Pluralist and Liberal Democratic Theories

The capitalist ideology proceeds from assumptions about the individual and individual enterprise which correspond with the liberal paradigm of democratic politics. But Canadian economic history did not experience laissez-faire capitalism as a rooting for ideological liberal democratic traditions of pluralist

politics. The Canadian state since Confederation, and the imperialist colonial powers previously, played an extensive and active role in historical development. Its active presence and the extent of political and economic interdependence contradicts the notion of government as a neutral force between competing interests. This relationship between the state and economic structures affords a number of interpretations as to the nature of power in a liberal democratic state such as Canada.

Traditional liberal theory as Hutcheson argues,<sup>52</sup> had held the view that government was a neutral force which is the focal point for pressures from all parts of society, and that though some interest groups may be better organized than others in the means of exerting pressure for beneficial results, that in the long run, all competing interests must be taken into account. The traditional pluralist view of politics is based on the assumption that society is an aggregate of individuals who come together in many different kinds of groupings to pursue their individual interests. Milton Friedman, writing on the role of government in a free society, uses the analogy of government as rule-maker and umpire, and states:



"The major problem in deciding the appropriate activities of government is how to resolve conflicts among the freedoms of different individuals."

"The use of political channels, while inevitable tends to strain the social cohesion for a stable society." 53

Politics is useful in issues requiring a consensus that cannot be reached by other means. Ideally it should infringe upon the market system as little as possible. But the fundamental point is that since reasonable agreement cannot be reached by individuals, there is a conflict. The manner in which that conflict is resolved requires that certain interests predominate over others and therefore invokes a need to analyse the power relations that develop.

Many pluralists, faced with the recognition that all interests do not exert equal power, have altered their perspective somewhat to account for incongruencies. This acknowledgement in the arena of political theorists, coupled with Galbraith's rejection of the notion of consumer sovereignty in the market system, has proposed alternative perspectives for defining the nature of power in a democratic system of a capitalist economy dominated by multinational corporations, and has provided an impetus to the resurgence of political economy.

In the Canadian experience, government intervention through national policies directed at economic development, have required an economic and political interdependence that cannot be fully understood in the separate spheres of economics or political science. For instance, the classic reference for the role of the state in Canada has been Aitkens' term of "defensive expansionism". This refers to a course of economic development which required the political apparatus of the state for the expansion of commercial enterprise in defence of American economic and political influence. Government policy was considered an essential instrument for economic development and political independence. Economic historians and political scientists tend to point to the Tariff and the National Policy as such a tool, but with various conclusions as to their success.

Given our precarious position adjacent to our powerful southern neighbour, Professor Smiley regards such measures as a necessary defence mechanism for Canadian development.<sup>54</sup> Brady's analysis of the state in the economic life of Canada, also refers to the protectionist nature of intervention as an essential and logical component of a developing nation.<sup>55</sup>

Economists, Dales and Johnson refute this position, arguing that economic growth affords political development.<sup>56</sup> They contend that the achievement of political independence is separate from the cultivation of economic interdependence through continentalist policies between the United States and Canada. This opinion forces the questioning of how meaningful is political independence if primary economic decisions are beyond that political jurisdiction.

Canadian economic and political experience has proposed an alternative agenda for addressing the role of the state. Lacking a laissez-faire doctrine and the philosophical imperatives of possessive individualism, the active presence of the state has been interpreted as more in keeping with the conceptual notion of collectivism. Collectivism has been defined as "a vague term generally used in contrast to the extreme individualism of nineteenth century laissez-faire doctrines and more broadly, as a term for economic reform to supplement or offset the shortcomings of the market system."<sup>57</sup> This notion which rejects the extremes of liberal democratic assumptions, referred to by MacPherson as possessive individualism,<sup>58</sup> is employed to describe state intervention as a corrective measure

for the failings of the market economy, without contradicting the rights of private property or destroying the market mechanism.

It has been argued that in the context of a staples based economy that is tied to world markets where production levels are unstable, state interventionism is necessary. Otherwise economic stability would fluctuate with variance in supply and demand to an excessive degree. The extent of government manipulation and regulation this requires demands an interdependence of the political and economic structures.

"Political machinery was closely adapted to meet the severe economic demands of dependence on staples with their sharp changes in prices and income." 59

Macintosh's work on staples theory and economic development in Canada, has developed this concept from Innis. Mackintosh, aware of the limitations of the market system in the Canadian economy, assumed political policies would facilitate economic growth in the collectivist manner.<sup>60</sup>

#### ii. Rise of Corporatism

With the policy measures adopted in and after the second World War, there is an increasing acknowledgement of the "mixed economy" and acceptance of the notion

of a "managed economy". Although "planning" is not explicitly referred to until the early 1960's, government influence in directing economic development is at the mainstream of Canadian history.

"Moreover many Canadians accept and at times encourage various important elements of government planning through government policies which inevitably have a major influence on the structure of the Canadian economy, the conditions of competition and the course of economic growth." 61

The notion of the mixed economy of public and private enterprise directed by national policy and managed by the joint consultation of business and government and to some extent, organized labour, is not an unacceptable interpretation to the business community. One of our major financial institutions' representatives has characterized our jointly managed economy as a system in which "private enterprise and government share the initiative in making important economic decisions."<sup>62</sup> The President of Stelco has also remarked in reference to joint ventures, that it was "in the national interest that government and business get closer together."<sup>63</sup>

These precepts give rise to a corporatist interpretation of the role of the state and its relationship to the economy. Rea and McLeod refer to corporatism as an interpretative concept of Canadian political

economy which goes beyond the Galbraithian analysis of partnership between the state and large corporations to encompass a Tory tradition of the organic, community as corporate and hierarchical.<sup>64</sup> Red Toryism, as Horowitz has developed it from the Polanyi-Rotstein formulation, interprets the role of the state as the conservator of social, cultural and institutional values in a communitarian manner.<sup>65</sup>

The virtual fusion of economic structures with political forms lends itself to the corporatist approach. In Presthus' study on elite accommodation, which describes a more elite system of power than Porter's, his notion of corporatism rejects a liberal approach to Canadian political economy and sees the modern state as requiring the conjunctive involvement of groups to meet the aspirations of the collective community.<sup>66</sup>

The "corporatist" interpretation suggests the strategy of corporatism is the avoidance of confrontation. Barkway's interpretation of this tendency of increasing consultation and negotiation, rather than confrontation, between business and government, is more consistent with corporatism than market capitalism.<sup>67</sup> Mackenzie King embraced a notion of corporatism as

a new form of industrial democracy; an equality of labour, capital, management, and the community. Government would fulfill the gaps of the market economy by promoting a full use of resources and the sharing of the wealth.<sup>68</sup>

As Panitch has criticized, although the corporatist ideology is prevalent, it is not recognizable in political institutional forms.<sup>69</sup> The necessary substantive intermediation and interaction between and among business, government, and organized labour does not function effectively in influencing policy. Rather, it seems that mediation remains a state function. This critical point in the policy process, as Panitch describes, reveals incongruencies between the application of corporatism as an ideology and as a means of describing political forms necessary to its functioning.<sup>70</sup>

Neither the corporatist nor collectivist concepts takes into account the complex nature of conflicting elites in a hybrid capitalist structure, bearing a high degree of American domination. Analysis based on a collectivist concept, acknowledges state interventionism as a corrective measure for the

failings of the market system, such that the role and function of the state is to maintain economic stability. In so doing, it acts as a protectionary measure of political sovereignty, with the locus of decision-making and responsibility for policy initiative resting with the political apparatus of government. The corporatist interpretation accepts the concept of a jointly managed economy in which the locus of power is shared by the collaboration of government and business (and sometimes, and to some extent by organized labour) for the common good. Fundamentally, national policies are justified as being in the national interest.

iii. Partnership or Collaborationist Approach

The collectivist and corporatist interpretations fail to deal with the ramifications of the essential element; that is, that the national interest remains in the maintenance of the capitalist system.

Hutchason's critique of liberal assumptions contends that the government in Canada has always been essential to the developmental strategy of capitalism and it continues to act in the interest of the capitalist class.<sup>71</sup> As Innis has remarked:



"The stoutest defenders of Canadian tariff against the U.S. were representatives of American capital investors. Canadian nationalism was systematically encouraged and exploited by American capitalists." 72

Following from this perspective, in effect the actions of the state have performed the function of enhancing the accumulation and legitimation of capital control by a particular segment of society through policies which promoted economic growth by private investment. Panitch characterises the function of the state as a legitimizer of the accumulation of capital and as a facilitator of that process:

"State ownership of railroad and public utilities and state construction and operation of airports were never undertaken as ends in themselves with the aim of managing or controlling the economy but always with the view to facilitating further accumulation in the private sphere." 73

Lloyd has remarked in agreement with this interpretation that the state effectively intervenes in the market, not to foster equality, but to assist private ownership.<sup>74</sup>

In this way, the state produced a stable and attractive environment for foreign investment, particularly extraction industries, while maintaining the transportation and utility sectors as the necessary means to economic growth. With respect to the

interdependence of political and economic structures in a private enterprise system, political interference in the economic sector requires cooperation. That such intervention can be successful in a profit motivated economy, demands a compatibility of interests which define a healthy economy on a particular prioritization of criteria. The manner is such that the validity of free enterprise is unquestioned and the interventionist role is to ensure its stability. The compatibility of the activities undertaken by the political sector with the concerns of the dominant economic powers are such that "they see the economic rationality of the capitalist system as synonymous with rationality itself,"<sup>75</sup> and therefore as being in the national interest. Thus, the policies enunciated by the state bear the price of being the product of collaboration with the capitalist class, in that the national interest is that which is non-detrimental to the maintenance of the power relations of the capitalist class. As Hutchinson puts it, the hegemony of the dominant class is its ideological predominance over subordinate classes.<sup>76</sup> It is a self-legitimizing system of power.

One of the difficulties of a critical analysis of this process is that it tends to become an

instrumentalist approach where the state is characterized as the captive agents of the dominant elite. To reduce the complexities of the structure of economic and social forces in Canada to this interpretation, renders it cumbersome for dealing with variance in policies and the hierarchical arrangement of power within the fractionalized elite which is characteristic of Canada.

The development of the theory of the "unequal structure of representation" within the state, demonstrated in Mahon's article,<sup>77</sup> is an important tool of analysis for meeting the limitations of the captive agents approach, and is based on Poulantza's theoretical concept of the state acting in "relative autonomy".<sup>78</sup> The state, then, is not the tool or instrument of specific interests, but the mediated expression of interests. According to Mahon:

1. the state is the institutional representation of socio-economic relationships. It is a resultant the structural expression of contradictory socio-economic forces. It is the mediated expression of inequalities as they are politically manifested, and as an expression of these relationships necessarily forms a "contradictory unity". Its activities therefore can be seen as relatively autonomous to specific interests or forces.

2. The apparatus of the state has a particular institutional structure. Its organs and branches represent various interests and are hierarchically organized as the political structuring of power relations. The internal hierarchy is significant since the dominant state organs appear to correspond to the representation of the dominant elite factions. Hence, the institutional structure of the state, as an expression of relationships, represents within itself an unequal structure of interests.

Given these characteristics, the activities of and within the state are organizational. The state's activities reflect inter and intra class conflicts and perform an internal mediation function. The hierarchical organization of its structure is such that the dominant interests represented are in an authoritative position to grant concessions within this internal negotiation process. The institutional structure is such that decisions organized on the basis of the national interest are likely to reflect this internal structure in that such decisions are unlikely to be detrimental to the dominant interests. This approach provides an alternative model for understanding the state in relation to the structure of society and the political system. The state cannot be neutral, if

understood as an expression of relations. Nor do external influences or pressures acting upon the state structure carry the same significance. The significance shifts to the analysis of how such influences and interests get represented within the state.

From this basis it is then proposed that policy issues can be studied by tracing the relation of the interests involved identified within the socio-economic framework, and their conjunctive position within the institutional matrix of the state, such that the process of negotiations within the state will illuminate the dynamics of the power relation as they are played out in specific decision-making activity. Decision-making processes involve conflicts, therefore the "compromise" required can be interpreted in reference to the power relations among the participants. The essential difference in this interpretation of the role of the state in policy activity is that the analytic emphasis is placed upon the interpretation of the negotiations as they occur within the state structure, not between the state and outside influences, hence the importance of identifying and "reading" the internal hierarchy. Further, policy-as-process in this context is the set of relationships between

industry and government sectors which is on-going, continuous and dialectical. An issue for policy decision-making arises from this process and the decision-making is examined through the internal negotiations and the compromise is the "outcome".

This general approach attempts to demonstrate how the general political interest of certain groups is maintained in a manner which answers some of the limitations of other political theories. The nature of representation determines policy decisions in a consistent systemic matter. The complex system of representation within the state apparatus structures interests and therefore priorities in a pattern which defines the effective interpretation of the national interest. Outcomes of policy decisions are the result of negotiation within and between representative factions constrained by the hierarchy of prioritizations. The dominance of particular interests can be shown to be the determinants of the process of authorizing concessions, and in doing so, demonstrate how the general political interest of certain groups is maintained.<sup>79</sup>

## 2. REGULATORY ENVIRONMENT

If state intervention has had certain broad characteristics, it also has its specificity in the

process of regulation. Regulation in the modern capitalist economy, is commonly accepted as a legitimate function of the state. The role of regulation, its function and utility, have a variety of interpretations, each rooted in the ideological perceptions of how the system of economic, political and social forces work. By examining the regulatory environment, significant aspects of the relationship between government and the dominant firm of the industry identify specific features pertinent to understanding policy decisions in the national interest as explicit intervention in this sector.

a. Assumptions Regarding the Role of Regulation

The issue of regulation, its purpose, function and utility has not, as Penny phrased it,<sup>80</sup> excited the passions of Canadians to the extent it has in American political and academic circles. Resultingly, Canadian literature on regulation has neglectfully suffered in quantity and content. Where it has been dealt with, it has been considered more as an administrative problem than a substantive issue.

The difference in Canadian and American political

and economic heritages are likely to belie this fact. But the Canadian tendency has been to increasingly address regulatory issues from a perspective of theory and practice based on U.S. literature and experience.

i. In the Market System

It is generally accepted that the rationale for adopting regulatory instruments as a means for government intervention in a market economy is primarily defined by the difference between social and market values arising when "no foreseeable or practicable restructuring of the relevant markets will establish compatibility of interests between society and the market outcomes without imposing unacceptable burdens on the former".<sup>81</sup> Regulation is seen to act as a surrogate for the competitive forces of the marketplace where competition is considered not feasible or impractical. The underlying assumption or premise being that the competition ideally produces desirable outcomes for both society and the producing enterprise. Phillips states that regulation as a substitute for competition is designed primarily to protect the consumer interest.<sup>82</sup>



In a market economy, regulation is an imposition or violation of rights traditionally reserved for private decision-making. Regulation is the method, as Bernstein describes it, which modifies economic relations in capitalist society without destroying capitalism itself.<sup>83</sup> Ideally, the adjustment of the regulatory agency to the demands and pressures of organized groups reflects the balance of forces which affect the political environment, its internal operations and the prevailing attitudes towards public questions. The assumption being that regulation in a pluralistic liberal democracy maintains a balance of interests.

It involves, as Trebing describes, "an attempt to impose social judgments and goals upon existing market judgments and goals insofar as the actions of persons, firms and industries are concerned",<sup>84</sup> or, as Schultz states, a means of imposing social objectives to supplement economic objectives of private decision-makers.<sup>85</sup> This difference in terms between surrogate and supplement suggest a non-intentional significance.

That is, that if perceived as a supplement, it is consistent with the interpretation that competition

has never been the primacy of national goals or policy action in Canada, as it has in the U.S., and on that basis, the issue of regulatory application has not incited synonomous responses in both countries. For, as a supplement it may well be that stimulating an equivalent market pressure is not even implicitly a goal of regulation.

As Bock, an American economist, has suggested, there is a significant contrast between the place of competition in our respective national goals.<sup>86</sup>

It would seem that our economic history and evolving economic structure and the political system and actions by which it operates, is strong evidence to support such a proposition. In the Interim Report on Competition Policy it was stated that "some form of social control over commercial activity is highly desired,"<sup>87</sup> as a means to the end goals which proffers efficiency considerations ahead of competitive considerations. The intent is to provide a climate in which efficiency is nurtured through competition where possible and through agencies where necessary, to the end that the Canadian consumer would be better able to obtain goods and services at the lowest possible costs. Bock implies an admiration for such

intentions but doubts the feasibility of implementing such notions.<sup>88</sup> Noting the difficulty of measuring efficiency considerations ahead of competitive considerations, Bock offers the American experience as a guide, stating that the U.S. has rejected the efficiency concept as a touchstone for competitive policy (cites Alcoa) (1945) and Procter and Gamble (1967), preferring competition as the primary incentive to innovation and thereby efficiency.<sup>89</sup> Further, she notes that legally the efficiency defence has been explicitly rejected for merger considerations.<sup>90</sup>

But as cited earlier, one can argue that the competitive philosophy has never been the fundamental force to economic development in Canada. A prime example which further illustrates the point is the respective role of anti-trust or anti-combines policy in the structure of the legislative and executive functionary bodies of government. In terms of the analysis of the hierarchical structural relations among government departments and agencies, its locus in the Canadian structure corresponds to its subordinate position of perceived importance in society's affairs. Its administration, as analysed by Rosenbluth and Thorburn, is summed up by the following remarks:

"Combines Investigation Act is an example of compromise where the policy decision which emerges are resolutions of conflict between political self-interests of government vis-a-vis voters and business influence of the economic environment."

"Anti-Combines policy attempts to appease both by dealing with monopolistic practices as constituting a police problem and legal problem not an economic problem." 91

There is significant contrast to the U.S. situation where, as Phillips has remarked, "competition is our fundamental national economic policy, - antitrust exemptions should not be granted lightly."<sup>92</sup>

Another essential feature of difference is that when the issue of regulation is addressed by Canadian studies, the focus is not on whether or not to regulate, but who is responsible for the regulation. The American literature abounds in discussing the issue of the appropriate application by regulatory instruments. A recent focus has been the effects of regulation on innovation and an increasing tendency for advocacy of competition policies where possible, rather than regulatory surveillance. With the prominence of innovation as a strategem for the emerging national policy of industrialization, the trend to adopting U.S. arguments and models is finding increasing eminence in the discussion of regulatory application

in Canada. But in the limited extent of traditional assessments of regulation in the Canadian context, the issue has been responsibility and accountability. Regulation has, therefore, been assessed more as a political phenomenon than as a market function.

ii. In the Political System

Concern for its application reflects its politicization, as regulation is frequently addressed in terms of its impact and role in the political system rather than its function in the marketplace. Hodgett's terms regulatory bodies "structural heretics" which do violence to the parliamentary system of ministerial responsibility.<sup>93</sup> The contentious issue is accountability, and the quasi-separation of functions between regulatory and policy actions. Policy is traditionally reserved to the politically responsible sector of government, which is accountable to Parliament and the electorate. Regulation is meant to be the implementation of policy guidelines and directives. The practical separation is not that clear since regulatory decisions involve an interpretation of policy and set precedents which, in retrospect, appear to represent the policy. Vagueness in policy statements leaves a wide range of interpretative action; strict directions can also be detrimental if

they do not allow for adequate flexibility and innovation.

The regulatory agency, because it is a primary instrument of social, economic and political control, constitutes a major institutional innovation in the Canadian parliamentary system.<sup>94</sup> The delegation of authority to independent regulatory agencies, in effect transfers the power from elected representatives to appointed officials in a manner which transforms the traditional lines of responsibility governing relations between politically accountable authorities and the bureaucracy. This is often criticized as contradicting the basis of the parliamentary system which is governed by principles of ministerial responsibility, individual and collective to Parliament. The parliamentary process is seen as the counter-balance to specific interests, such that when ministerial responsibility is eliminated, the check is non-existent.

In Doern's analysis of regulation and regulatory reform, he rejects the rationalization for creation of "independent" commissions as an avoidance of partisan political behaviour. Adopting Lowi's typology in viewing the political process and within

the context of the Cabinet-Parliamentary system of responsible government, he criticizes the "independent" notion calling for a repoliticization of the agency to increase its exposure to the influence of elected responsible politicians and the public interests.<sup>95</sup>

iii. An Approach to Regulatory Assessment

Therefore, in order to focus on a means of regulatory analysis, it is necessary that it encompass the process as both economic and political.

Measuring Effectiveness

Traditional theory of regulatory analysis is much influenced by the perspective of an input-output model and the effects of pressure group interests on obtaining desirable results. Bernstein has levelled criticism at the functioning of regulatory agencies in light of recognition of the unequal pressures which are brought to bear on it. "The attempt to convert government regulatory power into private advantages has been a critical feature of national regulation", and that the "independence" of commissions is merely a device to protect and promote the interests of the regulatory groups.<sup>96</sup> Trebing's approach to assessing the utility of regulation, rests on the traditional liberal assumption that governments

function in response to expressed desires and pressures of society, and that if set forth explicitly, as valid social guidelines for the regulatory process, will test the effectiveness of regulation.<sup>97</sup> In this vein, the regulation process requires political objectives which guide the resolution of specific issues. Depending on the vagueness of political directives or lack of specific objectives, the tendency is that regulation becomes an ad hoc procedure which has been said to characterize much of U.S. regulatory decisions. In part, this procedure is a function of the regulatory process itself, in that it has been, as decisions are, reactive as opposed to initiating. Regulatory decisions are responses to an application.

If the decision-making process is examined on the effectiveness of ad hoc regulation, there is a critical aspect which may be neglected; the context in which it takes place. Analysis becomes fragmented to the examination of isolated decisions and the effectiveness of interest group pressures, and precludes assessment of the long term effects of the nature of the process. To do so relegates the analysis to an interpretation of regulatory agencies



as instruments of particular interest groups where results are obtained in their favour without offering an adequate explanation of the exceptions, except that different interests were more powerful at different times. Nor has the captive agents' approach been entirely successful as a satisfactory mode of analytic interpretation.

#### Examining the Development of a Relationship

A more useful approach is to place the regulatory process in its historical context to allow for analysis of the issue which sparked the need for the agency, and how the issue was initially resolved and subsequent patterns of decisions made.<sup>98</sup> The reasons for introducing regulatory agencies are usually qualified along the following rationale:

1. The area and issues involved require expertise;
2. The traditional government structure cannot provide flexibility or continuity of policy necessary for changing needs of regulation; and
3. There is a need to insulate the decision-making from political pressures.

Since the issue which created the need for regulatory intervention is likely to stem from a conflict involving private capital interests, the process of

imposing regulatory control involves a conflict resolution. How that resolution is determined and its effects on the industry structure, exemplifies certain power relationships. The initial decisions and ensuing judgments defines the market characteristics and hence the economic power of the particular affected firms. For this reason, the regulatory environment can best be examined through the historical example of regulatory applications in the case of Bell Canada, the dominant firm in the Canadian telecommunications industry. "The history of the telephone industry in Canada particularly in the earlier years has been closely related to the development of this company."<sup>99</sup>

b. Basis for Regulating Telecommunications

Firms offering telecommunication services such as public message telephone or public record telegraph, are considered public utilities whose activities are regulated by federal or provincial agencies. The role of public intervention in the utility industry is said to be concerned with the structural and behavioural characteristics of the industry on the assumption that the industry's fundamental role is to provide efficiently a growing supply of service without reaping excess profits as a consequence of

monopolistic market conditions.<sup>100</sup> In telecommunications, specifically the telephone industry, intervention by public control mechanisms has been based on the assumption that it is an after-the-fact application, justifiable on the rationale that "natural" monopolies prevail in technologically-determined circumstances. Therefore, it was necessary for public policy and regulations to intervene in the absence of market forces to ensure efficiency in the practices of the firm in the name of the public interest.

Public utility status encompasses both a legal and economic concept. Within the economic rationale, the basic criteria for imposing regulation are:

1. the necessity of the good or service and the extent of demand inelasticity to price; and
2. technological characteristics that tend for the service to be supplied under monopolistic conditions.<sup>101</sup>

The legal basis for the public utility concept stems from the notion that the firm is in a special category of "business effected with a public interest".

This is based on an English common law principle

stemming from the statement of Lord Hale in his Treatise de Partibus Maris.<sup>102</sup> This doctrine has been further delimited in the case of Allnut et al v Inglis and adopted in U.S. jurisprudence in the classically cited decision of Munn v Illinois.<sup>103</sup> From the case of Munn v Illinois, as it was later applied to public utility contestants, it was found that:

"When therefore one devotes his property to a use in which the public has an interest he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created." 104

The legal concept of a public utility has been subjected to more careful scrutiny in the U.S. than in Canada. In the United States, it has been a constitutional problem concerning "what regulation can be upheld in the courts". Canadian courts have not relied upon the common law principle, either to justify the extension of government regulation or to legitimize rulings limiting restrictive business practices.<sup>105</sup> Rather, they have operated within the specific Acts of Parliament which have delineated the precise nature of regulation to be imposed on businesses affected with a public interest. The Canadian constitutional problem has not been

"what regulation" but "what legislative body has the power to regulate".

In the provisions of sections 91 and 92 of the British North America Act, the federal government is given power over items of national importance, and the provincial governments power over items of local or private nature within the province. An overriding clause of section 92(10)(c) in the Act allows the Parliament of Canada to declare any work "to be for the general advantage of Canada" and thus subject to its jurisdiction. It was under this provision that the federal government declared the telephone to be "to the general advantage of Canada", but limited the exercise of its power to federally incorporated companies.

Prior to the creation of an agency with regulatory jurisdiction over affected business, such as the railways and telephone companies, Parliament had been responsible for certain aspects of the firms' behaviour through amendments to the incorporated firms' charters or legislative Acts.<sup>106</sup> It was primarily on the basis of these statutes that the agency exercised its mandate. Statutes remain parliamentary jurisdiction, while the agency has

limited powers of a specific nature, responsible for profit ~~regulation~~. But before and after the creation of the regulatory agency, the parliamentary statutes under which the firms operated, formed the precedent for the application of regulatory control.

Though the historical rationale and application of regulation has developed differently in the United States and in Canada, Canada continues to look to the U.S. experience when considering policy and regulatory issues. Regulation of the telephone companies, specifically Bell Canada, preceded the establishment of telephone regulation in the U.S.<sup>107</sup>

The regulatory process, because of the difference in constitutional authority and separation of powers, has developed differently. A. W. Currie has remarked that:

"legislation bringing business under government control and the decisions of the commissions regarding rates are, within broad limits, accepted by the courts as valid. Thus the virtually continuous litigation over public utility rates in the United States has been absent in Canada." 108

Canadian business subjected to regulation did not have to meet the same criteria as in the United States,

where public utility status was more carefully scrutinized until the U.S. Supreme Court adopted more liberal interpretations and legislative amendments to public utility qualifications.<sup>109</sup>

Given these premises for the imposition of government intervention in the telecommunications industry, now the historical practices of regulation in the case of Bell Canada can be traced, as a means of examining the relationships within the regulatory environment.

c. Regulatory Applications in the  
Case of Bell Canada

Bell Canada can be described as the dominant institutional force in Canadian telecommunications, and by Clement's definitions, a dominant corporation of the indigenous capitalist elite in Canada. The development of the relationship between the company and its regulators can be illuminated through the examination of the history preceding and responsible for its dominance. The regulatory history of Bell Canada will provide the basis for an assessment of the interpretation of the relationship, and its implications for analysis of the role of regulatory control.

i. Rise to Dominance

In the period 1880 - 1920, Bell's monopoly was attained and maintained in the face of early competitive efforts. The regulatory proceedings concurrent with and subsequent to this period, illustrate how Bell's monopoly was maintained and reinforced.

According to Babe's study of interconnection practices, Bell engaged in various tactics and strategies in acquiring control of the telephone market. By 1882, Bell had a clear field with respect to telephony in that:

1. it had a federal charter entitling it to extend its works throughout Canada;
2. its charter permitted it to lay wires and cables along public thoroughfares without permission from the municipalities;
3. the works of the company were declared to be for the "general advantage of Canada";
4. Bell had acquired all telephone plant in Canada; and
5. it possessed exclusive rights to all major telephone patents.<sup>110</sup>

A revision of Bell's Act of Incorporation in 1882 had contributed to this monopolistic position. The



amendment stated:

"The said Company shall have power subject to existing rights to extend telephone lines from any one to any other of the several Provinces in the Dominion of Canada and from any point in Canada to any point in the U.S.A. The said Act of Incorporation is hereby amended, the works thereunder authorized are hereby declared to be for the general advantage of Canada." 111

Babe suggests that the reason the Company petitioned Parliament to be declared a work for "the general advantage of Canada", which in effect makes it subject to federal jurisdictional control, was to reaffirm its power to enter public streets without permission from the affected municipalities.<sup>112</sup> The apparent "trade-off" was an advantageous compromise. Bell accepted the possibility of the limitations of federal scrutiny in return for the extension of its immediate powers. Although some constitutional authorities have argued that Bell would have been automatically subject to regulatory control (other than by Parliamentary statute) by the nature of the description of its undertakings in its Act of Incorporation Charter of 1880,<sup>113</sup> then Bell's willingness to be regulated was, at best, an insurance policy for the government.

But by 1884, Bell's patents had expired, and to meet the impending threat, Bell (on advice from Theodore Vail) undertook rapid construction of long distance lines. Meanwhile, Bell's neglect of public service satisfaction had fostered the rise in a number of independents. Bell's performance was criticized for high rates, for its lack of rural service, for its lack of response to a desire for local control and for generally poor service. The independent telephone companies sprang up in an attempt to offer an alternative service, often with technically superior equipment.<sup>114</sup>

In order to combat this encroachment, Bell developed new policies to ensure its monopoly for the provision of telephone service (except in B.C.). Babe's study reviews the details of these methods and their impact. Bell engaged in restrictive contracts with the railways, which tied Bell's service to the railways' monopoly. Its long distance inter-connection practices and the rulings of the Board of Railway Commissioners, was one of their more successful policies to these ends. Independents were required to apply to the Board and then make compensation to Bell, while the Board refused to rule on discriminatory treatment by Bell on the basis that

it was not within its jurisdiction. Other policies included its undertaking of exclusive franchises with municipalities, propoganda and political patronage.<sup>115</sup>

I will suggest below that it is particularly significant that aspects of Bell's operations came under increasing control of the Board of Railway Commissioners while the competitive threat of the amalgamation of the independent telephone companies was strengthening.

Growing dissatisfaction with Bell's service and with its extending monopoly, prompted public action.

In 1901, 102 municipalities petitioned Parliament to prohibit Bell from increasing the rates to its subscribers.<sup>116</sup> Earlier attempts by legislators to subject Bell to toll regulation had been ineffective, but in 1902 when Bell sought to increase its capital stock by statutory amendment, Parliament used the opportunity to make two other amendments.<sup>117</sup> The first put certain responsibilities on Bell to meet demands for service and, second, stipulations that rate changes must be approved by an Order-in-Council.

The rise of independents gained momentum in 1903, and by 1906 independent telephones had grown to number over 12,000 (Bell had rights to 78,000).<sup>118</sup>

By 1905, there was considerable pressure on the Prime Minister, Laurier (a personal friend of Bell President, Sise) to rectify the telephone situation.<sup>118</sup>

Eventually he authorized a Select Committee to investigate and make recommendations. The Chairman was to be Postmaster General, Mulock. Mulock stated his position as:

"If I must confess to a bias as regards telephones, that bias would be that I cannot see why it is not as much a duty of the state to take charge of telephones as it is to conduct the postal service." 119

Mulock never had the opportunity to officially recommend nationalization as an election was called. After the election, Laurier shuffled the appointments. The new Postmaster General was Aylesworth, who had been Bell's counsel during the committee proceedings. The information gathered as evidence in the hearings was never collated nor acted upon. Francis Dagger, the Committee's telephone expert, commented:

"It is difficult to understand why so important an inquiry, lasting five months and covering over two thousand pages of testimony, should have been allowed to close without a report and recommendations

being made. The answer probably is that the testimony recorded justified the adoption of a policy which does not meet with the approval of Parliament." 120

Finally, in 1908, the principles of the revisions to the Railways Act of 1906 were affirmed, giving the Board of Railway Commissioners jurisdiction over Bell with regard to:

1. all telephone tolls;
2. terms of connection;
3. consent of municipalities; and
4. revision of railroad contracts.<sup>121</sup>

Thus, it appears that at the point of where the traditional rights of capital are most seriously threatened, that governmental regulatory committee is granted certain powers which involve the limitation to the dominant corporation's powers as a means of facilitating the compromise with subordinate interests. The consequence of such a compromise, though placing limitations, simultaneously legitimizes the monopoly structure and creates the determinants for its protection.

#### ii. Board Decisions

Formation of Regulatory Authority

The Railway Act of 1903 established a regulatory

authority, the Board of Railway Commissioners, after an earlier attempt at regulatory supervision of the railways by the Railway Committee of the Privy Council had proved unsatisfactory. The establishment of the Board in 1903 "did not create the same for and against factions which the creation of the Interstate Commerce Commission in the U.S. had occasioned in 1886 and 1887", where the idea of an independent commission was opposed as a denial of the American doctrine of "separation of powers".<sup>122</sup> In Janisch's assessment, our commitment to parliamentary responsibility and the need for a regulatory tribunal outside immediate political control, has resulted in Canada never completely adopting the American model of the independent regulatory agency.<sup>123</sup>

Regulatory agencies have historically in Canada had the ultimate accountability of decisions reserved to Cabinet. The courts have had a very limited role.

The Board was to combine legislative, judicial and executive functions under one authority.<sup>124</sup> It was given broad regulatory authority over railways and amended in 1908 to include telephone and telegraph tolls. The Board set its own rules of procedure, was a court of record, and its rulings were judicial determinations. Appeal to court action was only

allowable on questions of legal jurisdiction. The Board's operational policy was the interpretation of the Railway Act and later the National Transportation Act (1938).

#### Formation of Monopoly Status

Bell Telephone Company of Canada was incorporated under federal charter in 1880 with the following powers:

"to manufacture telephones and other apparatus connected therewith... used in connection with the business of a telegraph or telephone company, and to purchase, sell, or lease the same, and rights relating thereto, and to build, establish, construct, purchase, acquire or lease, maintain and operate, or sell or let any line or lines for transmission of messages by telephone in Canada or elsewhere". 125

These rights included that construction and acquisition of telephone plant along public thoroughfares, without permission of local governments, and were challenged in 1881, whereby Bell successfully managed to be declared to be for "the general advantage of Canada", and circumvented the confrontation with local authorities.

One of the most important decisions of the Board in the period of 1910-1920 was that it did not have the power to make compensation a term of the order empowering Bell to construct and operate lines

within the jurisdiction of municipal governments.

The Board's interpretation of Bell's Act, empowered Bell to construct without compensating the municipality, thus granting Bell a substantial advantage over potential competitors. It helped to create the "natural monopoly" which justified further regulation.

In McManus' assessment:

"Bell's power to make free use of the public right of way was probably of crucial importance to the present structure of the industry in Canada, at least in Ontario and Quebec." 126

#### Exclusive Contracts

Bell had entered exclusive contracts with the railways, restricting the installation of telephones in railway stations, in effect giving Bell a commercial monopoly on communities.<sup>127</sup> An amendment to the Railway Act to empower the Board of Railway Commissioners to accept independent telephone companies in the station, faced considerable opposition when raised in Parliament in 1903. Certain members were particularly adamant in their fight to oppose the Bill, hailing the amendment as communistic and radical.<sup>128</sup> When the Railway Act of 1903 finally passed, it gave the newly-acquired Board authority to order a railway company to permit access to other telephone companies. But because of the exclusively restrictive contracts



Bell held with the CPR, the Board, when petitioned for access, concluded the contracts were valid.

Bell managed to maintain its monopoly with the railroad until 1909.<sup>129</sup>

#### Interconnection

The first major issue (1911) to be tested under the Board's authority was that of connecting independent systems to Bell's long distance lines and facilities.

The resolution of interconnection cases involved Bell's right to designate competing and non-competing companies and, therefore, to set compensatory conditions by which independents may be granted connection privileges. The Board ruled that discriminatory treatment by Bell of independent telephone companies was not a subject within its jurisdiction. This continued to be the centre of controversy until a revision of the Railway Act in 1914.<sup>130</sup> With respect to interconnection and compensation, the Board has "consistently followed the principle that the revenues of Bell are to be reasonably maintained within such agreements in the interests of its subscribers".<sup>131</sup>

Since 1920, there were few alterations to interconnecting agreements, with little relief to independent companies. Throughout this process, the Board reiterated the principle that it was not responsible for the welfare of connecting companies, apparently without considering that such companies were usually acquired by Bell when they were in financial difficulties.<sup>152</sup>

#### Rates

In 1875, attempts to include regulation of telephone tolls under the 1875 Telegraph Act, were unable to pass ascension in Parliament. In 1892, there was an attempt to establish a Government-in-Council requirement for consent of rate increases, but the provision proved ineffectual until 1902 and the amendment to Bell's charter.<sup>133</sup>

Most of the principles by which the judgments of the Board were determined with respect to the structure of rates, were established and subsequently adhered to by the conclusion of the 1927 rate case. The two main principles adopted were:

1. that in general, exchange rates must not be unfairly discriminatory. This refers to prices for services to individuals in similar

circumstances and is the basis for establishing "value of service" pricing and negates explicit consideration of the costs of service; and

2. that rate structures charged are reasonable. Reasonableness is evaluated in terms of the overall revenue requirements needed for the operations of the company.<sup>134</sup>

Since the decision of 1927, there were four other rate applications to 1969, but since 1969, almost annually. In 1969 the regulatory authority, the CTC, began a full-scale investigation of the appropriate costing methodologies for calculating the necessary revenue requirements (now a task in the hands of the CRTC). Also in 1969, Bell's private wire services were brought under regulatory jurisdiction.

The rate cases typically take the form of determining the company's revenue requirements (based on returns to shareholders and the appropriate debt ratio, not on the return on asset valuations as in the U.S.)<sup>135</sup> and allocating the awarded increases between local exchange and long distance toll business:

"The respondents have, as the Board has, accepted most aspects of the existing rate structure, the structure of control in the industry and the established regulatory environment." 136

iii. Interpretations and Implications

The brief description of Bell's early regulatory history is only an example of regulatory applications in the case of a dominant firm among Canadian regulated monopolists. Its significance lies in the interpretation of the relationship that has developed between the agency and the company, and its implications for determining an assessment of the regulatory environment. It is important, then, to examine how the role of the state functions in the formation and maintenance of a monopoly market structure. The regulatory agency provides the venue for the exploration of the role of the state as interventionist in an explicit form through the workings of the agency in policy and regulation of the sector of the economy with which it is entrusted. This will also demonstrate how the public interest is represented or interpreted in the regulatory process, and how it comes to be defined by the nature of the decisions made for its sake.

Monopoly Status

Bell had achieved the dominant position in Canadian telecom structure by the 1920's and has since managed to maintain and reinforce its monopolistic power

with respect to telephones, while extending its monopoly into new technological areas. Bell's early efforts against potential competitors and continued employment of "basically the same tactics" into new areas,<sup>137</sup> has led Babe to conclude that:

"The monopoly Bell enjoys today is not the consequence of natural monopoly or superior efficiency; it was attained in an aggressive, predatory and morally questionable manner." 138

But Bell's historical practices are not unique. Their interpretation lends itself to comparative situations.

W. G. Shephard, an American economist, has described four stages through which utility sectors pass. Bell Canada's corporate development has been consistent with the first three, while the fourth is still in question. The stages are:

Stage 1. The system is invented and controlled by patents.

Stage 2. Is the period in which it creates a system and growth takes place. This is the period in which the service seeks regulation for permanence, legitimacy and market control.

Stage 3. Is where the technology is complete and there is market saturation and the corporation

switches from offence to defence to obstruct new technological entries or to warp it to fit its private optimum structure.

Stage 4. Is prescriptive, in that Shephard states that at this point the systemic monopoly attributes yield to pressures of competition and technology and the sector reverts to conventional competitive processes (and therefore is no longer a utility) or becomes a public enterprise where necessary.<sup>139</sup>

The progression of stages will be directed by the policy and regulatory framework. Monopoly status is conditional.

Though the maintenance of Bell's dominant position in the telecom industry and complementary monopolistic structure of the market are sometimes argued as the logical consequence of "natural monopoly" conditions, it is important to note their historical foundations. To assume that monopoly structures were predetermined by technological conditions, obscures the realization that the market structure was a negotiable item which came to be a monopoly situation through the activities of the firm in conjunction with the

intervention of government policy and regulation.

Melody has remarked on the nature of market structures and technological determinism:

"The creation of monopoly did not involve an evaluation of the technological alternatives for providing various utility services on the part of the government authorities and a conclusion that the social interest would be served most efficiently by monopoly supply. The structure of the market and of the industry was a negotiable item of great importance to the potential utility company. The utility wanted the institution of regulation to determine and guarantee the structure of the market against competitive inroads that might otherwise occur. Thus for markets, regulation dictated a monopoly structure through its policies." 140

#### Jurisdiction and Rulings

The decisions of the regulatory Board in conjunction with Bell's practices, are contributing factors to the current industry structure, as they have legitimated the process of their sector's development. The application of regulation has been limited in its goals and effects, such that it cannot mask the closeness or depth of the relationship between the regulator and the regulatee.

The nature of the jurisdiction and the rulings of the Board over Bell Canada, provides the groundwork to comment upon the regulatory environment. The Board

appears to have operated under four constraints:

1. The Board saw its role as one in which it "will not interfere with management prerogative except insofar as rates and other specific regulatory responsibilities are concerned."
2. The Board considered it had no authority to regulate the quality of service nor the provision of service.
3. The Board considered it should maintain no supervisory power in regard to intercorporate affairs and relations.
4. The Board's adaptive goal, in the public interest, was seen as technological efficiency rather than economic efficiency.<sup>141</sup>

By operating within these constraints, regulatory responsibility becomes narrowly defined. Under the aegis of non-interference in management prerogatives, the critical element of supervision of investment decisions is neglected. In confining its regulatory power to "rates", substantive control is relegated to superficial measures, since investment decisions determine future revenue requirements, hence the power to interpret future rate implications is abrogated.



To define the behaviour of the firm with respect to the public interest, without consideration of criteria pertaining to the quality and provision of service, makes the judgment of performance insubstantial. As Turner has suggested, the expectable consequences of monopoly cannot be corrected simply by keeping the monopolist's rate of return down to a reasonable level.<sup>142</sup>

Furthermore, the non-interference approach by the regulatory agency is compatible with the assessment that a discrepancy is not evident between the objectives of the firm and the regulators.

"In general, the goals of the Board and Company with respect to the development of the telephone system, new technology and desirable investment programme are much the same - to provide the public with telephone service that is technologically efficient." 143

Also, the realization of such goals has been assessed as adequate. English and Biegie concur that, with respect to the application of economic performance criteria in efficiency, growth and distribution, the telephone companies have performed a creditable role and performance is not such as to warrant great concern.<sup>144</sup>

In fact, the Canadian telephone system has often been applauded as the best in the world. The limited criticism that has been generated has been directed towards the lack of explicit guidelines in the

regulatory process.

"The purpose of regulation has been defined so vaguely that the carriers have had to rely upon their own initiative to respond to changing conditions in the industry... it is not possible to judge performance without explicit objectives, the task of which is a legislative responsibility and not that of the regulatory authority." 145

Consequently, the managers of the carriers are accustomed to an environment where they have the authority to make all critical decisions about the industry's development. As the Telecommunications' study findings referred to it: "regulatory practice in Canada has provided a wide permissive latitude for self-regulation by the industry itself".<sup>146</sup>

This situation would seem to tend to contradict the basic rationale for regulatory intervention.

That it may no longer be sufficient to preserve the old institutional framework by grafting piecemeal amendments to an outdated regulatory framework, is the extent of an acknowledgement of past deficiencies.<sup>147</sup>

Remarks of concern about the regulatory environment are generally directed to future policy considerations with respect to how new technology and services should be adopted into the existing structure. This could precipitate the logical movement into Shephard's fourth stage. But this is precisely where the

influence of current economic theory and the Canadian experience complicate the regulatory scene by their contradictory nature. Innovative services and facilities associated with new technology are said to erode the continuing justification of the natural monopoly structure of traditional firms and provide a more competitive environment for new services.

It is based on the rationale that competition is a prerequisite for efficiency and further innovation.

But competition has never been a national imperative.

In telecommunications, technological efficiency takes precedence, and is justified politically as being in the "national interest". The influence of the

American situation has encouraged advocates for relaxing barriers to entry for specialized services in Canada, but they are up against the institutional constraints within which DOC policies have maintained protection of the "old guard".

#### d. Congruent Interests and the National Interest

This relationship which can be seen as the development of congruent interests is antithetical to the presumption of the role of regulation as adversarial or coercive. Regulation in this case can be interpreted as a political phenomenon which continues

the production of congruent relations on the basis of the "national interest". Regulation, correspondingly, has been non-conflictual and non-controversial.

Given the limited scope of regulatory authority and consequent "free rein" for industry initiative, what does this mean in terms of the interpretation of the state's role and responsibility for policy? The lack of a comprehensive national policy for telecommunications has been a critical feature of the old environment, since the provision of telecommunications links is an essential aspect of the necessary infrastructure in a developing economic structure.

i. A "Chosen Instrument"

As McMannus has suggested, it is not difficult to imagine the telecommunications industry being used as an instrument of national policy in the same manner as the railroads.<sup>148</sup> He contends that in its absence, Bell Canada has undertaken a policy role of its own initiative, which is not unlike the kind of national policy toward which other activities such as the railroads, pipelines and highways, have been directed by government intervention. Though the direction may not have been explicit, the important similarities are recognized. Telecommunications

services, particularly in the northern regions, were considered a necessary element of the development process. As was evidenced in the national concerns for developing a satellite system, improved communications were to be an agent of economic activity in the north. It appeared that the satellite system would be the "chosen instrument". But a "chosen instrument" status is part of a process and a relationship; therein lies its effective definition. On the matter of the role that the telecom industry (or specifically Bell) has taken upon itself, there are two seemingly contradictory remarks by McManus and Beigie:

"However, the record of the Board is clear evidence that telecom firms under its control were not treated as 'chosen instruments'." 149

"In the absence of a well thought out and explicit policy of public intervention, regulators have delegated to the telecom carriers a 'chosen instrument' status." 150

What appears to be a contradiction in the usage of the term is resolved by the agreement implicit in the context. Though McManus and Beigie define the terms differently, one in reference to the industry as agents of national policy, and the other as the actions taken in the absence of policy, the process they refer to is the important similarity.

The situation is analagous to the interpretaion of a policy of non-policy. It is the contextual process of decision-making which defines policy that is important for attention. The significance lies in the fact that the development of the telephone system in Canada demonstrates the congruency of government and industry views of national economic development. More specifically, that Bell, as a dominant indigenou corporation, has developed in a manner which is not inconsistent with the national interest. These conditions would seem to demonstrate that the relationship that has developed between the regulators and the company is not conducive to the argument that the relationship is an adversarial one.

ii. Procedural Institutionalization -  
The Formation of a Perceptual Bias

A critical factor in the regulatory environment, and the analysis of how the "national interest" in public policy comes to be defined in decision-making, is the essential feature of the composition of the regulatory agency. The composition of the Board or agency requires attention, as it is necessary for unde-standing how the agency interprets its function,<sup>151</sup> and thereby is a contributing factor to the institutionalization of values through procedural techniques.

Further support for the argument of a non-adversarial relation is found in the examination of appointees.

It has often been revealed as it was in Professor Corry's studies in 1945 that:

"There has been a marked tendency for administrative boards and commissions, set up in connection with the new functions of governments to be made up in part of representatives of the affected interests. Everyone knows that they are constantly demanding still further representation of this kind. A tinge of corporatism has appeared in the administrative structure of democratic government." 152

This point has elicited a great deal of criticism.

As Penny has lamented, it is the basis for the argument that too often government boards are controlled by those they are supposed to be regulating.<sup>153</sup> That the tendency continues, ex-minister John Turner remarked, "I've looked at a lot of regulatory agencies and the longer I'm around, the more I believe these tend to reflect the interest of the industry it is supposed to regulate."<sup>154</sup> That board personnel are interchangeable with the industry's is logically consistent with the findings that demonstrate the increasing interpenetration between the state and industry elite sector. The significance of these factors goes beyond its usage for support of the argument which explains the relationship of the regulatory board as captive agent.

Commissioner personal affiliation and past experience, direct and indirect, with the industry, does not necessarily determine decisions favourable to the industry. Rather, the influence is more subtle and more pervasive, in that it determines a perspective of the regulatory process, sets the boundaries of legitimacy and establishes precedents of procedure. Ideologically, it incorporates dominant ideas and values which pragmatically, set the operating assumptions.

The logical conclusion is such that the agency continues to accept as valid the evidence submitted by the firm in terms of data, accounting procedures, investment decisions, etc., (particularly in the case of the dominant firm, Bell Canada, whereas B.C. Tel is approached somewhat more sceptically)<sup>155</sup> as the basis for the agency's decision. Hence, the regulatory relationship which has developed, has resulted in a shared view of the agency's function, and is the result of the process of negotiations through its history. In effect, the agency can be seen to be performing certain tasks for the industry such as: legitimization of the existing market structure, control of entry of new firms and the level of competition.



The agency also serves the purpose of mediation of intra and inter-industry conflicts by subordinating certain interests, and it also mediates the public debate by shifting it into the administrative arena with its relevant agenda and procedures. These services are exchanged in the "trade-off" for a guaranteed profit level. It is not surprising then, that critics of the regulatory process have come to the opinion that "most of the extensively regulated industries at least prefer being regulated to competing and actively seek and sustain accommodating regulatory regimes."<sup>156</sup>

Therefore, it is not the composition of the agency in terms of personalities or affiliations that is important, but the structural relation of the agency to the firm. The problem is a systemic one relating to the manner by which interests get represented within the decision-making forum. It is the agency's functional responsibility to resolve issues involving a conflict of interests. How it comes to subordinate certain interests to others in the negotiation process involves a prioritization of criteria which will reflect the structure of interests represented within the decision-making process. The dominance

of Bell in the industry structure will then be reflected in the perception of concerns.

With this understanding, a comment by Galbraith is more relevant without its literary personification.

"Regulatory bodies like the people who comprise them have a marked life cycle. In youth they are vigorous, aggressive, evangelistic and even tolerant. Later they mellow and in old age - after a matter of ten or fifteen years - they become, with some exceptions, either an arm of the industry they are regulating or senile." 157

The literary personification masks the systemic nature of the process, but the intent of the effects is clear.

But the agency itself is part of the larger governmental administrative apparatus, and as such, also represents the structural patterns of dominance internal to the industry at the level of intra-governmental decision-making and economic planning. From this perspective, there is a resulting congruency with the conclusion of Bernstein that the limits of regulatory policy tend to be set by the acceptability of the regulatory policy to the dominant parties of interest. 158

The nature of the relationship as outlined here, had not developed by the time the Telesat-TCTS case came before the CRTC for two reasons.

One, the CRTC had had no experience with the telecom industry. Although the CRTC had inherited staff from the CTC, it was largely technical personnel. The CRTC commissioners were unchanged. It does not appear that the CRTC's self-image or self-defined perspective of its responsibilities was altered significantly. The agency's added responsibilities did not include the adoption of a working relationship with the industry.

Two and perhaps more importantly, policy responsibility for satellites and space research was shifted directly from the CTC to the DOC in 1969. Policy jurisdiction in satellite development and therefore the directive powers, were separate from the regulatory agency. For the telecom industry, policy questions remained with the CTC and the DOC until 1975-6. The transfer of regulatory power to the CRTC coincided with the increasing shift of overall policy responsibility to the DOC and DOC's attempt to legislate a new and, in effect, limited mandate for the CRTC. The "limits of responsibility" have been negotiated through the DOC where the crucial elements of the relationship have been, and are, being developed.

The Telesat-TCTS issue was the first telecom proceeding under the CRTC other than a rate hearing. Knowing the

costs and risks associated with its Telesat Decision, the CRTC may well have been acting to assert its power in relation to the newly strengthened DOC and CRTC's own independence and legitimacy in regulating the telecom sector.

iii. Public Interest and the National Interest

Since the operational rationale for regulated utilities rests in the concept of them being a "business affected with the public interest", it is important to see how this comes to be defined in regulatory practice, and more specifically, how the public interest gets represented in the process. It seems to be a two-level phenomenon, explicit and implicit in the process.

The Chairman of the Securities and Exchange Commission once defined the role of the regulatory body as one in which:

"... their mandate is to protect the public, often against enormous political pressure from business and without any countervailing pressures. In other instances, such as the grant of a TV licence there is really no well defined spokesman for the public interest except the agency itself." 159

An agency's basic interpretation of the "public interest" seems to be premised on the principle that a healthy industry is a major concern. The interpretation of "healthy" however, may lead to different conclusions.

As has been demonstrated by the Board's rulings, that which is in the public interest is that which does not constrain the ability of the corporation to accumulate capital sufficient to satisfy its shareholders. This brings into question the methodology of assessing costs and revenue requirements necessary for maintaining the health of the industry. So far this determination has not relied on directives to the internal management to allocate its resources in a more efficient manner. Therefore, rates to subscribers must meet these constraints, and subscribers are considered the beneficiaries of the technical system.

The CRTC also includes the industry in its consideration of the public interest. In 1968 the Commission stated the "public interest, in its full consideration, includes the interest of the industry, for without a viable industry the public interest could not be served".<sup>160</sup> In the Telesat Decision the CRTC interpreted the health of the industry with respect

to the consumer benefits of a competitive industry.

Explicitly then, the public interest is often redefined as consumer interest. This can be examined to the extent that the agency considers the effects of its decisions on the consuming public. The agency has tended to see itself as acting for the consumer in the public interest. The public, as consumers, have traditionally had limited representation within regulatory decision-making.

In an investigation of the federal level of telecom regulation in Canada with respect to its responsiveness to consumer interest issues (while telecom was under the CTC), it showed that the structure of the process was markedly deficient. The regulatory process failed in its ability to merely know the needs felt by consumers of telecom services, let alone to perform its duties with full regard to consumer demands.<sup>161</sup> The report of 1970-71, on consumer representation in the federal telecommunications regulatory process, found that:

"The overall impression gained throughout this process was that, nearly without exception, telecom tariffs and the carriers' permissible rates of return continue to be set without due consideration by the regulatory agency of the effects

of its decision upon the individual users of the service in question or the society at large. Consumer interests inputs are virtually non-existent presently in the telecom regulatory process.

Studies to date further indicate that the consumer grievance amelioration and investigation procedures of the CTC in its telecom role are equally inadequate." 162

Thus, public interest, as represented within the telecom regulatory process, is seen as consumer interest advocacy, and as such, is an economic interest, but an economic interest without political power. Duly, its consideration is subservient to the interests of the regulated firms.

Implicitly, the public interest becomes embodied in the abstract notion of the national interest which materializes in the manner in which resolutions confer power on economic entities. The public interest is subsumed in the national interest which effectively continues a structure of economic power relations which maintains the dominance of particular firms in the "best" interests of a healthy economy.

e. Summary

From the historical evidence, it has been shown that Bell's dominant position in the structure of the telecom market is a result of a cooperative

relationship between the public and private sector. Bell has enjoyed a regulatory environment of wide permissive latitude which did not seek to interfere in management perogatives, which is evident from the judgments and orders of the Board's decisions. The historical relationship between the regulatory body and the firm has developed a structural relationship which determines the perspective of the regulatory function and process, and in so doing, structures the representation of interests. The regulatory environment has been such that the dominant firm and regulatory body have not been in adversarial roles.

Regulation, then, as an explicit form of state intervention, specifically applied in the "public interest" supports a partnership approach to the interpretation of government and private industry relations. The critical aspect of attention is the notion of the public interest and how it effectively is defined in the regulatory process. It is here that the question of "who benefits" as a result of political or regulatory decisions, needs to be applied.

From the discrepancy between the interpretation of "public interest" and "national



interest", the application of these terms in the Telesat Decision can be seen in context of the broader framework which provides a more useful meaning than as viewed in isolation. The CRTC's denial on the basis of the public interest was taken from a broader perspective than has traditionally been the case in telecom decisions. The CRTC attempted to realign both internal interests in the telecom market structure and other interests as represented in the intervention process, and Cabinet acted within the parameters of historically conditioned relationships between the state and the corporate sector. Its interpretation of the "national interest" ensures these relationships. Cabinet's approval on the basis of the national interest was consistent with traditional patterns of decisions.

The question of "who benefits" applied in both spheres of decision-making demonstrates the differences in value decisions made on the prioritization of criteria. The "public interest" for the CRTC was basically a regard for consumer interests as viewed from the anticipated benefits of a more competitive industry structure. The CRTC's assumptions in its assessment were in effect, out of context. The Cabinet's assessment of "consumer interest" was subordinate to maintaining the established power

structure within the industry, but assumed the public would be served as a beneficial consequence of a stable, healthy industry. The decision "in the national interest" prevails.

FOOTNOTES AND REFERENCES

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CHAPTER SEVEN - SUMMARY ANALYSIS AND CONCLUDING COMMENTS

The premise for constructing the inquiry of this thesis suggested that an explanation for the Cabinet decision regarding the Telesat-TCTS agreement must include the examination of the process from which it was generated. The decision, it has been argued, was the product of the events and decisions which preceded it which, as a process, was defining the role of satellite technology for commercial communications and, in so doing, represents a policy. The process of policy-in-formation occurs within a framework of socio-economic conditions and politico-economic relations which have been historically conditioned. It is a framework which is structured in the immediate context by institutional arrangements, by power relations and by prevailing ideological assumptions. This context of relationships acts as constraints which influence how a specific issue of policy-making and development proceeds from its inception as "an issue of concern" through the decision-making and implementation stages.

The explanatory inquiry proceeded through four analytical stages, proceeding from an examination of the policy story to an historical rationale.

The descriptive analysis of the policy process surrounding the satellite issue traced the events and the participants within their immediate context. The process began with the initial attempts at negotiating the issue of control over the operations of commercial satellite technology. The decision to proceed with the formation and implementation of a Canadian commercial satellite system was a product of the political-economic relations and socio-economic conditions of that time. Satellite usage and development was institutionalized in an expedient fashion. The proposed corporation was to be the vehicle for furthering national policy objectives. The attainment of the specified objectives involved diverse and conflicting interests, each expecting specific benefits from the implementation of satellite technology. But the delineation of the corporate form was negotiated mainly between the dominant interests, resulting in the imposition of institutional parameters which could only constrain the wider scope of national objectives.

The legislative bill designed the entity responsible for the management of satellite technology, but its corporate form delimited its objectives to that of a commercially viable undertaking with an ownership structure of contradictory interests. Once the corporation was created, its policies reflected its

internal ambivalences. The new entity was required to function within the established institutional structure of the telecommunications industry in a non-threatening, non-competitive manner. Although Telesat's market for service was limited, the corporation adopted a technical system where capacity exceeded demand requirements, and continued an accelerated developmental program for innovative technologies.

These circumstances inevitably constrained Telesat's viability and the foundations for the renegotiation of terms were laid. The renegotiation of the structural relations which define the role of satellites in the telecommunications industry was formulated through the Telesat-TCTS agreement.

The regulatory responsibility for legitimizing such a restructuring was a new arena for telecommunications decision-making. The CRTC had not yet developed a working relationship with the telecommunications sector. The regulatory agency's interpretation of the new corporate arrangements considered the consumer interest and therefore the public interest would be better served in a less monopolistic structure of control in telecommunications services. Its criteria for assessment

considered technical efficiency a lower priority than the potential possibilities of competing technologies.

The proponents of the new arrangement argued that sanctioning the agreement should be perceived as an economic decision affecting the national interest. Telesat's survival was said to be dependent on the resolution of its explicit economic constraints, while implicitly the constraint was the perception of Telesat as a potential competitor. The dominant firm in the ancillary manufacturing sector would be jeopardized in its competitive position in international markets should Telesat not be financially strengthened to ensure its continued innovative developments.

The issue became that Telesat's viability is in the national interest and required the subordination of other concerns to these ends. The interpretation that this could only be achieved by resolving the inherent contradictions of Telesat's role as complement or competitor proposed two choices. One, to enforce the role of satellites as a viable competitor to the land-based systems would require the adoption of policies contrary to interests of the common carriers. Two, a complementary system would become "but another weapon in our (TCTS's) arsenal of technology".

Cabinet represented contradictory interests. The main proponent for accepting the TCTS-Telesat agreement was the DOC. The protagonist for the opposition was the DCCA. The Departments of Finance and Industry, Trade and Commerce were also in favour of the agreement. The argument against the agreement, in lieu of its anti-competitive aspects, was a criteria of lower priority in the prevailing assessment. Cabinet's perception of the necessary resolution was congruent with the interests of the dominant firms.

The developments in the process of defining satellite policy have a particular relevance when viewed in relation to historical features pertaining to the economic structure and patterns of policy decisions taken "in the national interest". The "national interest" in national policies has a historical legacy. Its effective definition lies in understanding the power relations it sanctifies. The historical relationship developed in government-industry "cooperation" generally, and in particular in the regulatory environment, provides insight to the systemic bias inherent in the development of an ideological perspective. The dominant ideological perspective, though historically conditioned, is played out in the immediate environment of the policy process through the values and choices which have constrained the options in satellite policy developments.

The structure of relations in Canadian political economy suggest that the pattern of economic control and the pattern of political decisions of national policy are intrinsically tied. Developments in satellite policy should be considered in conjunction with these features.

The economic structure bears a high degree of corporate concentration controlled by an elite which is fractionalized by virtue of the sector of the economy, its strategic position and the nature of the control exercised.

The patterns of economic growth have been staple oriented and industrially dominated by foreign controlling interests.

The traditional dominant indigenous elite located in the commercial-financial and circulation sector, have cooperated in a policy of economic dependency,

deindustrialization, escalated corporate concentration and promotion of indigenous multinationalist efforts.

The telecommunications sector has been largely indigenously controlled and is of growing strategic importance in the economy as a necessary provider in the required developing infrastructure to economic activities.

Bell Canada is a dominant firm in the intra and inter industry structural levels. It is particularly significant that Bell's power has accrued within a

regulated sector of the economy and that its growth has been validated through government policy actions.

The history of regulatory practices in telecommunications suggests that the relationship between the government (through a regulatory agency) and the dominant firm has provided an environment characterized by non-interference in corporate decision-making and corporate policy objectives. This, in effect, has allowed regulatory boundaries to be virtually self-imposed. The essential tool of regulatory power being the constraint on allowable profitability has been limited by the procedures used for ascertaining revenue requirements. Procedures have been so narrowly defined and have assumed the firm's accounting methods that regulation has had few characteristics of a coercive quality. In effect, the dominant firm has carried out its own policies for telecommunications which have not been found to be inconsistent with national policy purposes.

The intentions of "national policy-national interest" policy decisions are central to the interventionist mode of the state in national economic development. Policies in this aim are the product of the political-economic interdependence, and demonstrate a congruency

between state-corporate orientations to fostering economic growth. This interventionist relationship between the state and the economy has been justified for the cooperative purposes of maintaining a "healthy" economy. In effect, this relationship, through policies, performs the function of ensuring economic stability through a compatibility of interests which define the nature of economic "health" and "stability". Thus the relationship has served to develop an ideological perspective which shapes the priorities, values and assumptions which underlie policy options and decisions.

The developments in satellite policy exemplify certain characteristics in the relation of public-private capital. The satellite venture was largely publicly financed and provided infrastructure services for extraction resource industries in the north, while absorbing the financial risk factor unattractive to the private sector. The structure and policies of the satellite system's services protected the private sector in the telecommunications industry by not directly competing in established markets. The system's operational developments served to promote the development of ancillary technological capacity in the manufacturing sector establishing a dominant firm capable of a competitive position in international markets. The merger resolution allows



private interests extended monopoly power and control over potentially lucrative markets.

The historical features demonstrate the interdependence of economic power and political decisions which permeate our history and establish the relationships necessary to its effective continual functioning. The maintenance of the system requires an on-going negotiation process between government and industry and is further supported by the interpenetration of state and industry elite personnel. A congruency of perspective is formed through the mutual reliance of political and economic power. The history of satellite policy demonstrates a similar notion of congruency, as exemplified through a specific set of relationships.

The implications which can be drawn from this research study pertain primarily to the process of policy formation. As an explanation of a case study, it was not intended to provide a prescription for the probability factors of future changes in satellite policy. It does, however, provide some points of consideration for structuring further inquiries in the policy process.

Policy should be viewed as fluid and changing. Policy in and as a process can be seen as the series of decisions and negotiations which, taken together,

represent its effective definition.

Policy-in-process is responsive to different pressures both external (interest groups) and internal (representation of interests) to the governmental apparatus at different locuses in policy formation.

Policy decisions reflect a prioritization of criteria based on the expression of interests represented in the process. It is therefore essential to examine the relationship between the participants on the basis of who represents what interests in the negotiations and decision-making. This is particularly important at the executive level of the government structure since it is their responsibility and accountability which must be assessed.

Executive decisions taken in the name of the national or public interest, are particularly significant. Such policy decisions usually involve resolutions of conflicting interests. The internal decision-making, particularly at the Cabinet level, is unlikely to represent an unanimity of opinion. Different actors have different opinions representing different interests, and will favour different choices. Arriving at a decision requires the subordination of particular interests to

the domination of others. This constitutes the internal compromise. It is an exercise in the relative power of differing political opinions.

For example, with specific reference to satellite policy decisions, there were three critical points in the decision-making: the formulation of the corporate entity, the awarding of contracts and the Telesat-TCTS decision. The overriding similarity of these decisions is the extent to which they satisfied segments of the dominant economic interests by providing for the following:

1. that the initial development investment and risk factors were absorbed by public capital;
2. that the establishment of a satellite system has been beneficial to northern industrial efforts;
3. that the implementation of satellite technology has not eroded the established power structure of the telecom industry; and
4. that satellite technology has served the segment of the manufacturing industry capable of penetrating international markets.

The significance of these results, in conjunction with the critical points in decision-making, is that the political opinion which predominated and was consistent is that of the Department of Finance. The other major political opinions represented in each decision shifted with the nature of the issue as defined at the time.

This would suggest that the DOF, in relation to the maintenance of the position of the dominant economic interests, appears to function as an integrative mechanism of influence. Further analysis of this supposition is crucial to understanding policy formation and speaks to the notion of congruency between economic interests and political decisions. It may well hold important implications for the assessment of policy processes in relation to political theories.

Such implications are not meant to suggest that powerful economic forces are or always will be accorded beneficial results. Within the specific developments in satellite policy, it was evident that priorities changed in relation to the times when decisions were being taken and according to the balance of interests and pressures expressed. Decisions made "in the national interest" will necessarily include concessions to interests other than the dominant economic forces.

As to how the implications of this case study may be interpreted in reference to further developments in satellite issues, this thesis does not provide the basis to predict specific outcomes. It does, however, provide a basis for understanding further decisions by arguing the direct interests represented must be examined in light of the broader influence their positions reflect. Further satellite decisions may then be seen in terms of their possible impact on altering or maintaining the established power structure and inter and intra industry patterns of dominance.

As an inquiry into policy formation, this thesis presents only one case study, the relevant factors and implications of which need to be viewed in relative comparison with other policy examinations. Policy formation, seen as a political question can then be related to theories of the state as the significant relationships identified lead to their incorporation in the development of a framework which views policy study as a critical element of political theory.

Since the identification of the determinants of policy rest on assumptions regarding the structure of society and its relation to the state, it is only by examining the circumstances under which policies are developed

and implemented, the political forces arguing for  
and against them and their justifications in relation  
to the interests being served, that policy can be  
seen in relation to the political debate.

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