

THE CONCEPT OF BALANCE IN THE SUPERVISION AND REGULATION OF
CANADIAN BROADCASTING:
PUBLIC ISSUES AND CRTC POLICIES

by

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ABSTRACT

The Broadcasting Act of 1968 requires the Canadian broadcasting system to provide balanced opportunity for the expression of differing views on matters of public concern. The thesis examines the supervision and regulation of the balance of views requirement of the Act by the Canadian Radio-television and Telecommunications Commission (CRTC). The evidence for the study comprises official statements and interpretations of policy, and the interpretations of balance put forward by participants at public forums conducted by the CRTC and its predecessors.

The study focusses on the use of balance as a term for evaluation of broadcast content, and on the record of the CRTC in enforcing the balance of views requirement. Public positions taken by actors in the regulatory arena are analysed, relevant assumptions identified, and CRTC performance assessed.

The thesis argues that three aspects of balance are central to interpreting the public discourse on balance. First, balance refers to two dimensions of broadcast content: viewpoints and program types, which are structurally as well as rhetorically inter-related. Second, the discourse on balance is framed in terms of two models of the relation between viewers (or listeners) and broadcast content: the exposure model, emphasizing the need for individuals to be exposed to a variety of views and program types; and the choice model, emphasizing

choice between alternative content options in the broadcasting system. Third, balance is defined according to two main criteria: proportion of time devoted to particular views, and the representativeness of the range of views broadcast.

The balance of views requirement is enforced by the CRTC at both licensing (regulatory) and supervisory levels. Licences are not granted to groups considered to be explicitly promoting a single point of view (e.g. religious groups). At the supervisory level, the CRTC may investigate complaints alleging imbalance in specific programming. The thesis discusses the CRTC's priorities and procedures in its public investigation (or refusal to investigate) complaints since 1968. The study concludes with a discussion of the relevance of the balance of views requirement in the modern broadcasting context.

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I. INTRODUCTION

This thesis will examine the concept of balance in Canadian broadcasting policy, and how the term is used to assess broadcast content. Generally, 'balance' is an evaluative or measurement concept used in many areas of media analysis; the following list of uses is suggestive rather than all-inclusive:

- Balance between freedom of expression and responsibility of the media
- Balance in the directional flow of information
- Balance in ownership of media (e.g. between ownership of cable and broadcasting companies)
- Balance of opinions and views expressed in programming
- Balance between types of programming (information, entertainment etc.)
- Balance of sources of programming
- Balance between elements in the broadcasting system (e.g. between public and private elements)

What does balance mean in these different contexts? As a first step, it is helpful to look at some of the general metaphors and meanings of balance. There are many fields in which the concept of balance is applied: balance of the scales of justice (late latin: bilanx, having two scale pans), balance of payments, balance of the juggler or tightrope walker, balance

of chemical equations, balance of an evolving ecosystem. In a study by the CRTC research branch of the various theoretical contexts in which the concept of balance is used, the following main ideas and images were identified:

- Equality (of forces, numbers)
- Equilibrium between opposing forces
- Complementarity amongst different phenomena
- Higher level integration or unity or order amongst contributing phenomena
- Stability of situation
- Harmony amongst various elements
- Rhythm, alternance over time
- Sufficiency of various elements (with varying degrees) to produce a given phenomenon
- Equivalence or identity between two phenomena
- Measurements of balance or equilibrium [1]

It is evident that some concepts of balance deal with quantitative aspects of equivalence and proportion, while others are concerned with harmony and unity among elements, and still others with equilibrium in a dynamic system. Importantly, in the sphere of social and political activity of which broadcasting regulation is a part, balance is an evaluative concept requiring human judgement.

This study examines how the notion of balance has been used in policy statements, reports, public hearings and other

government documents concerning broadcasting in Canada. It attempts to relate this discourse to the specific institutional and policy contexts in which it is generated, using a combination of documentary and critical methods. The primary focus of this thesis will be upon the notion of balance between differing views expressed in broadcast content, because this is the issue on which a great deal, if not most of the policy discourse has been generated, particularly since the Broadcasting Act of 1968. Balance of views is a requirement of section 3(d) of the 1968 Broadcasting Act, which states that "the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern..." The "reasonable, balanced opportunity" clause has been interpreted by the Canadian Radio-television and Telecommunications Commission (CRTC) as applying to news, current affairs and documentary programming where opinions and beliefs are expressed on matters which are controversial or of public concern. The balance provision is also invoked in relation to advertising by political parties and to 'advocacy' advertising. [2]

The discourse on balance in the policy arena does not relate exclusively to balance of views, however. In the course of research for this thesis, it was found that discourse on balance within the policy arena also referred explicitly to

another dimension of content, that of program types. In Canada programs have usually been classified into three basic types corresponding to three postulated functions of content: information, entertainment and enlightenment. These categories were recognized by Sir John Aird in his royal commission report of 1929[3] and were further elaborated by Robert Fowler in each of his two reports of inquiry into Canadian broadcasting:

In Canada there appear to be four principle functions which we expect our broadcasters to discharge. These are, first, to inform (news, public events, the reporting of facts); secondly, to enlighten (interpretation of the news, education, discussion, debate on the facts); thirdly, to entertain (enjoyment, relaxation); and fourthly, to sell goods (advertising, distribution of goods and services). Any broadcaster who performs only one of these functions and none of the others is not a good broadcaster. Furthermore, there must be balance between the various components in each of the broad functions referred to above. [4]

Distinctions between program types are also contained in other broadcasting documents of a more binding nature. The CBC is required by the Broadcasting Act to be a "balanced service of information, enlightenment and entertainment for people of different ages, interests and tastes covering the whole range of programming, in fair proportion".[5] Although there is not a similar statutory requirement for private stations, similar goals are stated in the text of the 1973 CTV network affiliation agreement: "[CTV television services] will be varied, balanced and designed in concept to serve the national interest comprising a balanced mix of the elements of information, public

service, the arts and entertainment programming..." [6] More elaborate classifications of programs have been developed as part of regulatory information gathering, and by the broadcasting industry as part of ratings measurement. The program categories take into account the production format and subject matter of the programs, and to some extent the program's intended audience. [7] A detailed typology of television programming was developed by the Board of Broadcast Governors (BBG). The CRTC has since developed an elaborate classification for radio programming. [8]

Traditionally, these two dimensions, views and program types, have been treated as being quite separate balance issues by broadcasting policy-makers. One of the main tasks of this study is to clarify the differences between the ways in which balance of views and balance of program types are defined because although this distinction is relatively clear in policy statements of the 'official' discourse, it is less clear in the discourse on balance by participants (applicants, intervenors, etc.) at CRTC public forums. Particularly in recent years balance has tended to be used to refer to a great variety of aspects of broadcast content. There are three reasons for this development. First of all, balance is one of the few terms in the broadcast policy-making lexicon used to evaluate broadcast content, with the result that it is used by participants in CRTC public forums to express a wide variety of concerns about

programming. Secondly, changes in the structure of the broadcasting system, the increase in number of licensed stations and the potential for still more, have resulted in greater emphasis on the importance of choice between a diversity of broadcast services, and this has affected some perspectives on balance. Thirdly, there is a tendency by participants to define balance in a way which is consistent with their own interests, giving rise to a variety of definitions. For these reasons, it is difficult to consider balance of views without to some extent considering balance of program types. Indeed, all of the aspects of balance in media listed above can be identified at one point or another as relevant to the discourse in the policy arena. However, this thesis identifies viewpoints and program types as two main dimensions of balance which are explicitly discussed in the official discourse on balance. *most in literature*

Clarifying the different ways the notion of balance is used in the broadcasting policy arena is the primary focus of this study. The secondary focus is upon the way in which the CRTC has supervised the balance of views requirement in the Broadcasting Act. This is the context which informs most of the public discourse on balance. In this context it is necessary to look not only at definitions and meanings of balance in the public discourse, but also at the extent of CRTC power in programming matters, and the general political environment in which the CRTC operates. This means examining specific cases in which the

commission has called broadcast licensees to account for complaints about allegedly unbalanced programming. Of central importance here is the CRTC's role in supervising the responsibility of broadcast licensees to provide equitable opportunity for the expression of differing views. Specific cases of CRTC supervisory action (or non-action) in response to complaints will be examined, with a view to identifying historical patterns of commission behaviour in this regard.

It is appropriate at this point to identify aspects of broadcasting policy and law which will not be examined in this thesis. The laws of libel and slander, and other laws and jurisprudence affecting freedom of the press, will not be considered. [9] Nor will the issue of Canadian content regulations be discussed, although it is recognized that it is impossible to contemplate Canadian broadcasting policy without appreciating the importance of national unity and Canadian identity objectives in broadcasting policy over the years. Finally, I do not examine in any depth the structure of broadcasting ownership in Canada, and the implications of this for balance. The ownership structure, and the economic imperatives of the advertising-based support which accompanys it in much of the broadcasting system, is an important influence upon the kinds of content which are broadcast. However, the focus of the present thesis is upon the CRTC's supervision of programming performance, rather than upon supervision or

regulation of the ownership structure.

The structure of this thesis follows to an extent the chronology of developments in the use of balance as a policy concept. Chapter two examines the development of policies towards controversial broadcasting in Canada to 1968, and Chapter three continues this for the post-1968 period. Chapters four and five deal with specific CRTC public forums at which the notion of balance figured extensively: the Seminar on Balance and the public hearing on religious broadcasting. Following this there is an attempt to bring many of the issues and themes dealt with in the preceding chapters together in an analytic framework which may assist in making the discourse on balance more intelligible. Then, in conclusion, the means by which the CRTC has supervised balance (of views, mainly) within the broadcasting system is evaluated, and the relevance of the balance of views requirement for the modern-day media environment is discussed.

References

1. CRTC, Research Branch, "Balance Issue", January 9, 1979, p. 27.
2. Party political advertising at election time will be treated only peripherally in this study. Although certainly relevant to the balance of views question, a number of additional issues would arise if this question were to be included. Presently the CRTC may operate as an 'adjudicator' in allocating free network time to political parties under the Section 99 of the Canada Elections Act. Because of the additional issues arising from specific regulation and legislation concerning election broadcasting, the topic is excluded from this thesis.
3. Royal Commission on Radio Broadcasting, Report, Kings Printer, 1929), p. 6.
4. Royal Commission on Broadcasting, Report (Ottawa: Queens Printer, 1957), p. 44; Secretary of State, Committee on Broadcasting, Report (Ottawa: Queens Printer, 1965), p. 6.
5. Broadcasting Act 1968, Section 3(g)(i).
6. CRTC, Decision (73-44), "CTV Television Network Ltd.," January 22, 1973.
7. Royal Commission on Broadcasting, Canadian Television and Sound Radio Programmes (Ottawa: Queens Printer, 1957), p. 3.
8. See, Radio (F.M.) Broadcasting Regulations; Television Broadcasting Regulations.
9. For a recent survey of laws affecting freedom of the press in Canada, see, Royal Commission on Newspapers, Research Publications, vol 3. Newspapers and the Law (Ottawa: Minister of Supply and Services Canada, 1981).

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II. BALANCE OF VIEWS: THE DEVELOPMENT OF POLICY TO 1968

The first comprehensive policy statement on controversial broadcasting was issued by the Canadian Broadcasting Corporation (CBC) in 1939. The genesis of the CBC policy can be seen as a response to particular controversies which had arisen since the mid-1920's. Broadcasting was then a new medium for public expression of views, and limits to freedom of expression on the airwaves were still quite undefined, although there were of course the exemplars provided by the standards of print journalism and of broadcasting policy in Britain.

Controversy and the Development of Public Broadcasting

The first major broadcasting controversy in Canada, generated by four stations owned by a religious group, helped trigger the calling of the Aird Royal Commission into broadcasting in 1928. The federal government, receiving complaints that stations owned by the International Bible Students Association were broadcasting abusive comments about other churches, revoked the Association's licenses, and announced a short time later that there would be an inquiry into Canada's overall broadcasting structure. The Aird commission report, in addition to proposing a public broadcasting model for Canada, recommended that in religious broadcasting "there should

be regulations prohibiting statements of a controversial nature or one religion making an attack upon the leaders or doctrine of another." On the matter of political broadcasting, another area of potential controversy, the report concluded that: "While we are of the opinion that broadcasting of political matters should not be altogether banned, nevertheless, we consider that it should be very carefully restricted under arrangements mutually agreed upon by all political parties concerned." [1]

The recommendations of the Aird report led to a fundamental policy re-orientation towards a publicly owned broadcasting system. The Canadian Radio Broadcasting Act of 1932 created a public service organization charged to regulate and control broadcasting in Canada and also to carry out the business of broadcasting. The Canadian Radio Broadcasting Commission was, however, found to have too little financial and administrative autonomy to achieve its statutory goals, and in 1936 a new Canadian Broadcasting Act created the Canadian Broadcasting Corporation. Again, one of the factors prompting an inquiry into the adequacy of the 1932 Act was the controversy generated by a series of political advertisements broadcast in 1935. The "Mister Sage" series of advertisements, sponsored by the then-ruling Conservative Party during the federal election campaign, were criticised for not having adequate identification of the sponsor, using techniques of dramatic realism, and for making offensive comments about Liberal opposition leader,

1910

Mackenzie King. The Conservatives lost the election (despite their ads), and the new Liberal government proceeded with a review of broadcasting, including the Mister Sage affair. In addition to recommending the creation of the CBC, the House of Commons Special Committee on Radio Broadcasting recommended that dramatized political broadcasts not be allowed, and that full sponsorship of all political broadcasts be required. It was recommended the CBC ensure equitable allocation of time between all parties, and election broadcasts on election day or two days prior thereto were to be prohibited. [2] These recommendations were incorporated directly into the Act of 1936. [3]

During the first three years of CBC operation, the Corporation was faced with no less than three further controversial incidents. Early in 1937 the CBC censored some broadcasts on the private Toronto station CFRB, concerning birth control and sterilization of the mentally unfit. Questions were raised in parliament, but the responsible minister, C.D. Howe, strongly defended the CBC's role as censor: "Obviously it is the duty of the broadcasting corporation to determine the character of the programs, and I think the first test of the suitability of a program must be whether it gives offence to any part of the population. ... The programs sent out must be suitable for children as well as adults." Asked whether children would be best protected from offensive content through the exercise of parental supervision, Howe replied that "[It] is the duty of the

radio corporation to make sure that nothing goes over the radio which is offensive to five year old children or to fifty year old members..." [4]

In the fall of 1937 the CBC issued regulations prohibiting stations from broadcasting anything which was contrary to law, abusive of any race or religion, or false or misleading news. Programs on the subject of birth control or venereal disease were prohibited unless presented in "a manner appropriate to broadcasting." [5] In an accompanying statement the CBC said that although it did not intend to restrict freedom of speech or the fair treatment of controversy, broadcasting was an "intimate medium" which was received in the "relatively unguarded" home atmosphere, and some control was necessary. [6]

Two other controversies occurred in 1938. The first involved a weekly commentary program in which a commentator, George Ferguson, criticised the foreign policy of the British government. There was considerable debate both in parliament and the press as to whether parliament should have some control over CBC programs, and whether CBC commentary programs were intended to reflect official government policy. In an exchange of letters between chairman of CBC Board of Governors, Leonard Brockington, and Prime Minister King, King expressed some misgivings about the particular program in question, but did give an assurance that the government would not interfere in the internal programming policies of the CBC. The CBC, however, became more

cautious. The weekly commentary program, which broadcast the viewpoint of one speaker each week, was replaced with a new forum series where several speakers debated in each program. [7]

The other controversy concerned the efforts of George McCullagh, publisher of The Globe and Mail, to buy network time in Ontario. The CBC steadfastly refused, and a controversy ensued in the press and parliament; however the government this time clearly stated that such decisions were internal CBC matters. It was however pointed out in the course of debate that there appeared to be inconsistencies in the application of this CBC 'rule' against selling time to individuals, because there were at least two previous instances where this had been allowed. [8]

The CBC Policy on Controversial Broadcasting, 1939

The CBC statement of policy on controversial broadcasting, issued in July 1939, incorporated many of the principles publicly stated during the previous three years by Brockington and General Manager Gladstone Murray, in response to the controversies noted above. The issuance of a formal policy statement was in part following up a recommendation by the committee on broadcasting that the CBC communicate its policies more clearly to the public. [9] The bulk of the statement concerned party political broadcasting, with the final section of the statement devoted to non-party controversial broadcasts.

Handwritten notes:
The CBC's policy
was to allocate
free time to
each party
participating
in the election.

[10] The section on party political broadcasting primarily related to election broadcasting. The basic principle adopted by the CBC was that no national network time could be purchased by political parties or by individuals during a federal election campaign. Instead the CBC would allocate free time to each party participating in the election. This new policy was in accordance with the "general policy of encouraging fair and adequate presentation of controversial questions which are of public interest and concern", which was "a vital part of the democratic process." [11] The policy would mean that the opportunity to speak over the national network would not depend on the party's wealth; moreover the new policy would reduce "unnecessary competition" between parties through excessive purchase of time, and would protect listeners from "excessive political broadcasting to the exclusion of entertainment and other normal programming." [12] The policy outlined a formula for determining the allocation of time between the parties, and also listed the criteria for the definition of a political party.

The final section, "Non-Party Controversial Broadcasts," dealt more with principles than with formulae. The statement emphasized that the CBC "does not believe in or practise censorship", except for the general regulations issued in 1937. The statement went on to give the essential tenets of the policy:

The CBC is opposed to and shall resist any attempt to

regiment opinion or to throttle freedom of utterance. It believes in the fullest use of the air for forthright stimulating discussion on all controversial questions. It believes that the best safeguard of freedom of discussion is a policy which permits the largest possible opportunity for the expression of varying and opposite opinions. It believes that as largely as possible all main points of view should be presented equally and fairly. In the view of the Corporation, these principles are not promoted by the sale of network time to individuals or commercial concerns for broadcasts of opinion or propaganda. They best can be furthered through the CBC itself providing time, free of charge, to competent speakers to present, without let or hindrance, the varying points of view on questions of the day. It is, therefore, the policy of the CBC to place on the air broadcasts by informed, authoritative and competent speakers as a contribution to the discussion of current affairs and problems. [13]

The emphasis on providing free time was necessary, the policy stated, because radio was a limited medium, both in terms of the number of hours available for broadcasting, and because it was highly expensive. If air-time was sold, "many elements of community and national life would be unheard. The policy of the CBC is to prevent the air from falling under the control of wealth or any other power...The air belongs to the people, and the constant aim of the CBC is to have the principle points of view on questions of importance heard by the people as a whole." (emphasis added). [14]

Although the sale of national network time for opinion broadcasting was to be banned, sale was permitted on subsidiary private networks or stations, to non-commercial organizations and societies having social, educational, economic, philanthropic or other public interest objectives. In these

cases,

purchase is subject to the conditions that the society or organization accepts responsibility for the broadcast, indemnifying the CBC against the possible consequences of libel or slander; that each broadcast is prefaced and concluded by an appropriate announcement making clear the nature and auspices of the broadcast and indicating that equal facilities are available on the same basis for the expression of opposing views; that there is no undue interference with normal programme requirements; and that the broadcast is of sufficient popular appeal and interest to justify its inclusion in the programme schedule. [15]

The remainder of the statement discussed topic selection (issues of current interest and importance for the national network; more local issues for regional networks), and formats for the presentation of controversial issues:

Broadcasting is a changing and expanding art. The best method of presenting controversial material will naturally be evolved out of experience. The CBC is not necessarily attached to any particular form. It already uses a variety of methods, including debates, forums, commentaries, and round table discussions. It intends, however, to experiment with other forms of presentation. For example, a series of half-hour talks, in which a different speaker in each broadcast expresses his views on vital subjects, will be shortly tried out. Balance and fairness will be secured over the series as a whole, rather than through the inclusion of two or more speakers in each broadcast. It is hoped this will permit of greater freedom and vigour in discussion without sacrificing fair presentation. [16]

Overall, the CBC policy statement made it clear that the CBC, and not the government or parliament, was the body responsible for ensuring controversial broadcasting was conducted in a balanced manner. The basic issue dealt with in the policy was the sale of broadcast time for expression of

opinion by individuals, parties and non-profit organizations. Consistent with the recommendations of the committee on broadcasting, the CBC opted to strictly limit such sales, providing free time instead. However there was a key difference between the free time for party and that for non-party broadcasts: free party broadcasts were to be the legal responsibility of the particular party, whereas free non-party broadcasts were the legal responsibility of the CBC--in other words the CBC controlled scheduling, and selection of topic, speaker and format.

The 1939 policy statement also makes clear that the policy on non-party broadcasts is framed with the national network audience in mind ("the people as a whole"). There is no question of alternative stations to choose from; the CBC was a quasi-monopoly programming service, and this was said to imply a responsibility to deal with controversy fairly. The emphasis was on the public's 'right to hear' a variety of viewpoints. [17]

The Distinction Between News and Commentary

The policy on non-party broadcasts had opinion and commentary programs in mind--there was no mention of news broadcasts, which were as yet little developed. The CBC began its national news service in 1941, and the principles of news reportage were outlined subsequent to this. News was first of all to be unsponsored. CBC news writers were not to

"~~editorialize or indulge~~ in comment or speculation of any kind," although the insertion of background information was permissible. [18] In addition,

Very precise instructions have been laid down to guide the news staff in the preparation of news bulletins. Of first concern is accuracy and authenticity. All items of a sensational or scandalous nature are carefully excluded. ...

...[The] manner in which the news is read by the announcer is regarded as of prime importance. Anything in the nature of the exciting or emotional is avoided. Men possessed of clear Canadian voices with a distinctly masculine quality (sic) are selected, who, in their diction, are calculated to command the attention and interest of the average listener.

The general pattern of news broadcasting remains unchanged and the principal responsibility of the news service continues to be the preparation of news bulletins that are objective and strictly factual in their treatment of the news. [19]

The distinction, already then established in newspapers, between news, and editorial or feature comment, is apparent in the contrast between the policies on news and the policies on current affairs commentaries. In the latter, the existence of differing viewpoints is acknowledged, and the task is to balance the views of various speakers. In the case of news, the reporter is expected to be detached from emotions and personal viewpoints, and to report on the actions and statements of others.

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Controversy During the 1950s

Attacks on the CBC's informational and dramatic programming were quite common during the 1950's. Religious groups, notably the Roman Catholic church with its power base in Quebec, led the attacks on 'morally offensive' programs. These, and other claims about communist influence in the CBC were raised in parliament mainly by Conservative and Social Credit members. But criticism of CBC coverage of political affairs in general came from all parties and intensified as television became more important in political reporting, and politicians had to learn how (or whether) they could use the new medium to their advantage. Particularly controversial programs and programming decisions were investigated by the parliamentary committee on broadcasting. In none of its reports however did the committee recommend any specific changes to CBC policy on controversial programming, although in its 1951 report the committee did suggest that more attention be given to the right of reply in situations where the views expressed were known to be controversial. [20]

After a particularly heavy spell of controversy in 1958 and 1959, the Board of Governors was moved to state its policy on Talks and Public Affairs in the CBC Annual Report. There was very little that was new in the statement, although the problem of separating news from opinion and comment was recognized, and while it was recommended they be kept distinct, they did not

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BBG
CBC

necessarily need to be separated in time on the schedule. The Board also noted in some preliminary statements that "while the advice of specific groups on program matters is highly valued, the Corporation will not shift its responsibility under the Act to any such group", and that the sale of time to political or quasi-political groups would continue to be denied. [21]

The BBG and Controversial Programming

A new regulatory agency, the Board of Broadcast Governors (BBG) was established under the Broadcasting Act of 1958. The BBG was responsible for regulation of program standards and for making recommendations to the Minister of Transport concerning station and network licenses. The CBC was removed from centre stage as regulator of the broadcasting system as a whole. The CBC remained directly responsible to parliament, but in addition the BBG was also empowered to regulate both public and private elements in the broadcasting system. [22] There were thus two lines of accountability for the CBC and this, coupled with the poorly defined objectives of the BBG, inevitably led to tension between the two bodies. However in the field of controversial public affairs programs, the BBG did not intervene in CBC affairs but left such questions when they arose to the CBC and to parliament. The BBG did on a couple of occasions consider controversial programming on private stations.

not necessary to seek out persons

In December 1961 the BBG issued Circular 51, the White Paper on Political and Controversial Broadcasting, which was essentially a rewrite of the 1939 CBC policy statement. There were minor changes in the policy on party political broadcasts, relating to permissible program formats. The section on controversial non-party broadcasts remained similar to the earlier CBC policy, but with a more incisive statement of the principles on which it was based:

1. The air belongs to the people, who are entitled to hear the principal points of view on all questions of importance.
2. The air must not fall under the control of any individual or groups influenced by reason of their wealth or special position.
3. The right to answer is inherent in the doctrine of free speech.
4. The full interchange of opinion is one of the principal safeguards of free institutions. [23]

One important elaboration in the new policy concerned the right of reply. The original CBC policy had referred to this question in one sentence; the new policy statement was as follows:

The Board is of the opinion that discussion of controversial issues could be prevented where one side will not take the opportunity to present its views. Therefore, any station wishing to broadcast controversial material, whether as a program or as a station editorial, may do so, subject only to the condition that persons desiring to express views contrary to those contained in the controversial program or editorial must be given an opportunity to do so. If, however, no person comes forward to make use of the facilities which are offered, the station is not bound to seek out persons holding contrary views. Nevertheless, the station should ensure that, in the

broadcast of the controversial material or editorials, persons having a different view will be given an opportunity to express that view over the station, and, that advice of this fact is presented to the public at the time of the original broadcast.

Stations may comply with this ruling by reading , without comment, representative letters written by those holding opposite views. [24]

The policy on controversial programming was raised at two BBG public hearings. The first was at a general hearing to discuss 'phone-in' open line programs, which had become common during the 1960's. Some open line shows aroused controversy due to abusive hosts and discussions of sensitive sexual topics. The controversy surrounding Pat Burns' open line show on CJOR Vancouver contributed in part to the BBG's decision not to renew the station's licence in 1965. [25] At the open line hearing there was discussion of the proper role of the host, and the station's responsibility to allow callers to express differing views. The problem of identifying callers who could potentially make libelous statements was discussed, but no practical solution seemed apparent. The right of people to be aware that their telephone conversation was being broadcast was also raised, as was the right of aggrieved parties to obtain tapes of the allegedly damaging broadcast. No report was issued after the hearing, although it did serve to demonstrate the BBG's concern to the broadcasters.

The other hearing where a controversial matter was taken up was in June 1966, at a hearing of an application for an increase

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in power for CKSO-TV Sudbury. The Board heard an intervention from a labour union complaining that the station had refused to sell the group time. The station had previously sold the union time for several years, but a recent inter-union controversy had led the station to refuse further broadcasts. The station management said that the union issue had recently become controversial and they were receiving many complaints from viewers. Moreover there was a possibility that further controversy would lead to violence. The Chairman of the BBG, Andrew Stewart, stated that the Board's policy was that if one viewpoint was expressed, then time should also be granted for the expression of contrary views. However he believed that controversial broadcasting was a difficult area, particularly in deciding how right of reply was to be implemented in practice.

[26] In the decision coming out of this hearing the BBG reprinted parts of the White Paper, and announced it was reviewing the policy. The results of this review, if any, were not made public. [27]

The Case of "This Hour Has Seven Days"

Probably the single most controversial series of programs during the 1960's was the television series "This Hour Has Seven Days" during 1964-66. The program was an innovative magazine-style current affairs show which dealt with social issues and 'human interest' topics using satire, music,

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interviews and investigative reporting. The program generated controversy for several reasons--the satirical sketches attacking 'sacred cows' such as royalty and the church, the overt emotional involvement of certain interviewers notably Laurier LaPierre; the sometimes questionable means used to obtain film footage; and the reluctance of the program's producers to be bound to the cautious program policies of the upper hierarchy of CBC management.

The struggle over the program was in part one between a new generation of innovative television producers and the CBC management whose beliefs and policies were shaped by the era of radio. Over the years management had also become more sensitive to the controversies which some programs generated in parliament. One of the central ideological disputes revolved around whether the CBC should lead or follow public opinion. The staff directly involved in the public affairs department believed that public affairs programming should not hesitate to adopt a critical stance towards Canadian culture and society:

The interpretation of 'balance' in public affairs programming therefore became more relative and contingent than the ideal-type balance which senior management imagined could be achieved. The concept of 'fair comment' was substituted for 'balanced comment'. The staff conceived of the public affairs program as balanced over a period of time but not necessarily within one program series. They believed that the Establishment's values should be challenged; hypocrisy should be revealed; the underdog should sometimes be championed; illusions should be stripped away; that the individual Canadian had a right to see what was happening to the society in which he lived so that he

might more realistically make social and political decisions. Senior management thought otherwise. [28]

The BBG did not become involved in the "Seven Days" dispute, but it was raised at the 1966 hearings of the parliamentary committee on broadcasting. The committee's report was critical of CBC management, and stated that program neutrality should not be achieved at the expense of liveliness; the main requirement was for producers and hosts to keep their own biases in check while at the same time retaining their individual style. [29] Nevertheless, a series of decisions by CBC management ensured that the series did not continue after its 1966 season.

Balance of Views and Licensing Policy

During the period 1936-1968 there were occasional applications for broadcasting licenses by 'special interest' groups, which were rejected on the grounds of the balance of views requirement. In 1949 the Board of Governors issued a statement outlining the relationship between its balance of views and licensing policies, after receiving an application for a licence from a non-profit society:

Only a limited number of air channels are available. There are not nearly enough channels to accommodate all organizations or groups of different viewpoints or interests which might wish to have stations of their own. If some groups had licenses they would be in partial monopoly positions and channels would not be available for licences to other groups.

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It is important to emphasize the 'common carrier' (sic) aspect of broadcasting; to make it clear that licensees controlling the use of air channels should be in impartial positions and should provide for the maximum fair expression of different views and concepts and the meeting of different needs.

It has not therefore been the policy of the Board, and is not, to recommend granting licences for commercial broadcasting stations to non-commercial organizations connected with different social, economic, religious or political points of view, beliefs or interests. [30]

This is an important statement because it is one of the few relating to granting of licences to non-profit groups promoting particular viewpoints, at least in the period prior to 1958. The policy was of course implicit in the revocation of the International Bible Students' licences, and in the subsequent responsibility given to the CBC to meet the various needs of all Canadians, but it seems rarely to have been explicitly stated. Similarly the BBG refused to license religious broadcasting stations on several occasions. Although the reasons for this were not clearly stated in the specific decisions on various applications received, it is apparent from questioning at the hearings that the Board was in part concerned with how opportunities for the expression of views by different faiths would be guaranteed, and also with how controversial issues would be treated by the station. [31] This relation between balance policy and religious broadcasting will be taken up again in a later chapter.

Discussion

A good deal of consistency flows through the various statements about balance and controversial programming reviewed here. The basic principles may be summarized as those of the right of members of the audience to hear the major viewpoints on issues which are controversial or of public importance; the right of individuals or groups to answer the viewpoints expressed on the air by others; and the avoidance of control of programming by the wealthy and powerful. An underlying precept is that the licensee should be, overall, impartial in regard to selecting the views expressed in program content. Of course, there is supposed to be room for flexibility, as expressed often in the various statements: for experimentation with different program formats, and for achievement of balance of viewpoints over several programs rather than just one.

Broadly there were two levels of application of this policy on balance: first of all to the issuing of licenses to 'special interest' groups, which was prohibited, and secondly to the program content of licensed stations. It is important here to distinguish between content for which the broadcaster assumes legal responsibility, and content which is the responsibility of the sponsor, such as political ads. The former is the more usual situation in Canadian broadcasting, while the latter is more of a 'common carrier' approach to content. The CBC approach was to strictly limit the common carrier potential of broadcasting to

only party political ads and opinion advertising by non-commercial groups. The rationale for the limitations on common carriage was that if too much time was sold for opinion broadcasting, content would end up reflecting the opinions of the wealthy. The CBC maintained that by taking responsibility for content itself, it could ensure balance of viewpoints and avoid domination by sectional interests. This was said not to be a policy of censorship, but a positive measure to ensure all viewpoints were heard.

How was the balance policy actually used, and what was its function? It appears that the policy was not used in a directive sense by the CBC to control particular private station content, or by the BBG to control content in the system as a whole. No doubt the policy was used as an internal educational tool for CBC and private station staff. It was also invoked whenever a program became a controversial public issue. And perhaps this was where its most important function originally lay, in defining the 'distance' between the CBC and its critics. On the face of it the policy is an eminently reasonable document--who would want to oppose fairness and democracy? The CBC could point to the policy and say, there is the policy, that is how we operate, that is how we will continue to operate. This is not to suggest that such a move was bound to diffuse public criticism, nor, on the other hand, that the policy was merely a rhetorical device which did not reflect CBC journalistic practices. However

the policy was an important reference point which served internally to define the CBC's role to itself, and perhaps more importantly, to define publicly the CBC's principles of operation and thus insulate it from attacks over specific programs, which occurred regularly in parliament and the press.

The BBG's restatement of the policy in the 1961 White Paper contained a significant development in its additional emphasis on providing opportunities for reply. This suggests a recognition of the fact that providing opportunities to answer is one means to settle controversies caused by the broadcast of particular opinions. But this did not extend to saying broadcasters should seek out contrary views if no one came forward in response to an offer of time. The important question of the conditions under which reply-time would be given was, however, not discussed.

An important development during the 1960's was the rebellion by CBC producers against the restrictive interpretation of balance policy by CBC management. In theory, as expressed as far back as the 1939 statement, it was acceptable to experiment with program formats and to consider balance as achieved over several programs. In practice CBC management were equally concerned about 'offensive' and sensational programming which might cause too much public controversy, particularly in parliament. There was also alarm at the new kind of 'engaged' interviewer style which ran against

the grain of reportorial conventions. At the base of the dispute was the question of broadcast media's role in society; whether media programs should take the role of active criticism or advocacy, or whether they are passive reflectors of society. Of course neither of these characterizations are adequate to describe the role of media. The media can in fact create events, issues and controversies, although this is hardly addressed in any of the policy statements. It is assumed that the media is somehow outside of society and is impartially reflecting social and political life. This assumption will be discussed further in a later chapter.

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III. BALANCE OF VIEWS: CRTC POLICY SINCE 1968

Under the Broadcasting Act of 1968, authority for licensing of broadcasting stations and networks was transferred from the Minister of Transport to an independent regulatory body, the Canadian Radio Television Commission (CRTC). [1] The commission was given a broad policy mandate, which included a requirement that the broadcasting system provide a balance of viewpoints. The relevant policy objectives are set out in Section 3 of the Act:

3. It is hereby declared that
 - (a) broadcasting undertakings in Canada make use of radio frequencies that are public property and such undertakings constitute a single system, herein referred to as the Canadian broadcasting system, comprising public and private elements;...
 - (c) all persons licensed to carry on broadcasting undertakings have a responsibility for programs they broadcast but the right to freedom of expression and the right of persons to receive programs, subject only to generally applicable statutes and regulations, is unquestioned;
 - (d) the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern, and the programming provided by each broadcaster should be of high standard... [2]

When the Act was presented in parliament, then-Secretary of State Judy LaMarsh stated that the policy contained in Section 3

was "more than just a preamble; it is an integral part of the measure, expressing the intentions of parliament, and it will have all the force of law. Thus the whole of the rest of the bill must be considered in the context of this declaration of policy." [3]

The commission has interpreted the balance requirement as coming under its supervisory as well as its regulatory capacity, as defined in Section 15 of the Act: "...the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the Broadcasting policy enumerated in Section 3 of this Act." The nature of the supervisory function was further elaborated in a speech by CRTC Vice-Chairman Jean Fortier in 1977:

"It is interesting to note that the word 'control' was used in the 1966 white paper on broadcasting, the Act's preparatory document. The term was replaced by 'supervise' in the Act. It is thought that the negative and ambiguous connotations of the English verb 'control' are the reasons for this substitution. The French verb 'controler' clearly explains the intent of the term 'supervision' in the Act, that is "s'assurer qu'une assertion est exacte. or qu'un travail a ete execute comme il devait l'etre" ... ("ensure that an assertion is correct or that work has been performed as it should be"--TR)

The function is not only passive, however. Without regulating, strictly speaking, the Commission, after due consideration, may assist in the development of standards, publicly criticize abuses, encourage developments and positive programming trends, arbitrate disputes and, in short, ensure that the public interest is not jeopardized by the use that is made of the public airwaves. If really necessary, regulation may be invoked as action within the bounds of supervision." [4]

The commission may call public hearings on matters of balance either as part of the regular license renewal hearing, or under Section 19(2)(c) of the Act which empowers the commission to call a hearing in connection with a "complaint by a person with respect to any matter within the powers of the Commission." The commission has since 1968 called two special public hearings and conducted other investigations into complaints about imbalance in particular programs. The first of these was the landmark hearing on the 'Air of Death' documentary.

The "Air of Death" Inquiry

The CBC documentary 'Air of Death', about air pollution, was broadcast in prime time on the english-language network on Sunday 22 October 1967. Part of the program dealt with the question of fluorine emissions from Electric Reduction Co.'s fertilizer plant near Dunnville, Ontario. The documentary alleged that the emissions were killing livestock, ruining crops and endangering human health in the area. An American fluorosis expert stated on the program that two Dunville farmers were suffering from fluoride poisoning. Shortly after the broadcast, the Ontario government launched a commission of inquiry into pollution in the Dunnville and surrounding areas. One year later, in December 1968, the Hall commission, as it was called, issued its report, which included strong criticisms of the CBC

(who declined to appear before the inquiry) for "unwarranted, untruthful and irresponsible" statements in the program, and for creating an atmosphere of panic. It claimed that farmers in the Dunnville area were unable to sell their crops and livestock as a result of the program. One week after the report's release, the CRTC announced that a special committee would be set up to hold a public hearing on the program. [5] The terms of reference of the hearing, the first of its kind called by the CRTC in its supervisory capacity, were to first of all determine measures taken by the CBC to ensure high standards of public information in preparation, production and broadcasting of the program, including the use of information reasonably available at the time of broadcast. The second objective of the inquiry was to assist in the development of standards of public information in broadcasting, including the need for balanced opportunity for the expression of differing views on matters of public concern. [6]

Of the three days of hearings, two and one half days were devoted to the specifics of the program, while the final half a day dealt with documentary programming in general. The first part of the hearing was conducted in quasi-legal fashion, with counsel representing three CBC employees and Electric Reduction Company. Counsel for the CBC employees filed a large amount of evidence relating to the research which went into the production of the program. Evidence was also given to the commission by

eight others who were participants in the program or representatives of concerned groups. The Committee also had at its disposal studies of the program conducted by CRTC research staff, and a consultant's report on the scientific evidence on air pollution available at the time of broadcast.

Despite the quasi-legal procedures, the Committee chairman stressed that no-one was on trial or under accusation. The Committee wanted to study the methods and precautions used by producers and journalists to cross-check sources of information, and the hierarchy of responsibility within the CBC for taking decisions at each stage in the documentary production process: idea, research, filming, editing, and scheduling.

The section of the Committee's report dealing with the making of 'Air of Death' found that in general the program was "accurate and well researched." Some deficiencies were noted, of which the most serious was the program's treatment of the allegation that two Dunnville residents were suffering from fluorosis. A contrary view on the farmers' health had been given in an interview with a Dunnville doctor, however this was not used in the program because of poor sound recording quality. A long interview in the program with the Ontario Minister of Health was not, in the Committee's view, sufficient to provide "adequate check and balance" to the views of a fluorosis expert in the field who, the Committee noted, was known to have strong views concerning the health effects of fluoride in general,

although this was not stated in the program. The program had failed, therefore, to show that matter of danger to human health posed by fluoride in the Dunnville area was subject to differing expert opinion. The Committee's other main criticism was of the editing of an interview with Federal cabinet minister Allen MacEachen which gave the impression the government was not concerned about pollution. The Committee suggested special care be given to "assure equitable opportunity for a government representative to relate his position to previous statements in any particular program." [7]

CTV Network executives and producers, independent producers, and founder of the National Film Board, John Grierson, made presentations at the final half-day of the hearing concerned with informational and programming and documentaries generally. Many questions were raised, some of which were continuous with those raised in the first part of the hearing. The following is a summary of the general issues raised in both parts of the hearing (it is given in the form of a series of questions, because many more questions were raised than 'solutions' outlined):

- Is it possible and/or desirable for a single documentary or current affairs program to be balanced within itself, or on the contrary is it acceptable for the program to express an overall editorial point of view?
- Is 'staging' of events for the camera acceptable in

documentary production?

- Is exaggeration through overstatement a legitimate means of generating audience interest?
- To what extent should television set out to increase people's sensitivity to social issues and to be a "cutting edge" to conventional wisdom?
- What is the responsibility of individual producers and to what extent should they be supervised by superiors in the broadcasting organization?
- How is the public to be protected from mis-statements of fact or interpretation?
- Is the public sophisticated enough to understand editing conventions and to know when an editorial viewpoint is being expressed?
- Should balance be evaluated at the level of each program, each station or over the media system as a whole?

The final section of the Committee's report offered some "thoughts" on these and other matters. The report stated that the CRTC should not act in a way which would curb or limit television's coverage of issues of common interest and concern, so long as the coverage was done in a way which did not induce public panic. Honest, objective reporting was of course needed, but the Committee recognized that:

bias, in the sense of "a point of view" may well exist on the part of persons involved in the preparation and production of a program. This concept of 'honest bias',

which must not extend to the point of being malicious, to the point of distortion or to the point at which bias results in propaganda, appears to exist at every point in the making of practically every program on a matter of public concern. Persons producing informational programs, other than news programs, should be encouraged to approach such programming notwithstanding such honest bias provided the bias is honestly set forth, that the program is fairly and truthfully presented and the public is informed that there are other points of view on the subject. It should be noted, however, that even if complete objectivity may not be possible, it does not follow that differences in the degree of objectivity are not important. Such differences in degree are extremely significant, and the hard-to-determine boundary line between sufficient objectivity and unreasonable bias must be drawn between the giving of equal time to all sides of controversial issues and the choosing of one side only and misrepresenting the opposing view. [8]

The report went on to suggest that broadcasting organizations should revise their internal policies to take into account the potential of documentary programming to express an overall point of view, and the additional visual impact of television. If the licensee was to fully assume responsibility for its programming as laid out in the Act, then the "natural involvement" of program producers should be balanced by "practical procedures for the exercise of checks and balances by responsible officers."

The balance requirement of the Act did not, in the Committee's view, require that each program should necessarily present all sides of an issue, provided that controversial topics are treated fairly and adequately in the context of total programming. Nor did the concept of balance require that all viewpoints should be balanced by contrary ones: "The Committee

is, however, concerned that controversy relating to the existence, extent or seriousness of a problem be dealt with fairly and be clearly represented and that a problem be clearly identified as controversial, if such is the case." [9] Where a journalist's own opinions enter into a broadcast, they should be clearly labelled as such (for example, using a 'by-line'). Exaggeration for effect in order to obtain viewer attention was criticised by the commission, although it did not specify the forms of exaggeration it had in mind. The report concluded that:

...the Committee considers the interests of Canadian broadcasters and the Canadian public to be best served by fair and objective treatment of issues of public concern, by the expression of diverse points of view and by the assumption on the part of the broadcasters that at this stage in the evolution of informational programming, the public is sufficiently sophisticated to accept and to benefit by the expression of a variety of opinions and to make its own judgement thereupon. The quality of Canadian broadcasting will not be improved by over-regulation or restrictive interpretations of the Broadcasting Act. [10]

If, as the Committee suggested in its report, it was true that 'Air of Death' may have been "one of the most thoroughly researched programs in the history of television broadcasting" [11] , then it is equally true that the Committee's inquiry was a thorough investigation into the making of a television documentary. The Committee's report vindicated the CBC in the face of accusations made against it, while at the same time identifying points of decision in the production process where more care could have been taken. Broadcasters were expected to

note the problems and issues raised and to adapt their policies and practices accordingly. The report made clear that the CRTC was not proposing to regulate standards or procedures for balance, or for granting of time for right of reply or access.

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The National Indian Brotherhood and "The Taming of the Canadian West"

In March 1970, four months prior to the release of the 'Air of Death' report, the CTV Network aired a film entitled 'The Taming of the Canadian West'. In June 1970, several native groups together filed a complaint with the CRTC, claiming the program (scheduled to be rebroadcast in July 1971) was blatantly racist, historically inaccurate and slanderous to the Indian race and culture. The groups requested a formal investigation of the program. Nearly twelve months later, after further requests by the groups for an investigation, the Executive Committee of the CRTC announced that it did not believe it was in the public interest to call a public hearing on the matter. The commission had, in the meantime, encouraged the groups to negotiate directly with CTV concerning possible changes to the film, but the negotiations did not materialize. Following the CRTC's refusal to call a hearing, the native groups went to court seeking orders to prevent rebroadcast of the program, to direct

the Executive Committee to review its decision, and further directing it to hold a public hearing on the program. All requests were denied by the Federal Court on the grounds that the Executive Committee had taken an administrative decision which was within the bounds of its legitimate discretion. The judgement said it was not within the discretion of the court to either review such decisions, to consider the merits of the complaint, or to consider acting as a censor of programs.

A significant finding of the judgement concerned the CRTC's powers of censorship:

...I find it difficult to conclude that parliament intended to or did give the Commission the authority to act as a censor of programmes to be broadcast or televised. If this had been intended, surely provision would have been made somewhere in the Act giving the Commission authority to order an individual station or network, as the case may be, to make changes in a program deemed by the Commission, after an inquiry, to be offensive or to refrain from broadcasting same. Instead of that, it appears that its only control over the nature of programs is by the use of its power to revoke, suspend or fail to renew the licence of the offending station. [13]

Equally interesting as the legal judgement per se, are the judge's comments on the developments leading up to the court action. After giving a detailed description of these events based on the evidence before him the judge expressed the view that the applicants (National Indian Brotherhood et al.) were justified in feeling frustrated at the way their complaint was dealt with by the CRTC. The commission had taken eight months, from July 1970 to February 1971, to complete an internal

investigation of the program. A CTV rebuttal to the applicants' complaint was withheld from the applicants for an eight month period between October 1970 and May 1971. A meeting between representatives of the applicants, CTV and the CRTC, planned for May 1971, was cancelled by CTV on the grounds of a "flimsy excuse" which was not questioned by the CRTC.

It seems evident that the CRTC, while constantly expressing the hope that the parties could get together and adjust their differences so that the matters in dispute could be buried and forgotten, was unwilling to take any positive action whatsoever beyond agreeing on applicants' insistence to send a representative to such a meeting when and if same could be arranged, nor was it willing, or perhaps able, to bring any pressure whatsoever on the CTV Network to compel it to withdraw or make changes in the said programme, or even to compel it to attend a meeting to discuss same. The CTV, for its part, having no doubt invested substantial sums in the said programme which had proven very controversial following its first broadcast, was eager to reap the fruits of the controversy which it had aroused and broadcast it again, and while willing, if obliged to, to make minor changes in questions of historical accuracy, it had no intention whatsoever of making major alterations or of withdrawing the film from further broadcast. [14]

It is clear from the CRTC's stance on this complaint that the 'Air of Death' style of hearing would not necessarily be repeated--even in cases where the complaints against the program appeared on the face of it to have merit. The 'Air of Death' hearing was thought to have a pedagogical function, not a quasi-judicial one; the commission evidently did not want to use the public hearing process as a means to consider complaints where some form of concrete redress was sought, and it preferred

such matters to be negotiated directly between the licensee and the complainant. The court judgement upheld the commission's power to act in this manner, and also suggested that it may not legitimately direct a licensee in respect of a particular program. However, in passing, the judgement pointed to considerable deficiencies in the way the CRTC handled the complaint.

The Attack of Radio CHNS on Miles for Millions

In December 1970 the commission received a written complaint from the Halifax-Dartmouth Committee of Miles for Millions (a charitable organization), objecting to commentaries broadcast by the news director of radio CHNS, Halifax. The commission reviewed this brief along with a reply from CHNS, a supplementary brief from Miles for Millions, and many letters from citizens in the area. An announcement was issued in March 1972 stating the facts of the case established by the commission's investigation, and commenting on the implications for balance. The broadcast commentary, the report said, likened one of the groups supported by Miles for Millions to the Quebec separatist group FLQ, who four days before the broadcast had murdered a Quebec cabinet minister. Miles for Millions had a fundraising march planned for two days after the broadcast. Representatives of the group were not given advance notice of

the programs content--the Executive Director of the Committee was not informed of the substance of the attack until he was actually on the air participating in CHNS's morning open line show.

The commission stated that due to the serious nature of the allegation that Miles for Millions would direct funds to a group like the FLQ, the licensee should have taken exceptional care to provide equitable (not merely equal) opportunity for Miles for Millions to reply. The group should have received equitable air time, an advance copy of the commentary to be broadcast, along with notice of when it was to be aired.

In failing to take these or similar measures, CHNS breached its duty to provide equitable opportunity for the expression of differing views on a matter of public concern. While there is no specific penalty provided for a breach of this nature, it is one of the matters for consideration by the Commission in determining whether a licensee should continue to be licensed.

The commission issues this public announcement in the particular circumstances of this case as a form of censure against the licensee ... and for the information of all licensees. Since this is the first time the commission has dealt with a matter of this nature, it does not intend to re-open this incident for consideration in connection with any application by the licensee for the renewal of its licence. However the Commission will be particularly interested in the course of action the licensee follows in dealing with any matters of a similar nature in the future. [15]

As one writer has pointed out, there are parallels between the principles espoused in this decision and those of the US fairness doctrine. [16] One of the key differences, however, is that CRTC balance policy with respect to a licensee's

programming is not invoked in a directive sense, whereas the fairness doctrine may. After a fifteen month investigation by the CRTC, the Committee for Miles for Millions did not receive any compensation for financial loss possibly caused by the broadcasts, nor was any mention made of the granting of time to reply. [17]

The Kitchener Market Affair

Another aspect of balance came to light in 1972-73, in a case relating to censorship--not, however, censorship by government but self-censorship by a licensee. It was revealed at the license renewal hearing of two licensees in Kitchener, Ontario, that the stations' news reporters (and the local print journalists) customarily attended closed meetings of the City Council on the understanding that nothing would be reported until 'officially' made public. This led, in one instance, to a delay in broadcasting news of a major downtown development plan in the spring of 1971. In a statement accompanying its license renewal decisions, the commission commented on two issues raised at the hearing:

Two of the major issues raised at the public hearing were: under what circumstances, if any, should broadcasters agree to a news blackout and should broadcasters attend closed meetings of public bodies on the understanding that the proceedings at such meetings would not be broadcast until publicly disclosed by such bodies?

The Commission considers that these and related issues concerning the broadcasting of news are of prime importance to the public. The Commission notes that the Broadcasting Act requires that programming provided by the Canadian broadcasting system must provide reasonable, balanced opportunity for the expression of differing views on matters of public concern. The Commission would, of course, regard unfavourably any practices by licensees which might inhibit the achievement of these programming standards. [18]

The commission also noted that it would continue to monitor the situation, and encourage further study of the issues by the broadcasting industry.

The Private Broadcasters and the Chiefs of Police

Another incident relating to censorship of news occurred in early 1973, when the commission learnt of a written document setting out an "agreement" between the the Canadian Association of Broadcasters (CAB) and the Canadian Association of Chiefs of Police, proposing guidelines for co-operation between journalists and the police, with implications for the possible suppression of news. The commission immediately telexed the CAB, calling it to account and pointing out that it considered the independent dissemination of news was a fundamental responsibility of licensees. The CAB requested that the issue be discussed as an item at one of the upcoming licensing hearings, to which the commission agreed. Among the issues discussed at the hearing in April 1973 were the desirability of a written

agreement as a means of co-operation, the threat to the independence of news reporters posed by the document, and the precise status of the document. The CAB maintained the document was a "working paper" to stimulate discussion. The commission, in a public announcement issued two weeks after the hearing, said it would await the outcome of these discussions, and meanwhile it expected individual broadcasters not to implement the guidelines. [19] The commission's rapid action on this matter was sufficient to ensure the document was not heard of again. [20] The speed in this case was perhaps due to the fact that it was not a matter related to a specific program, but to general self-regulatory guidelines of the broadcasting industry. The commission has always encouraged the development of such guidelines, but evidently not when they are negotiated in secret and possibly threaten news-gathering freedom.

Radio CFCF and its Anti Bill 22 Campaign

Between September 3rd to 16th, 1975, radio CFCF Montreal broadcast a campaign to encourage listeners to sign a petition opposing Quebec's Official Language Act ("Bill 22"). Much of the campaign occurred on the station's morning open line show; the progress of the campaign was also reported in news bulletins. Overall, broadcast content related to the campaign occupied approximately 25 per cent of the station's total programming

time over the two-week period. Upon receiving several letters and about one hundred telephone calls complaining about the campaign, the commission requested the station to provide tapes of the programming during the period of the campaign, which were content-analysed and a report released in January 1976. The report found that in the portion of programming related to the campaign, a very large proportion of time was devoted to the point of view opposed to Bill 22. The analysis found no indication that the wording of the Official Languages Act was read out or explained at any time during the campaign. There was, however, no evidence that access had been refused to persons wishing to express opposition to the campaign and/or support for Bill 22, but the fact remained that very few such views were actually broadcast by the licensee. On the basis of this evidence the commission announced its preliminary view that the station had not met the balance requirement, and called upon the licensee to attend a scheduled license renewal hearing in March 1976, where it would be asked to explain what steps it took during the campaign to meet the balance obligation. The hearing was also intended to develop a greater understanding of the broadcaster's responsibility in treating sensitive issues.

[21]

The licensee acknowledged at the hearing that predominantly one point of view was broadcast during the campaign, and that in early stages of the campaign some announcers were

over-emotional. However, no-one with an opposing view was refused access. The licensee also defended the open line format as an excellent means of reflecting balance of opinion as it existed in the community, because it was anonymous and there was considerable time for expression of views every day. Quebec government ministers were invited to appear on the open line program, but the invitations were declined. [22] The licensee was above all attempting to meet the needs of its predominantly english-speaking audience, from whom overwhelming support was claimed (600,000 signatures were collected for the petition). The licensee had previously conducted similar campaigns in relation to an earthquake in Guatemala, and proposed changes to the federal jury system. [23] However, if listeners were known to have considerable divergence of opinion of an issue (for example, abortion or capital punishment), then some means other than a campaign (such as a forum) would have been used. [24] Although the station had broadcast very few differing views and virtually no basic information about the Bill, the licensee claimed that these were available on other stations and other media, providing a balance in the overall communication system in the community. [25] Also, people were thought to be well-informed because the Bill had been publicly debated for 15 months prior to the campaign.

The commission's final report was published in an announcement separate from the decision renewing CFCF's license,

in February 1977. Directed to all broadcasters, the report outlined the scope of the commission's supervisory capacity and summarized the facts of the case, from which it concluded:

... the licensee dealt with a controversial matter of public interest in the form of a campaign in which it espoused principally one side of the issue. In doing so the licensee adopted the view that an informational balance on the question would be provided by other community media. The commission considers as a consequence that the licensee failed to provide adequately in its own programming for a reasoned and responsible discussion of the subject. [26]

The remainder of the report raised some questions arising from the conduct of the campaign which were relevant to all broadcasters, followed by a reiteration of some fundamental principles of the commission's policy. Questions included the problems posed and extra responsibility required in using the open line format when controversial questions were under discussion (the report warned about possibly generating a "mob type reaction"); and whether controversial issues should be the subject of public service campaigns. The two final questions were particularly significant:

- What is the extent of the licensee's responsibility to offer different views on controversial issues? Is simply affording opportunity sufficient? What if the invited spokesmen decline to appear or object to appearing in the particular format offered? To what extent should the licensee go in order to place an opposing view before its listeners?
- Is it a question of the right of a person or group to make a reply or of the right of the public to receive programming which deals fairly and adequately with matters of public concern? [27]

The commission's own answers to these questions were set out in its discussion of fundamental principles. The basic principle was that radio frequencies were public property, and licensees were endowed with a public trust which entailed certain rights and duties on the part of licensees and the public. The public, for its part, expected to receive full information on matters of public concern, and moreover has a right to receive programming which provided a reasonable balanced opportunity for the expression of differing views on public concern, and which dealt fairly and adequately with controversial issues. [28]

It was, therefore, the broadcaster's responsibility to "devote a reasonable amount of broadcast time to cover controversial issues; and to cover controversial issues of public importance fairly by providing an opportunity for the presentation of contrasting points of view. The proper exercise of this duty is critical to the democratic process." [29] While the licensee has a right to freedom of expression, it must not supercede the right of the public to receive balanced informational programming--to do so would be a form of censorship. The broadcaster continued to be responsible for determining what was reasonable, what constituted balance, which matters were of public concern, the extent of controversy, and which views should be aired. The greater the controversy, the more care was needed in all these aspects, especially in radio

where there was a tendency towards station loyalty by listeners. If a breach of the broadcaster's overall responsibility to provide balance occurred, the possibility of granting right of reply or access would be considered on a case by case basis.

The CFCF report represented a systematic re-statement of the policy on balanced informational programming put forward along the entire course of the history of Canadian broadcasting. Two primary points are stressed in the report. The first is that the public has a "right to hear" basic information and differing views on matters which are of public concern and/or controversial. The second is that the CRTC does not believe it should issue directives or make rules as means to achieve the realization of that right in practice, preferring to leave that responsibility to broadcasters.

The "A House Divided" Segment on W-5

On October 29, 1978, the CTV current affairs show 'W5' aired a thirteen-minute segment entitled 'A House Divided'. The topic was the support given by the Anglican Church of Canada to the World Council of Churches Special Fund grants which at that time provided humanitarian aid to Zimbabwe guerilla forces led by Robert Mugabe. On November 7, 1978, the Anglican Church of Canada filed a complaint with the commission and requested a public hearing be held on the program. Then, on January 31, 1979, the commission telexed CTV to advise that the CRTC

Executive Committee had decided that a public hearing on the matter would not be in the public interest. The commission advised that it would, however, treat the filed material as an intervention at the upcoming CTV licence renewal hearing in February (since the complaint had also been filed as an intervention).

At the hearing, counsel for the Anglican Church [30] proceeded to outline the Church's complaints. These were, first of all, that the program contained several errors of fact as well as several generalizations based on insufficient evidence. Secondly, and more generally, the program demonstrated "manipulative, even unethical film selection and editing techniques; evidence of a premeditated slant in the subject treatment; and a strong personal bias on the part of the reporter..." [31] The Church was not asking for any disciplinary action against the licensee, nor did it want time for reply. Rather the Anglican Church believed it had been unfairly treated, and wanted to bring this to the commission's attention in the interest that other groups did not suffer similar treatment.

Counsel then introduced a member of the Anglican Church who was beginning to describe the circumstances of one of the interviews filmed (but never used) for the program, when the proceedings were interrupted by counsel for CTV. The procedural issue at stake was the extent to which the commission should

hear evidence about the making of the program, as distinct from evidence about the content of the finished program. Essentially the question was the extent to which the hearing would become a fully fledged hearing into the making of the program, as in 'Air of Death'. None of the parties appeared to want this, although it took lengthy negotiations during a recess to come to an agreement as to how much 'extraneous' evidence was permissible.

The specific details of the allegations about the program need not detain us too long here, except to say that the counsel for both sides each managed to marshal persuasive evidence in support of their cases. The Anglican Church maintained that it was not only a matter of factual error, but also the sensationalist tone of the program, created by techniques such as frequent use of the word 'murderer' in connection with Robert Mugabe, and fast inter-cutting between pictures of mutilated corpses and a collection bowl being passed around at a Canadian church service. Counsel for CTV maintained, however, that statements made by the reporter of the story, Henry Champ, were not factually inaccurate. Moreover, the Anglican Primate of Canada was given ample opportunity in the program to respond to admittedly tough questioning by Champ. Overall, while by no means an uncontroversial segment, CTV maintained that it was a proper instance of 'honest bias' in a documentary context, designed to reflect growing public concern and debate on the issue.

After presentations by counsel for both parties, the commission asked only a handful of questions. A reading of the transcript suggests the Chairman, Pierre Camu, was anxious to limit discussion and move on to other business. Procedurally, this was certainly not a repeat of the 'Air of Death' hearing, although many of the same issues were involved. In this instance, however, the commission exhibited a marked disinterest in pursuing the topic. All in all, this episode places a large question mark over the appropriateness of the licence renewal intervention procedure as a means to pursue, in depth, complaints about specific programs.

The incident was briefly referred to in the commission's decision renewing the CTV Network licence:

At the Public Hearing, the Commission heard an intervention by the Anglican Church of Canada complaining about an episode in the public affairs series W-5. In public affairs programs the commission recognizes that adequate provision for balance and opportunity for expression of differing views on matters of public concern continues to be a difficult problem. However, the intervention revealed that CTV should develop suitable mechanisms to deal with complaints of this nature. CTV is reminded that it is in the broadcasters own interest to ensure that proper response is given to complaints about the treatment of an individual or group in any of its programs. [32]

The "Campus Giveaway" Segment on W-5

In September 1979 the CTV Network current affairs show 'W-5' broadcast a segment entitled 'Campus Giveaway', concerning the number of foreign students at Canadian universities. Representatives of the Canadian chinese community complained to the Canadian Human Rights Commission that the segment was racist and inaccurate. After several months of negotiations, CTV issued an apology for inaccurately portraying chinese canadians as 'foreigners', and promising further programs dealing with the issue of racism in Canada. [33] One of the most significant aspects of this episode is that concrete redress was obtained without intervention by the CRTC, although the commission was kept informed of the status of negotiations. The commission's role in this case is consistent with other instances where it has avoided publicly investigating complaints, although in this instance the commission does not appear to have been requested to play a major role. This case also points to the existence of other bodies besides the CRTC which can serve as intermediaries in negotiating complaints, and at the same time serve to strengthen the complainant's bargaining position (a libel case before the courts can have a similar effect). It should be noted that within the context of its anti-discrimination mandate, the Canadian Human Rights Commission is, unlike the CRTC, obliged to investigate complaints from the public, although it does not have jurisdiction over most of the activities of broadcasters.

The CBC

CRTC evaluation of CBC informational programming performance has taken place in the course of two network licence renewal hearings, and the 1977 CRTC inquiry into the national broadcasting service ("CBC Inquiry") conducted at the invitation of the federal government. To some extent the 'Air of Death' hearing also looked into the internal policies of the CBC, as well as documentary programming in general. The commission, in its written reports and decisions on the CBC, has taken a wide-ranging look at the CBC's informational programming practices and policies. The CBC has provided information enabling a comprehensive portrait of CBC's informational programming operations to be drawn. Pre-eminent as a Canadian provider of such programming, the CBC is regarded as an exemplar in defining standards for public information. [34] The CBC's performance is closely scrutinized in relation to its statutory mandate to be a balanced service of information, entertainment and enlightenment; to contribute to the flow and exchange of information between regions; and to "contribute to the development of national unity and provide for a continuing expression of Canadian identity. "

The CRTC has upheld the right of the CBC and of all broadcasters to inquire into and expose the issues, problems and conflicts of modern society. At the same time, however, the

commission's 1974 CBC licence renewal decision recommended:

The Commission considers that far greater attention must be paid to those standards of professional broadcast journalism, including the rules of debate, the right to reply and the requirement of evidence in support of assertion, which alone can ensure the public's equally vital freedom to receive accurate information and informed commentary on all sides of important questions of public concern. Prejudice, shallow, ill-informed opinions have no place on the nation's most powerful public platform. [35]

Since the 1974 hearing the CBC has provided more details about its informational programming policies, the guiding principles of which include:

- News and information programs must achieve an optimal objectivity.
- The air belongs to the people, who are entitled to hear the principal points of view on all questions of importance.
- The air must not fall under the control of any individuals or groups influential because of their wealth or special position.
- The right to answer is inherent in the doctrine of free speech.
- The full interchange of opinion is one of the principal safeguards of free institutions. [36]

Objectivity of journalistic attitude, fairness in choice of information, and balance between points of view (taking account of the weighting of opinion behind those views), are critical elements of CBC policies, as is the working distinction between news reporting and commentary. [37] A useful distinction is also made in CBC licence renewal documentation between two kinds of fairness and balance: "one provided by the individual journalist

doing a story; and the other provided by the journalistic organization itself in the weighting of material in its total output. Each has a responsibility to be balanced and fair." [38] According to the corporation, completeness of news coverage avoids bias, and completeness is achieved first of all through "editorial pluralism", whereby the complexity of the news production process ensures that there cannot be editorial intervention to "direct" the news towards a particular point of view. Secondly, completeness is ensured by reporters drawing upon a diversity of sources for news and comment. [39]

The CBC's stated view of its national unity mandate is that it should not assume a leadership role proposing specific social solutions to the public; rather it should attempt to "interpret, integrate and rationalize" the many changes occurring in society. [40] The 'national unity crisis' in the late 1970's prompted the CBC to make a more expansive statement on the treatment of the Quebec separatist movement:

The role of the CBC, then, in its current and public affairs programming, is to inform Canadians about the issues they confront as they decide upon their future through the democratic process. The exercise of this responsibility calls both for identifying and exploring the issues confronting Canadians fairly and thoroughly, comprehensively and accurately, and for reflecting differing views about these issues, fully and fairly, and in a balanced manner, taking into account the weight of opinion which holds those views.

CBC's current and public affairs programs, in short, must reflect Canada as a nation and evoke the social, economic, cultural, and political benefits of nationhood to individual Canadians over the years. At the same time, they must describe the tensions of

Canadian society, and the arguments for changes in the political and constitutional arrangements for changes in the political and constitutional arrangements designed to reduce those tensions , and explore as well the costs and the consequences of the changes being proposed. They must examine, too, the arguments against nationhood as we know it, the arguments, for example, in favour of making Quebec independent ... and explore the costs and consequences for Canadians across the country of such a course of action, and whether indeed such a course of action would be acceptable to them.

What is critical for the CBC is to ensure that the choice being put to the Canadian people be presented fully, fairly and responsibly, and in a balanced manner, taking into account the weight of opinions which support the several choices. It is not for the CBC to curb freedom of speech and debate in Canada. Such limits could be imposed on the media (including the CBC) only by the Parliament of Canada. [41]

The CRTC has rarely criticized CBC policy principles--in fact adopting many of them as its own--but it has continued to be concerned at how effectively they have been put into practice. The commission has for example pointed out that a diversity of sources of news and comment, particularly at the regional and international levels, can only be obtained if adequate resources are allocated for both the french and english language networks. [42] Perhaps the commission's priority concern has been with the CBC's national unity mandate, and the flow of information between english and french-speaking Canadians. Concern about the the differences between english and french language network news prompted the 1977 CBC inquiry. The inquiry was called at the 'invitation' of the Prime Minister, after the Quebec Liberal government lost the 1976 election to the Parti Quebecois. A controversy developed concerning

allegations of 'separatist bias' in the French-language arm of the CBC, Radio Canada. A content study commissioned for the inquiry concluded that "newscasts play a limited role in shaping common values and norms, and tend to reinforce differences along linguistic lines. It is not so much what the newscasts contain that creates problems from the point of view of national unity, but rather what they leave out." [43] The comments in the report of the CBC Inquiry on this and other aspects of balance (authored by Harry Boyle, also Chairman of the 'Air of Death' and CFCF inquiries), are sufficiently important and colourful to warrant a long quotation:

Complete objectivity is not possible, nor is it in the least desirable. It would be a very strange religion which would regard God as objective about evil, nor can there be any human objectivity about, for example, preferring freedom to slavery or a clean to a polluted environment. At the same time, as the 'Air of Death' judgement remarked, these are areas where degrees of objectivity are of great importance. A point of view, however sincere, is always limited by a lack of information and a distortion in perspective. That is why news, in particular, is expected to confine itself to providing, as far as is possible with its human limitations, both the essential information on which opinions have to be based and some indication of what a reasonable perspective or attitude toward it could be. This latter is what is meant by 'balance.' We have bias whenever anyone attempts to cut off essential information or balance from anyone else, and so tries to force the listener's opinions into line with his or her own interests. Such bias, which runs counter to the principles of democratic debate, is a form of journalistic malpractice. The expression of an opinion or point of view is sometimes, as above, called 'honest bias', but it is confusing to use the same word in both an approving and pejorative sense.

If this definition of bias seems reasonable, the damning statistics that emerge from Professor Siegal's

study, in particular, indicate that the electronic news media in Canada, English as well as French, are biased to the point of subversiveness. They are biased because, so far as they are able, they prevent Canadians from getting enough balanced information about Canada to make informed decisions regarding the country's future. They are biased by their assumptions about what is newsworthy and what their audiences want to hear. These assumptions really amount to two. First, only Canadians living along the St. Lawrence axis, from Quebec to Hamilton, belong in the news; all others are some kind of Canadian fauna living in the 'boondocks', to be noticed only when they do something picturesque. The second assumption is that English Canadians could not care less about what happens to French Canadians, and vice versa. These assumptions are intolerable. They are also extremely stupid. [44]

Overall, in its reports on the CBC the commission has stressed the power of the broadcast media to affect public consciousness, and the accompanying credibility which many attach to television news in particular. In the commission's view this entails a responsibility on the part of broadcasters for accurate, complete and balanced reporting, which the CBC has sought to achieve. Furthermore the commission has stressed that the CBC has an additional responsibility to seek ways of fostering national unity and public consensus, in addition to reporting on social problems and conflicts.

Advocacy Advertising

Free-time informational programming is not the only field where balance of viewpoints has become an issue before the commission. Air time may also be purchased by private groups to air opinions or conduct campaigns. Advocacy advertising is a

case in point. This type of advertising is difficult to define exactly, but the general definition proposed by Jean Fortier is useful: "It might be described as a type of advertising which is not aimed at selling products or services, but rather designed to promote opinions. It is not aimed at influencing the consumer's individual spending choice, but rather his (sic) ideological and political choice." [45]

Advocacy advertising in electronic mass media became more controversial in Canada (and the US) during the 1970's, when it began to be used by oil companies. Representations to the commission, objecting to advertising by Imperial Oil on CBC Hockey Night in Canada, were made in 1973 by the Association for Public Broadcasting in British Columbia, and in 1976 by the Public Petroleum Association of Canada (PPAC). [46] In the latter case, the CBC had refused to sell PPAC time for an advertisement which responded to some Imperial Oil ads. The CBC stated that its policy was to accept advertising of an institutional nature which contained factual information designed to promote a corporation's image; however it could not accept ads which expressed a particular attitude to the corporation's plans and policies. Following this PPAC was given the opportunity to purchase a time slot on a private television station, but the ad could not be aired because it was rejected by the Telecaster Committee, the self-regulatory body responsible for clearing ads on private television. The

Committee said that its policy was not to approve advocacy advertising. [47]

In two well-presented submissions to the CRTC the PPAC argued that much of the advertising labelled as 'institutional' should more properly be called advocacy or 'policy' advertising, "directed at influencing the outcome of political debates that can be expected to affect the social, political and business climate of the advertiser." [48] The PPAC was alarmed at the amount of discretion allowed to broadcasters to choose which advocacy or policy ads should be aired. An underlying question was whether debate about social and political issues should be conducted during paid airtime, where the wealthy have an obvious advantage, and moreover where issues must be drastically simplified to fit into the normal commercial time slot.

PPAC's submission was a significant challenge to the credibility of the self-regulation of advocacy ads taking place at that time, and the commission responded by convening a seminar on the subject jointly with the Canadian Bar Association and the law faculty at the University of Toronto, in April 1977. [49] The panel, chaired by Jean Fortier, consisted of representatives from private television, PPAC, corporate advertisers and an advertising agency. Basically there were three options discussed for dealing with advocacy ads: the first was to adopt a formal appeal process for right of reply, akin to the fairness doctrine in the US. This was unanimously rejected

as too cumbersome. The second option was to ban sale of time for advocacy ads altogether. This view, taken mainly by PPAC, was criticised because it would lead to difficulties in defining exactly what was an advocacy ad for purposes of regulation. How was it to be distinguished from, for example, institutional 'image' advertising or from 'informational' advertising by government? The third position, suggested by Jean Fortier, was to accept the phenomenon of advocacy ads as a feature of modern society, and for the CRTC, broadcasters and advertising agencies to jointly develop a self-regulatory code or philosophy so that advocacy ads may be allowed in an orderly fashion.

To this day, the commission has taken no further action on the advocacy advertising issue, and it is still left to the discretion of the broadcaster. It is, of course, a delicate issue, given that government is one of the largest advertisers in this area, which is notoriously difficult to define. The apparent increase in advocacy advertising in recent years suggests that one of the fundamental tenets of the CBC's 1939 policy on controversial broadcasting, that paid advertising on controversial issues would be strictly limited, if not prohibited, is no longer a priority in broadcasting policy. [50]

Discussion

The rationale for government intervention in the broadcasting industry in general is on the grounds of radio frequencies being public property, with licenses issued temporarily as public trusts to be operated in the public interest. CRTC interest in balance of views is based upon additional normative principles supporting an informed citizenry as part of the operation of democratic institutions, and freedom of discussion and debate generally. The principle of balance is predicated on the right of the public to hear a diversity of viewpoints, which each licensee is obliged to provide as part of their public trust responsibility. The commission has tended to interpret the statutory requirement that the broadcasting system be balanced as meaning that each station should be balanced. This view of balance as an obligation of each station was first put forward when there were at most one or two radio stations in each area; it is still maintained in a situation of multiple stations on the grounds of habitual listener or viewer loyalty to particular stations. The right to hear is defined by the commission (and previous agencies) as not affected either by the availability in a community of other sources of information or opinion, or by the desires of listeners to hear only one point of view (as shown in the CFCF case). There is an imperative underlying the right to hear which is that citizens 'ought to

hear' a range of viewpoints.

In developing its policy on balance, the commission has had to encounter the complex relationship between fact and opinion, or news and comment. The original notion of balance in broadcasting may be traced back to the 1930's when balance dealt with clearly delineated opinions expressed by radio commentators, the broadcasting equivalent to an editorial or feature article in a newspaper. The importance of broadcast news services or of the documentary genre for television had yet to be established. Since then the CRTC's balance of viewpoints policy has had to take into account the greater diversity of informational programming formats developed for radio and television. A distinction between news and other forms of informational programming has been maintained--the former providing factual information about daily events with a minimum of interpretation, the latter allowing greater scope for the expression of differing perspectives and opinions. The commission has recognized that the time and resources which go into the making of documentary and current affairs programming is accompanied by greater editorial control of the material and a potential for the documentary to express an overall perspective or point of view (the concept of 'honest bias'). CRTC investigations into balance have highlighted how viewpoints are inscribed into many different levels of the broadcast message: from the seemingly straightforward 'opinion' of the

commentator to "the influence of gestures and body language, of pauses and emphases in speech, of the mood suggested by a musical background, of the directing or distracting of attention by the choice of visual material." [51] These features, it should be noted, apply equally to news and documentary.

The commission has consistently sought to locate the individuals holding the editorial power to express or report viewpoints and facts through the broadcast media, and to examine whether this power is exercised responsibly. Editorial power, or selectivity, is perhaps the central phenomenon of the media institution. "The power of the press," wrote Senator Keith Davey, "is the power of selection." [52] During the everyday routine of media production, journalists, producers and editors make many judgements about selection of subject matter, format, interviewees, and viewpoints. This power is, of course, constrained by the limited range of sources of information readily accessible (or made available) to journalists, by the potential for direct intervention by media owners or senior management, and by expected and actual audience responses. The locus of the commission's concern has been the operational level of working journalists and producers, while at the same time evaluating the effectiveness of corporate policies at maintaining professional journalistic standards. The 'Air of Death' report analysed in minute detail the reasons the producer used some footage and not others, and how it was decided whether

the opinions of the various interviewees balanced each other in the final product. This concern about selectivity is also seen in the CBC inquiry's emphasis upon how selectivity may result in certain perspectives or information being omitted from the news; in the implication of the CFCF report that licensees are responsible for ensuring essential information is not omitted; and also in the commission's concern about confidential agreements to restrain news reporting.

Balance is primarily considered to be necessary when an issue is controversial or of public concern. Something may of course be controversial and not of public concern, and vice versa. In one sense controversy may simply be a critical reaction to a program which is broadcast; generally it is anything subject to dispute within, among, or between communities. The commission's comments on the CFCF incident suggest an issue need not be controversial within a particular station's audience for it to require balanced treatment, provided that it is controversial or of public concern within the overall community in which the station is located. The commission has consistently repeated that it believes broadcasters, at least some of the time, should be involved in controversial matters of public importance. There is no question of censoring content which may offend or criticise, within the limits of libel and obscenity laws. The commission surely endorses Fowler when he wrote: "One of the essential tasks of a

broadcasting system is to stir up the minds of the people, and occasionally to make large numbers of them acutely uncomfortable." However, the commission has not indicated in what circumstances a controversy may be such as to warrant extra care in seeking out and broadcasting differing points of view.

Another example of this problem of definition is seen in the concept of 'opportunity' for the expression of differing views. Does the provision of 'opportunity' require merely the offering of air time to those with differing views, irrespective of whether the offer is taken up, or does it mean the broadcast of differing views so that the audience has an opportunity to be exposed to them? In this, as in the question of what is controversial, the commission has not clearly indicated in what circumstances one meaning is more applicable than another, although the latter is implied in the CFCF decision. Indeed, such circumstances appear to be very difficult to specify in any general sense. [53]

There has, in addition, been little question of the commission providing a procedure for considering the granting of substantial redress (compensation, reply time), or even a hearing, for complainants. Time for reply, and other editorial prerogatives, are in the commission's view best negotiated directly and in private between the aggrieved party and the broadcaster, and not through a public hearing. The commission's preference for private settlements is clearly indicated in a

comment made by former commission Chairman Pierre Juneau to a gathering of broadcasters in May 1972, just after release of the Miles for Millions report:

... I don't think the Commission has been severe in these matters [i.e. complaints about controversial programs], and I don't think broadcasters who say they will have to be much more careful in the future because the Commission is harassing them, I don't think they have a point. It is not true that the Commission has been harassing broadcasters. It is not true that the Commission has punished broadcasters for being too courageous in public affairs matters. It is not true at all. I think that there have been very, very few cases where the Commission has taken action. And even in some pretty serious cases, the most we have done is to write the parties concerned, privately, the station--and there haven't been very many cases of that kind, either, but there have been cases where we've written the station and we have written to the complainant party, to say, to the station, "We think that you weren't fair in that case and you should have given a chance to that particular complainant." But there have been perhaps three cases that have come to the attention of the public over four years. [54]

The history of CRTC balance policy demonstrates the wide discretion it has, in its avowed supervisory capacity, in both deciding when it will initiate a public evaluation in response to a complaint, and what form it will take. The discretionary nature of the commission's procedures in this area means that there is no systematic public procedure for investigation of complaints.

References

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2. Broadcasting Act. 1967-68, c.25, s.1.
The provisions of the new Act did not, however, mean the BBG White Paper was discarded. The Chairman of the commission in 1972, Pierre Juneau, told a meeting of the Canadian Association of Broadcasters that "...we are still using that document. It is the only document that exists; it's a very positive document, I think. I've been reading it recently because the subject was discussed so much, and that is the only policy document we have in the Commission at the moment, the only one we use." Pierre Juneau, Transcript of Remarks to the Annual Meeting of the Canadian Association of Broadcasters, May 1972, in Robert J. Morris, "The CHNS Case: An Emerging Fairness Doctrine for Canada?" Canadian Communications Law Review 4 (December 1972): 1-54, Appendix B.
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20. CRTC, "Freedom of Information over the Air," p. 22.
21. CRTC, Public Announcement, "CFCF and Bill 22," January 12, 1976; CRTC, Press Release, "Montreal Public Hearing: CFCF Licence Renewal," March 31, 1976.
22. CRTC, Transcript of Public Hearing. March 30-April 1, 1976, p. 227.
23. Ibid., p. 216.
24. Ibid., pp. 320-21.
25. Ibid., pp. 298, 317.
 "... I think there are several balances ... we provided the opportunity for balance within our own but the whole system had balance. There were other media that had taken an opposing point of view ... so that the whole system within the community, the whole communication system within the community had a tremendous amount of balance on the issue."

(Mr Martz, for CFCF management, p. 298.)

Compare with the statement by Murray Chercover of CTV, at the 'Air of Death' hearing:

"We feel indeed that no single program on any subject may or should be evaluated by itself or for that matter no single network nor single medium. We feel an individual program may serve to introduce an issue; thereafter other news and informational broadcasters on the same or other networks or indeed other media may begin to examine the issue in response to public interest--we have seen many examples of this--or in response, for example, from participants in the issue. We are confident that the total mix of all communication media in a free society results in information exposure and in a reasonable opportunity for the expression of differing points of view." (pp. 527-28).

26. CRTC, Public Announcement, "Controversial Broadcasting in the Canadian Broadcasting System: Issues Raised by CFCF's Anti Bill 22 Campaign," 24 February, 1977.
27. Ibid., pp. 7-8.
28. Ibid., p. 9.
29. Ibid., p. 8.
30. Douglas Barrett appearing for Anglican Church of Canada; John Hylton for CTV Television Network.
31. CRTC, Transcript of Public Hearing. February 22, 1979 (C: 184), p. 602.
32. CRTC, Decision (79-453), "CTV Television Network Ltd.," 3 August 1979.
33. For documentation, see CRTC, "The Representation of Women and the Various Minorities in Broadcasting," by Rita Cadiuex, Discussion Paper for the Seminar on Balance in Broadcasting, January 16 and 17, 1981.
34. For a recent definitive statement of CBC policies in this area, see, CBC, Journalistic Policy (Ottawa: Canadian Broadcasting Corporation, 1982).
35. CRTC, Decision (74-70), "Radio Frequencies are Public Property," 31 March 1974, p. 51.
36. CRTC, Canadian Broadcasting Corporation, The CBC--A Perspective. Submission to the CRTC in Support of

Applications for Renewal of Network Licences, 3 vols, May 1978, pp. 404-405.

37. Ibid.; CRTC Committee of Inquiry into the National Broadcasting Service, Report, Ottawa, 20 July 1977, p. 17. (Hereinafter referred to as "CBC Inquiry").
38. CBC--A Perspective, p. 406.
39. CRTC, Decision (79-320), "Renewal of the Canadian Broadcasting Corporation's Television and Radio Network Licenses," 30 April 1979.
40. "CBC Inquiry," p. 27.
41. CBC, Corporate Policy, CP No. 13, December 10, 1979.
42. CRTC, Decision (79-320).
43. "CBC Inquiry," p. 20.
44. Ibid., pp. 29-30.
45. Fortier, p. 4. Note, however, that this does not include party political advertising at election time, which is regulated under the Canada Elections Act.
46. Ibid., p. 14.
47. PPAC, "Submissions to CRTC," April 29, 1976, and June 15, 1976.
48. PPAC, "Submission of April 29," p. 3.
49. CRTC, Advocacy Advertising Seminar, (n.p.: April 1977).
50. For a useful survey of the status of advocacy advertising in Canada see, Conference Board of Canada, Advocacy Advertising: Propaganda or Democratic Right?, edited by Duncan McDowall, A report from the Public Affairs Research Division of the Conference Board of Canada, May 1982.
51. "CBC Inquiry", p. 30.
52. Report of the Special Senate Committee on Mass Media, vol 1 (Ottawa: Queens Printer, 1965), p. 8.
53. Compare this with the position of the BBG White Paper, p. 22 above.

54. Morris, p. 53.

IV. THE SEMINAR ON BALANCE

The seminar on balance, held for two days in January 1981, was a unique CRTC public initiative on balance of content. Organized by the CRTC Task Force on Freedom of Broadcast Information, set up in 1976, the original plan was for a public hearing on balance, but this evolved into the idea for a seminar. The seminar comprised a chairperson, two presenters, eight panellists, two rapporteurs and an invited audience. The panellists included prominent academics, lawyers, and practitioners in the communications field, as were many members of the audience. The Task Force had provided beforehand a number of research studies on balance, and the two presenters, David MacDonald, former federal Minister of Communications, and Rita Cadieux, Deputy Chief Commissioner of the Canadian Human Rights Commission, each presented a paper. The structure of the seminar ensured that discussion was wide-ranging and open-ended, with the general direction of each day's discussion guided but not limited by Cadieux' and MacDonald's papers. A rapporteur provided closing thoughts at the end of each day.

To place the seminar discussion in context, we shall first of all provide a brief summary of each presenter's paper.

Cadieux took as her starting point the balance requirement

of Section 3 of the Act which she noted had been applied to matters of public concern--mainly news and current affairs. However, in Cadieux' view there were very few matters not potentially of public concern: "perhaps an overly narrow interpretation of this expression has resulted in a greater concern for balance in some fields than in others." [1]

Overlooked areas included those where there is not a clear dividing line between different views, and sectors of the population which have little voice in the media or which are not known to media workers. The problem was not primarily that of media carrying views which are blatantly discriminatory; rather, "at times entire social, cultural and intellectual groups are absent or overlooked. In such cases, the lack of balance is the result of what is missing or underutilized." [2] Cadieux was also concerned with the way in which sections of society, notably women, are portrayed in the media in a stereotyped manner. After sketching some of the specific complaints received by the Canadian Human Rights Commission about particular broadcast programs, Cadieux discussed ways of improving the situation. Dismissing "a mechanistic approach by which we would measure, so to speak, the portrayal of women and minorities on television and radio in terms of content and broadcasting time," Cadieux instead advocated an "integration approach" which would aim to achieve more participation by under-represented groups in program production and decision making, through affirmative

action employment policies: "The portrayal on the television and the airwaves of the various elements of society, the various social groups, will become increasingly adequate, fair and balanced as these groups are better represented in the labour force." [3]

David MacDonald's paper highlighted some of the same concerns as Cadieux, but encompassed several aspects of the concept of balance and elaborated a programmatic proposal for achieving more balance in broadcasting. MacDonald distinguished between three kinds of balance: political, social and cultural. Political balance requires that media are not used to manipulate public opinion and that "all major points of view on a given issue are presented equitably." [4] Political balance relates mainly to 'informational' programming--that is, news, current affairs and documentaries. Social balance applies to entertainment programs and advertising, as well as informational programs. The goal of social balance is the undistorted and positive portrayal of social reality, particularly of women and minority groups (also Cadieux' emphasis). Finally, cultural balance seeks to avoid domination of media content by a "set of values and perspectives and attitudes which does not reflect the nation as a whole and which is usually identifiable with one or a few minority subcultures in terms of class, race, sex and geography." [5] MacDonald went on to say that television should fulfill national, regional and local needs, as a means of

bonding diverse Canadian communities. An excess of programming from one geographical area within or outside of Canada contributed to this and thus were sources of cultural imbalance.

MacDonald was plainly unhappy with television's performance to date:

...the mass media, if not quite a refuge of scoundrels, seems increasingly a cloak for vested interest, not only economic, but equally of race, sex and status...The centralization of media control, in fact, has reduced opportunities for individual freedom of expression, which is the purest form of balance. The proliferation of media channels, from periodicals to television, does not resolve the quandary, firstly because they are controlled predominantly by the same subcultures, and secondly because truly mass media aimed at majority audiences remain small in number. [6]

He proposed a number of remedies corresponding to the kind of balance involved. For political balance, the emphasis should be on the professional training and accountability of the journalist. Public and legal responsibility for journalistic content should be transferred from the corporate licensee to the individual journalist or division head, as practised in Austria, Finland and Sweden. [7] Working codes of balance should be developed by journalists and ratified by the CRTC, defining the criteria for balance in both topic selection and presentation. Complaints about balance would be handled, if necessary, by a three stage process: consideration and mediation of the complaint by a regional 'fairness in television' committee consisting of journalists and public representatives, with non-binding powers of decision; consideration at a CRTC hearing

with binding powers of decision; and failing that, appeal to the courts.

For social balance, MacDonald proposed the development, through a public consultative process, of a series of media content codes relating to distortion and stereotyping by virtue of race, sex, age etc. These binding codes would be ratified by the CRTC. A general non-binding code could also be developed outlining the types of positive images which television should strive to present to its viewers. [8] Affirmative action in employment in broadcasting was also necessary, although MacDonald agreed with Cadieux that there was no question of wanting to achieve 'proportional representation' on the screen itself.

Voluntary citizens' boards would also be set up regionally and nationally to monitor broadcast content. The elected boards would be "highly representative" of major communities of interest. The CRTC would designate membership slots, make additional appointments and provide resources. The boards would primarily exercise persuasive rather than directive power, they would be a "noisy watchdog" without teeth, although teeth could be added. The boards could advise and encourage stations to take positive actions on such things as sex role stereotyping codes, family violence classification guides, codes on the portrayal of sex on TV, and definition of positive social goals. "They could lobby, cajole, dialogue, advise, solicit information or go

public. In addition to the powers of suasion, the citizens' boards would have one statutory power as their final recourse, to make their views known directly and unedited to parliament under cover of the CRTC Annual Report." [9]

Finally, in addressing cultural balance, MacDonald pointed to a need for more regional production facilities by both CBC and private broadcasters, and for the substantial encouragement of more independent production houses.

Stereotyping and the Power of Media

Considerable discussion at the Seminar centred on the way various social segments are negatively stereotyped in media content. Stereotyping, it was noted, was not always a bad thing--sometimes it highlighted the essential truth of a situation. [10] Nor was stereotyping a phenomenon restricted to the depiction of women and minority groups:

... there is an implicit assumption in much of the material I have read that somehow somebody's point of view is being accurately represented, that white North American males or whatever are dominating the media and consequently, our viewpoints are necessarily represented. My problem with the media, with television, in particular, I don't find that much truth going on especially in dramatic content. It is not that women are inadequately portrayed; it's that humanity is inadequately portrayed... [11]

The whole question of stereotyping and "implicit bias" (as distinct from blatant racist propaganda, for example) was a difficult one because people were likely to have varying views

about, for example, what would be a fair portrayal of someone like Canadian rebel leader Louis Riel. [12]

Panellists generally believed that that broadcast media was an important influence upon political opinion and social behaviour, and the importance of the social learning effects of role models provided through media stereotypes was stressed.

[13] It was recognized, however, that the evidence on the nature and extent of media influence was ambiguous. [14] Referring to possible negative effects of television, one participant believed that attempts to control or censor television content (violence, for example) should be based on concrete evidence of evil effects. The burden of proof for these effects should be upon those who want to control content. [15]

The Meaning of "Representativeness" in Broadcast Content

Representativeness and representatation were key terms used at the seminar in the discussion about balance. This is also related to the idea of increasing the 'visibility' in the media of certain views and subcultures in Canadian society. Blatant racism and discrimination was seen as less of a problem than "the major problem of under-representation or lack of representation of elements of Canadian society. And ... that is the question which the seminar is addressing itself to, in other words, balance in broadcasting, representation in broadcasting." [16] Considerable comment was directed to establishing precisely

what was meant by the 'representation' of women and 'minority' groups. One apprehension was that "there is a danger in assuming that any minority group represented in a particular program is, in fact, necessarily representative of any group." [17] The response to this was that if sufficient time was devoted to broadcasting about minority viewpoints and cultures, the problem would not arise because there would be a cross section of views presented from the particular minority group. [18] The phrase 'minority group' was itself considered to be potentially misleading; we all possess a number of characteristics and are members of several minorities and majorities at the same time. [19] Individuals should not be classified simply by their belonging to one particular group, but by recognizing that people have a multiplicity of interests and characteristics. [20] There was also a danger in speaking of 'minority' groups of stereotyping the nature of such groups, viewing them all as equivalent to each other in significance, ignoring the specific circumstances and issues around which each coheres. Discussion of the 'problems' of minority groups, for example racism, often was framed in a way which suggested that the problem was only that of the minority group, not a problem of society as a whole. [21] A related question was that of the intended audience of broadcast content by or about minorities: "Does the question of balance and responsibility in using public airwaves include a responsibility for exposing general Canadian viewers to the

identity of others in their midst and then conversely, does it include a responsibility or a function of projecting to members of minority groups and children ... healthy images which will help build self-image, self images which will be constructive in the relationships in the larger society." [22]

It can be seen, then, that the questions of what was to be represented in the media, and to whom, were by no means unproblematic. Not unexpectedly, there was a considerable divergence of views as to what specific measures could or should be taken to make the broadcast media more representative and balanced. To be sure, it was generally agreed that representativeness and diversity of content was a 'good thing'. Some questioned, however whether the media were not already doing a reasonable job of this; certainly it was not a problem of crisis proportions. [23] Others believed that greater representativeness and balance could be obtained through one or more of a variety of measures, which may generally be classified under three headings: improved employment and training opportunities; better accountability procedures for broadcasters; and fostering of more options for user choice and access within the media system.

Employment and Training Issues

Affirmative action employment policies for women and 'minorities' in the media was Rita Cadieux' main recommendation, also made by David MacDonald. It was explained how affirmative action gives employers a chance to learn about the productivity of 'types of people' whom they do not normally hire, not necessarily due to intentional prejudice, but because the employer simply has not had a chance to evaluate their performance in the workplace. [24] No seminar participants expressly disagreed with affirmative action, although some wondered how effective it would be in reducing the kind of content problems (invisibility, stereotyping) which were Cadieux' main concerns. [25] Another concern was that affirmative action should not be done in a tokenistic manner, in the sense that 'minority' employees were expected to fulfil a preconceived role:

For example, if the station were to hire a token woman, it would expect her to think and act in a certain way.

...

I would like to suggest that women, while they may be more sensitive than men to womens issues, are also interested in a number of fields. I'd like to take it one step further and suggest that native people are also interested in things other than 'native issues', and I'd even hazard a guess that homosexuals are interested in things other than 'sex'.

So its time to stop hiring a token woman or a token black and hire people for their broad range of interests. [26]

Other employment issues raised related particularly to journalists: the need for more training to deal with complex national and international issues, the high turnover rate, the poor salaries paid to journalists because stations were not economically competing at the level of bidding for high quality journalists. [27] These factors went a long way towards explaining journalistic bias (rarely intentional) and incompetence, to the extent that it occurred. One practical suggestion was for a series of regional seminars for working journalists, to translate some of the concepts related to balance into practical terms. [28]

Hiring practices for top level positions in the CBC and CRTC did not entirely escape scrutiny, either. One suggestion was that a parliamentary committee interview new appointees as to their philosophy and policy commitments, so that their later actions could be judged against their words. [29]

Accountability and Treatment of Complaints

A general theme running through the seminar was that broadcast licensees and/or journalists should be held more accountable for their broadcasts as a means towards more adequate representation of the needs, interests and viewpoints of various sectors of the public. An important reason for developing such paths of accountability is, of course, to deal with complaints about particular content and, hopefully, to

lessen the need for serious complaint. Specific proposals included development of codes of journalistic practice, codes for the appropriate portrayal of various social groups, citizens boards or committees, and the transferring of legal responsibility for content to the journalist.

The suggestion that journalists or news directors assume legal responsibility for their broadcasts was received the least sympathetically. The problem of owner intervention in content, part of MacDonald's rationale for the proposal, did not appear to be regarded as a sufficient problem to warrant this type of solution. [30] The journalist was considered to be part of an institution, a corporate structure, and transference of responsibility would make the journalist less responsible to his or her superiors and instead accountable to "some far-removed body that is not necessarily involved in the nitty-gritty detail of mass media operations ..." [31] This fragmentation of responsibility could mean that journalists could 'cop out' by claiming they did not have sufficient resources to cover a story adequately. [32]

... I disagree that journalists who do not have ... a financial responsibility and that do not have responsibility for the licence per se, should be held accountable in a primary sense, I think they should be accountable in a secondary sense. But I believe the programming format, the implementation of that format, should be made and held responsible by the owners." [33]

Extensive discussion took place on the idea of citizens' boards, one possible function of which would be to develop and promote codes of content. Discussion of the idea of the boards tended to ignore the fact that MacDonald in his paper put forward ideas for two types of board: the 'fairness in television' committee for dealing with complaints, and the citizens' boards which were to have a more positive role. Much of the discussion centred on the structure of the boards and the problem of their takeover or capture by unrepresentative or 'single issue' groups: "I am worried about what organizations, what interests would be designated as having any kind of legitimate claim to representation on such councils ... it is difficult for me to see how such organizations would not be taken over in some way by organized interests pursuing single issues ..." [34] Representativeness on the boards was not considered to be such a problem, however, if there was not such a high expectation that they could or would be representative; instead the boards should be viewed as:

very seldom representative, in any sense that we in a democratic society understand 'representative'. What it is is a forum for particular points of view in a debate, and what it represents is a chance for a range of points of view to come together in a debate in a formal way so that debate can become part of the discussion of what broadcast policy should be ..." [35]

Accompanying the concern about representation on the boards was concern that the boards could assume a censorship role which would strangle creativity and journalistic freedom:

... one of the assumptions underlying the model presented was [that] of an informed, rational public, coming together in their capacity as representatives of various groups, making reasonable judgements as to what should or should not be shown on our television screens ... which raises the issue of censorship. I am not thoroughly cynical about the public's potential to be reasonable and just and fair. At the same time, it seems to me that such an organizational structure also has a repressive potential ... [36]

Too much structure designed to monitor and supervise the media could lead to a bland, neutral and inoffensive product which would undermine any ability of the broadcast media to generate dynamic social change. [37] Television was already subject to considerable censorship particularly in feature films. Additional watchdog bodies could make the broadcasters nervous about airing anything offensive to some groups. [38]

Others felt that citizens' boards might be useful vehicles for receiving public complaints. A complaint, of course, is not itself proof of media bias. [39] The citizen boards could perform the task of filtering out trivial or insincere complaints from those requiring further investigation, and channeling these to higher authorities. There was, however, a wide range of opinion as to whether such additional structures were needed. Some expressed faith in audience response direct to the broadcast station, which was "no further away than the telephone or a postage stamp by a letter. And I can assure you that those audience responses do make an impact and people do pay attention to them." [40] However, a number of questions were

also raised about broadcasters' complaint-handling procedures:

... what means exist to ensure that the broadcaster's response will be adequate and will adequately and fully answer serious criticisms?

Is it acceptable to the CRTC to have a broadcaster merely re-articulate policy, without addressing specific concerns ..?

I believe that the CRTC has a responsibility to the public to supervise broadcasters sufficiently to ensure that a broadcaster does not handle a reasonable and well-documented criticism with a cavalier attitude generated from a fatuous mentality.

I therefore ask, should broadcasters be required to provide free access to broadcast transcripts within reasonable limits to interested members of the public?

...

...should a broadcaster's internal policies and procedures for handling complaints be made public? I note that a frequent response of broadcasters to criticism is to say 'Well, we get it from both sides, so we must be okay.'

I suggest this sort of fallacious logic puts up a smokescreen designed to avoid a serious examination of balanced programming on the particular issue in question. Furthermore, I seriously question the efficacy of the [license hearing] intervention procedures as a means of promoting dialogue between the public and the broadcaster. [41]

It was still not clear to some, however, that these sorts of problems would be ameliorated by adding yet more complaint-handling institutions:

My complaint really with the paper [of MacDonald's] ... is the mechanics of it. And it's a super paper, if the objective is to increase employment for lawyers. I applaud it on those grounds, but I really do doubt if this system right now or ever will need more supervisory, administrative or regulatory devices. We now have a Human Rights Commission, which is federal. We have the equivalent at the provincial levels ... We have laws of libel and slander and we have the CRTC under the Broadcasting Act, ...

We also have a Consumer Affairs Department and we have a Copyright Appeal Board, and we have an ombudsman in various parts of the country. We have a Bill of

Rights. We have Royal Commissions. We have the Department of Communications. We have un-Royal Commissions. We have Boards of Inquiry. We have industry associations. We have complaint bureaus. We have consumer organizations. And if you think that the failure of the existing institutions is any justification for setting up any more institutions, I leave you. [42]

At the same time, others wondered whether existing CRTC complaint procedures could not be improved, although even here there were differences in emphasis: one view was that procedures for public intervention at license hearings should be further 'demystified' to make it easier for complaints to be heard; the other view was that license hearings were not primarily a forum for hearing any and every complaint from the public, even if trivial. [43] In support of the latter view it was suggested that some form of complaints monitoring section be set up in the CRTC, as an alternative to the idea of citizens' boards, which, it was agreed, were "susceptible to takeover by people who don't have balance in mind but have particular viewpoints to express ...". Instead:

an independent office of viewers' council ... should be established with the commission itself who would have responsibility like a consumer advocate to pursue those complaints and to examine them, to test their representative character and their depth, to see whether or not there is a real issue at stake, so that when it comes forward--a broadcaster comes forward with renewal, it can be dealt with in a serious mode." [44]

A parallel suggestion was for an independent (outside the CRTC), industry-wide Broadcast Complaints Commission, which had previously been proposed by the CBC. [45]

While some viewed the 'ombudscommittee' or complaints commission idea as a mutually exclusive alternative to the citizen boards, there was also a proposal that, structured appropriately, the two could be complementary:

We need to take David MacDonald's idea of a citizens' board and we need to define it in a much more restricted manner ... as a channel, as a routing device for complaints from the public and a way of getting rid of the silly complaints within the public arena. And we need to face off against that a body within the CRTC that is capable of receiving these complaints, acting on them first vis-a-vis mediation or some kind of informal dispute, or secondly, systematically analysing where the problems lie and raising these problems either back to [the] courts under appropriate legislation or out through the license renewal hearings in such a way that both corporations and individuals feel that they are responsibly represented in the process. [46]

Choice and Access within the Broadcasting System

Accountability and the monitoring of complaints are essentially aspects of balance relating to particular programs, and the concomitant responsibilities of those airing the programs, the licensees and journalists. Considerable discussion at the seminar was also devoted to how the changing structure of the broadcasting system may enable more opportunities for public access to transmission facilities, and at the same time, more programming options for media users to choose from at any one time. The elements of this view may be best understood as a series of five propositions, as follows: First, scarcity of over-the-air frequencies is no longer a limitation on the

provision of broadcast-type services. Modern cable systems begin the move from an era of spectrum scarcity to one of spectrum abundance. [47] Second, technological and other developments allow for not only a greater number of services, but also a greater diversity in the nature of the services--interactive videotext, broadcast teletext, pay per channel or per program television, video games--which can be distributed over a variety of transmission systems increasingly capable of interconnection. [48] Third, we are already living in a multimedia society where users can and do seek information from several forms of media each day. [49] Fourth, the expanded range of channels and services becoming available means that, more than ever before, the emphasis should be on access to transmission facilities and user choice from the menu of services offered. [50] Fifth, and finally, the net effect of these developments is to make the present regulatory structure archaic and mismatched with current reality. Concern about balance, in terms of codes of ethics, complaints and the like is, if not irrelevant, then certainly not as important as structural changes taking place, which if not addressed could exacerbate existing problems of balance. [51]

There was much discussion of the significance of the factors just outlined, both in terms of what regulatory actions were needed, and the effects of these developments upon such things as accountability for licensees, discussed above. A

fundamental point made early on was that the media options available in, say, Toronto, were often not available in remote and northern areas. [52] Extension of service to such areas required careful consideration of the needs of remote users because, once installed, high technology communication systems were generally inflexible in adapting to new uses: "Once designed and in place, it is just about impossible to change the direction of the information flow." This question of rigidity was generally relevant to ensuring that new communication systems included sufficient capacity and adaptability for planned future uses. [53]

In addition to the design of the hardware, it was crucial to look at the sources of 'software', or programming content, for the new media channels. Spectrum scarcity may have abated to some extent, only to be replaced by a scarcity of sources of content. Even for conventional broadcasting much of the content did not originate with the broadcaster; most entertainment programming is imported from the US, while informational programming (news) is heavily dependent on print-based news services. [54] The emerging situation is that much content originates from unlicensed or unregulated sources. In itself this was not considered a problem so long as a reasonable number of alternative information sources were available. The question of monopoly or near-monopoly of information and programming sources was considered to be crucial in a context of enhanced

channel options--that is, if real choice, not alternative digestions fo the same information sources, is to be available. One of the central regulatory issues, then, is the definition of boundaries for competitive and monopoly services, and the extent to which a diversity of programming and information providers can be encouraged through regulatory measures. One practical example of such a measure would be closer attention by the CRTC to the resources devoted to news and current affairs origination by local licensees. [55]

The other central issue arising out of discussion of the diversity of channels becoming available, was that of audience behaviour. Merely gaining access to a channel, it was said, (for example, through community cable) did not not guarantee that anyone would tune into the program. [56] Some did not see this as a problem, however:

... who is to say that again all minority viewpoints should be available to the widest audience utilizing or piggy-backing on a mass program ... I agree with access; I agree with opportunity, and certainly agree with putting resources in place to allow groups to foster their particular viewpoints, but I think it's then up to the particular group to work at it and to fight ... in a competitive sense, for the community's attention. [57]

Another speaker questioned the belief that balance in relation to controversial political issues could be achieved entirely through individual choice. The diversity of channels available could, it was argued, be used as an excuse for individual stations not bothering to air certain points of view, on the

grounds that it existed "somewhere out there in the spectrum of abundance." [58] The assumption of the 'balance equals choice' proponents was that people actually use a diversity of sources of information, yet there was no evidence presented that "the mass public takes advantage of all these various media outlets in order to come to an opinion on a particular issue."

Individual broadcasters should therefore still be required to "follow a policy of balance and to reflect within a reasonable amount of time the various viewpoints on a particular issue."

[59]

Discussion

Plainly the concept of balance was used at the seminar in a much wider-ranging sense than in the CRTC's own policy on balance as implemented under Section 3 of the Act. Both MacDonald and Cadieux defined balance to include entertainment and informational programming and advertising, and discussion proceeded on that basis, focussing on the total output and performance of the broadcast media. There is also a sense in which the panellists regarded the mass media (particularly television) as itself a matter of public concern, not only in its 'coverage' and 'portrayal' of important social 'issues', but also in the broadcast media's silence about its own operation and function in society; its lack, in short, of public self-reflexivity.

In a very concrete sense, therefore, balance was used as a term to organize a discussion of many different aspects and levels of media operation. The benefits of such a discussion is apparent, given the need for continuing public discourse on the media's role in society. It is possible, however, to point to areas where more clarity in the use of notions like balance would enhance the discussion. There were points in the seminar where discussion appeared to blur important distinctions rather than clarify them. Because, for example, the discussion covered informational and entertainment programming and advertising, the differences between these types of content tended to be ignored. There are marked differences between each of these, in their processes of production, in their representational quality (fiction versus a reconstituted version of 'reality'), and probably in audience interpretation and uses of each. Given these important differences it is confusing to apply notions of balance, stereotyping and representativeness uniformly to each.

Perhaps one of the most important questions arising from the seminar is the effect upon traditional conceptions of balance of the increasing potential for user choice. One panellist distinguished between a view of balance relating to the performance over time of individual stations within the broadcasting system, and another view which looks at the overall content options available in the broadcasting or media system at a given period of time. I shall call the former an exposure

model of balance on account of its assumption (more or less explicit) that viewers or listeners of the station need (or expect) to be exposed to a range of viewpoints on matters of public concern. In contrast, the choice model of balance emphasizes the freedom of the user to choose between various content options available in the broadcasting system at any one time, to attain the balance which suits them.

An important question is the extent to which these models of balance should be considered complements or substitutes for each other, or a little of both. Some participants saw the 'answer' to balance lying solely in consumers exercising choice by using "a [radio or television] dial that works." Others emphasised both the responsibility of licensees to provide a diversity of views on matters of public concern, as well as the benefits of increasing choice and access on the system level. On this view, the choice model of balance was not a means of abnegating the individual licensee's responsibility for balance. Another view was that while balance and accountability at the station or license level was important, it was doubtful that any further supervision or regulation of this question could be achieved without sacrificing content producers' freedom of expression and creativity in exchange for a bureaucratic and potentially repressive apparatus.

One suggested alternative was to concentrate on education of the public, the users, on how to use the array of information

and entertainment sources becoming available. This suggestion touches upon perhaps the most important consideration in the deciding the appropriateness of the choice and exposure models of balance: that of user (audience) behaviour. Proponents of both choice and exposure models of balance tend not to relate their models to a consideration of what people actually do with mass media, instead basing their proposals solely upon abstract notions like the 'right to hear' or 'freedom of choice'. This is not to say that these principles are unimportant; however, if balance is to mean anything to real people in real communities across Canada, definition of the appropriate models must engage with an understanding of actual social behaviour with respect to the media. What, for example, of the apparently large numbers of people who do not have either the inclination, skills, time or resources to seek information about political and economic affairs from anything other than one of the handful of Canadian television news services? Here again, the distinction between the audience functions of information and entertainment, to the extent that they can be separated, is important in determining the applicability of the exposure and choice models of balance. Should the exposure model, for example, be considered appropriate for the broadcast of information considered somehow 'essential'? A value judgement is also involved here concerning the desired functions of the mass media, recognizing their special power and character as 'mass' media.

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3. Ibid., pp. 17, 24.
4. David MacDonald, "Choice and Justice in Canadian Television," Discussion Paper for the CRTC Seminar on Balance in Broadcasting, January 16 and 17, 1981, p. 6.
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11. Ezekiel, p. 71.
12. Ezekiel, p. 67.
13. Lough, p. 234; Goldbloom, p. 373.
14. Salter, p. 83; Ezekiel, p. 104.

15. Ezekiel, p. 294.
16. Westmoreland, p. 363. There was, however, concern regarding coverage of racist groups like the Klu Klux Klan. See, Brody, p. 134; Goldbloom, p. 167; Grafstein, p. 252; Boyle, p. 415.
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18. Westmoreland, p. 119.
19. Ezekiel, p. 70; Salter, pp. 108, 272.
20. Salter, p. 271-2.
21. Paul, p. 128.
22. Westmoreland, p. 120.
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24. Breton, p. 304.
25. Ezekiel, p. 65.
26. Lough, p. 233.
27. Breton, p. 298; Keen, pp. 146-49; Brody, p. 326.
28. Keen, pp. 144, 147.
29. Grafstein, p. 79; Boyle, p. 392.
30. See, for example, McKenty, p. 331.
31. Siegal, p. 241; Westmoreland, p. 364.
32. Grafstein, p. 282.
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34. Ezekiel, p. 293-4.
35. Salter, p. 270.
36. Ezekiel, p. 293; Robbins, p. 251; Kennedy, pp. 315, 321.
37. Siegal, p. 36; Grafstein, p. 76.

38. Ezekiel, p. 295.
39. Siegal, p. 142.
40. Kennedy, p. 315.
41. Brody, pp. 328-29.
42. Hylton, p. 261.
43. For the former view: McKenty, p. 331; Smith, p. 340. For the latter: Salter, p. 267. Also see below.
44. Grafstein, p. 290.
45. Daigneault, p. 382; See, CRTC, CBC--A Perspective. p. 415.
46. Salter, p. 268.
47. Grafstein, p. 72.
48. Robbins, p. 30; Hylton, p. 259; Salter, pp. 89-90.
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50. Grafstein, pp. 74, 107-8; Rogers, p. 151; Hylton, p. 257.
51. Salter, pp. 85-87; Robbins, p. 30; Hylton, p. 262.
52. Lough, p. 37.
53. Salter, p. 90.
54. Salter, p. 88; Siegal, p. 244.
55. Salter, pp. 89, 274-75.
56. Booth, p. 135.
57. Grafstein, p. 140; Rogers, pp. 152-53.
58. Chernack, p. 379.
59. Chernack, pp. 380-81.

V. THE HEARING ON RELIGIOUS BROADCASTING

Controversy over broadcasting on religious matters was a prominent feature of the early days of radio broadcasting in Canada in the 1920's and '30's. Since that time, regulatory bodies have carefully avoided licensing religious broadcasting stations. In recent years, the traditional policy has increasingly been questioned by religious groups seeking a license, to such an extent that the commission decided to call a public hearing on religious broadcasting, held January 26-29, 1982. In the two years prior to the hearing, the commission had denied two applications for religious licences: by Canadian Family Radio Ltd. for an FM station in Vancouver, and by Crossroads Christian Communications Inc. for a Canada-wide television network licence. [1] In its decision denying the application by Canadian Family Radio the commission stated that:

The Commission considers it important that a station supplying programming of a religious nature attempt to maintain a balanced offering of programs which will serve the diversity of religious needs, interest and beliefs represented in the particular community it is licensed to serve.

...

From time to time, the Commission receives applications for licences for broadcasting undertakings from religious organizations and other special interest groups. In past decisions, the Commission has maintained the long-standing policy in Canadian broadcasting regulation of denying such applications on the grounds that the public property comprised by the radio

frequency spectrum should not be used for narrow or sectarian interests. [2]

In its Notice of Public Hearing for the religious policy hearing, the Commission outlined the nature of its present policy position on licensing religious broadcasting undertakings:

The Commission's position of not licensing denominational broadcasting stations or groups proposing to provide an essentially denominational programming service is based on the provisions of the Broadcasting Act.

The present Act, like all previous broadcasting legislation, requires that the programming provided by the Canadian broadcasting system present "a reasonable, balanced opportunity for the expression of differing views on matters of public concern." The Commission and its predecessors have held the view that a denominational station would by definition carry a particular point of view and, therefore, find it extremely difficult to satisfy the "balance" requirements of the Act.

Because the number of radio and television frequencies available for assignment in any community is limited, it was considered to be impossible to grant a licence to every special interest group.

Mindful not only of the above concerns but also of the desire expressed by people of many faiths to receive religious programs, the Commission has stressed that stations broadcasting religious programs should provide variety and balance in them, and be responsive to the needs and wishes of communities they are licensed to serve. The Commission has also stated that it places a value on Canadian production of such programs. [3]

Of the ten areas which the commission said it was interested in discussing at the hearing, the third is of particular interest in the context of this thesis:

3. The extent and manner in which religious groups and organizations licensed under the Broadcasting Act, could meet the requirements of the Act to "provide reasonable, balanced opportunity for the expression of differing

views on matters of public concern." [4]

In addition to calling for comments on its religious station licensing policy, the commission also wanted to receive information about the religious programming needs of all Canadians, the religious programming performance of existing licensees, the role of cable, and the inter-relationships between local and non-local, Canadian and foreign, and paid and unpaid religious programming, and the denominational balance and variety within each of these.

Defining Religious Programming

One of the fundamental questions the Commission wanted addressed at the hearing was the definition of religious broadcasting, since this would be essential if the commission were to set conditions of licence or otherwise regulate religious broadcasting. Some submissions broadly defined virtually all programming to be religious in the sense that all programs contain at least an implicit set of values which go to make up a world view.

Religion does not refer to a particular area of life but rather to a view of all of life, a view that shapes all the things we do. The question of religious programming, and of religious diversity in programming, is a question about the nature of all programming, whether that be news, documentaries, church services, drama, music or sitcoms. [5]

In a more narrow sense, religious programming was defined by a scholar of religion as being about the activities of organized religious groups, which could be theistic or non-theistic in orientation:

Religion may be defined as a personal (individual and communal) way of life, shaped by traditional elements of creed, code and cult, and directed towards the realization of some transcendent end (heaven, nirvana, being remembered as immortals etc.). The stuff of religion is the set of symbols, stories of the lives of saints, seasonal and life-cycle rituals, which enables particular groups to articulate and celebrate their sense of meaning and value in life. ...

I would define religious broadcasting as the transmission of the creeds, codes and/or cults of any group registered as religious by Revenue Canada, for tax purposes, or recognized as such by the Customs division, in the case of foreign religious movements.

Religious broadcasting in the first instance refers to the practices of specific groups. In a very broad sense, these might include the rituals and codes invoked during Grey Cup and Stanley Cup telecasts. But in a restricted sense, only formal Sunday services and the like would be counted. Commentaries on such practices constitute a second-order sense of religious broadcasting (e.g. "Man Alive"). [6]

Several participants wished to further distinguish between religious programming which was primarily promotional, persuasive, or missionary in orientation, on the one hand, and various other forms of programming which dealt with religious groups, issues, themes and ethics, but not with the aim of promoting a single pre-eminent view of faith. Promotional or persuasive programming of the former type would include most the programming done by evangelical Christian groups, of which two of the most well-known examples (in television, at least) would

be Jerry Falwell's programs produced in the US, and "100 Huntley Street", produced by Crossroads Christian Communications in Canada. Proselytizing programming of this kind is also often characterized by over-the-air solicitation for funds and direct mail follow-up. [7]

The relevance of denominational dividing lines was explicit in the commission's own conception of religious broadcasting, but one brief cautioned against too much reliance on these for definitional purposes.

... generally, at least outside of the rather narrow area of church-related programming, broadcasting points of view do not coincide with denominational lines.

Indeed, by and large, the explicitly religious groups who have made appeal to the CRTC for licenses are not denominational at all. They are, rather, groups of people of shared belief, of different denominations or of no denominations, who want to give a particular type of broadcast. [8]

The Balance Requirement and Religious Station Licensing

It can be seen there was a wide spectrum of opinion as to the scope of religious broadcasting, although there tended to be general agreement among participants that existing religious programming was not adequately meeting the needs of communities across Canada. To a large extent, the proposals put forward to improve the state of religious broadcasting were explained in terms of particular interpretations of the balance requirement of Section 3 (d) of the Act. One such view of balance, used

predominantly by those who supported the granting of religious licences in some form, emphasized that the Act stated only that "the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern" (emphasis added). On this view, balance should be seen primarily in the context of the broadcasting system as a whole, and this did not preclude licensing groups to provide religious programming or other forms of specialized programming, if this would provide a balance to existing forms of programming in the system. Many briefs, no matter what position they took on religious licences, expressed dissatisfaction with the content options provided by the present commercially based element of the broadcasting system, which itself could be regarded as a 'special interest' group:

The commercial broadcaster is not a 'neutral', 'balanced' or 'universal' broadcaster, it is rather a particular type of broadcaster who selects programs according to its own interest in and commitment to profit making. This is one reason why the CBC is so necessary as a partial counterweight.

...

With slight exception, [private broadcasting] has led to a chase after ratings, a predominance, in TV, of American programs, to an overwhelming focus on entertainment, to commercial sponsorship with its resultant idiotic advertising, and to a numbing sameness of programs from station to station. We are offered a choice of sitcom A, sitcom B and sitcom C, but when it comes to a choice from diverse, wide ranging and critical views of politics, of history, of art, of religion, then we are generally served up with mush, occasionally spiced by the spectacular and the sensational. [9]

Those who wanted to see more evangelical Christian programming, preferably on a separate channel, offered the additional criticisms that much of the present advertisements, TV drama, and popular rock music expressed views of the world which were humanistic (as opposed to Christian), materialistic, hedonistic and nihilistic. A licensee providing Christian religious and associated 'family' type programming would, it was contended, balance these forms of degenerate secular programming. [10] Further, many briefs pointed out that the idea of licensing specialized programming channels such as a religious channel was not inconsistent with other commission policies enabling the licensing of specialized FM stations, the community cable television channel, multilingual stations, and non-profit community stations. [11] The FM policy was particularly singled out as a reason for licensing religious stations:

There are FM rock stations, country-western stations, news only stations, but in Canada there is no FM station which approaches things from a religious point of view. This to us suggests a lack of balance in the total field of broadcasting. We believe that a religious television network could also provide a reasonable balance that would meet the needs and taste requirements of a wide selection of our Canadian population. [12]

Accompanying this system-wide view of balance was the belief that an abundance of channels was becoming, or already was, available to accommodate many more specialized programming licensees. [13] For some, at least, this implied that plenty of spectrum space would be available for those religious groups

interested in broadcasting. Thus the fundamentalist Crossroads Christian Communications Inc. believed that rather than attempting to accommodate all religious views on one channel, on a program-by-program basis, it would be preferable if non-christian religious groups in particular had their own stations. [14]

Another, more conventional view of the Act saw the balance in the system as a whole arising out of the duty of each broadcaster to provide balance in programming, both in the points of view expressed in them, and in the types of programming carried in the schedule, with the overall goal of meeting the diverse needs of the community in which the licensee is located. [15] Balance, it was recognized, was multidimensional:

One may look for balance among faiths, balance among denominations within a given faith, balance among the various ministries of the electronic church. In addition, there is balance among program sources--station-produced vs. external; local vs. syndicated/national; Canadian vs. foreign. As well, there is balance among program formats and categories which lead to the "sound" of the station. [16]

Communication lawyer and former CRTC commissioner John Hylton, appearing before the commission, interpreted the balance requirement as referring to more than just the right of reply in the context of an argument:

I think differing views is not to have antagonistic views, it is to allow the views to be expressed, and they are differing and they may indeed be very narrow shades of difference, but they do not necessarily have

to be within the context of the argument presented and the right of reply to that argument. It seems to me it is a broader community expression which is being sought here. [17]

Thus on this interpretation of the Act, "if [the commission] finds that a whole section of the community is simply not being represented either in one direction or in the other, it may indeed have a heavy responsibility to do something about that." [18]

In their questioning at the hearing, the commissioners and commission counsel were particularly interested in discussing the system-wide balance argument and the analogy with FM policy, which allowed some station specialization. Hylton did not see the analogy as necessarily valid:

... I suppose if you grant a license to a classical music station you at least expect that licensee with respect to classical music to give a representation of classical music, not that they would just develop one particular segment of the activity which is very broad, known as classical music. ...

I dont say that you could not have a station to which the broadcaster has brought such a point of view that is able to be encompassed within religion. Our concern is that we have not yet seen any one who is volunteering to take in the whole spectrum of religion, comparative religion, indeed to deal with what someone may consider to be a hoax and someone else may consider to be an outstanding group and someone else considers to be subversive.

All of that range of activities must encompass a religious station, if you are going to try to make me compare a classical music station with a religious station, and I would like to see that broadness introduced or I would like to see a system where there are so many opportunities that each does not have to take that broad a sweep, but it is all available, and I do not think we have reached that point yet. [19]

Other participants appearing before the commission said that religious stations were a special case because of the explicit attempt to persuade in much of the programming of some religious groups. Whether specialized in the types of programs provided or not, all FM stations were still required to provide balanced views on matters of public concern. [20] Also, unlike musical styles, choice of religion was more than a matter of taste. [21] But perhaps the major objection to at least some versions of the system-wide balance argument was that it would mark the beginning of a basic change in commission policy and in the structure of Canadian broadcasting. Once a religious license has been issued, political parties and other 'special interest' groups might feel entitled to licences as well. The implications of this policy change is perhaps best expressed in the brief of the Canadian Broadcasting Corporation:

... [The] notions of balance and fairness lie at the heart of the broadcaster's responsibility. Recently, it has been argued that advances in technology have made available so many channels that the traditional basis of regulation--the relative scarcity of public frequencies--may be set aside or, at least, modified. While we may traditionally have insisted on balance within each service, the expanding communications environment now permits the allocation of single purpose frequencies, and the balance requirement, so the argument goes, may shift from individual services to the system as a whole.

But a shift from service to systemic balance also moves the responsibility for maintaining that balance from the individual licensee to the public regulatory body.

Unlike the individual broadcaster, however, the regulatory body cannot create systemic elements of its own accord but must depend on others to propose elements

which it may then affirm or deny. So, quite aside from placing the direct responsibility for content balance in the hands of a body which, traditionally, has borne no such weight, proposals for systemic balance would create the impossible situation of conferring responsibility without the powers appropriate to its execution.

In a similar vein, it has been suggested that such an open system would be self-regulating; that access would be available to such a wide variety of factions that overall balance would naturally result.

The CBC feels that this, too, must be considered with caution. It is quite clear that there are myriad, very real factors that could severely limit this access. For one thing, access would be available only to those who could afford it. Further, access would be appealing only to those whose message admitted of a style of delivery suitable to the electronic media. And, as has been discussed above, the CRTC could have no means of causing balancing factors to take up the challenge of access. [22]

In addition to these new responsibilities which the regulator may face with respect to the system as a whole, another participant suggested that if the individual licensee did not remain responsible for balance, there would be a greater onus on the commission to supervise content of each licensee both before and after the event. [23]

Aside from the desirability or otherwise of these policy changes, some doubted that frequencies were as readily available as some seemed to believe. AM radio and VHF slots were virtually full, although some FM frequencies remained. Potential for expansion lay with low-power licenses, UHF, closed circuit FM, cable television and satellites, although upgrading to 35 channel cable systems and market penetration of converters was by no means fully accomplished. [24] Hylton and Mavaara argued

that the Canadian telecommunications system was still undergoing major technological changes and thus it would be unwise to embark on major policy changes until the shape of the system was clearer, in a few years time. [25]

The system-wide notion of balance extrapolated from the FM policy was thus rejected by some because it would open the way for the licensing of any number of sectarian groups, representing a major change in the CRTC's own role and policies, and moreover quite likely impractical in the short or medium term in the light of existing system design and capacity. But the idea of transforming the broadcasting system into one of specialized narrowcasting was the most extreme version of the system-wide balance argument; for example, a more moderate version, more consistent with commission policy, was put at the hearing by cable operator and evangelical Christian supporter G. R. Conway:

... I think we stick to looking at balance channel by channel or broadcaster by broadcaster. What the extra channels give you is the opportunity to stand back and say now given where you are at in the overall system, if we are going to have specialty channels, whether it be a news channel or multilingual, whatever it may be, how do we best get some extra diversity, comprehensive programs or balance in these new channels. [26]

Viewed from this perspective, the question became whether there was good reason to reject, in principle, the idea of licensing one or more religious stations, providing some frequency space was available. Several participants suggested that a religious

license application could be treated just like any other application, and judged according to public interest criteria, of which the balance requirement was one. Some participants addressed this question in relation to the actual applications made previously by Canadian Family Radio Ltd. and Crossroads Christian Communications Inc., both considered to be predominantly evangelical Christian in orientation. Among the concerns of those who doubted that undertakings offering this form of christianity could meet the balance requirement, were the association of fundamentalist groups in the US with conservative (individualistic) political ideologies, their emphasis upon traditional and restricted roles for women, and the potential for social polarization caused by the proselytizing approach of such groups. In addition, political opinions on issues outside of Canada were sometimes expressed on imported US electronic church programs, and some participants believed these would need to be balanced by differing views if they were to be aired on Canadian stations. [27] Overall, it was believed a heavy burden would be placed on the CRTC to monitor such stations, given their controversial nature, and it might be politically embarrassing if the commission found itself having to discipline them. [28]

Those who held this view against licensing religious stations generally had in mind what may be termed 'denominational' stations, although as noted above, this term is

not strictly appropriate to describe the backers of the electronic churches. There were, however, those who opposed licensing of electronic church-style stations but nevertheless believed it possible to establish a religious station constituted in such a way as to represent the diversity contained in the nineteen or so religious groups in Canada, and thus avoid narrow sectarianism on the part of the licensee. Not all proponents of this idea were strongly advocating that it be done; however, they offered their proposals in case the commission found itself under irresistible pressure to license a religious station. Proposals in this vein usually involved either setting up some form of participatory organizational structure for religious group participation in broadcasting decisions, or some form of content regulation by the CRTC, or a mixture of both. Interchurch Communication, representing most of the major Christian denominations in Canada, proposed that the Board of Directors of a religious station or network should include balanced representation from religious groups within the signal area; the program schedule should reflect the variety of religious perspectives in the community; and programming should be basically Canadian. In addition, a Program Advisory Committee should advise on program development and apportionment of time between various groups. Relatively successful examples of such committees could be found, it was suggested, in the CBC's Religious Advisory Committee, the advisory committee formed for

the multilingual television station in Toronto, and the Greater Toronto Cable TV Interfaith Council, which ran religious programming on the community cable channel. [29]

A step further from the 'advisory committee' model was the proposal by the Committee for Justice and Liberty Foundation for an adaptation of the Dutch broadcasting system, which allocates funds and time for broadcasting by a variety of political and religious groups according to the amount of membership support each group can generate. The emphasis here was more on a system of 'proportional representation' where groups could have involvement in producing their own content, and not just an 'advisory' role. Ownership and operation of the station would be in the hands of a separate government body tending to operate solely as the 'common carrier' of content produced by these various religious groups. [30] The CJLF's proposal was for one or more religious stations, representing all religions in Canada. Other proposals on similar lines envisaged solely Christian stations. [31]

In contrast to these 'participatory' models of a religious station was the proposal by Barrett and Flemington for direct regulation of religious station content through promise of performance and condition of licence. Essentially they proposed to change and supplement existing FM regulations to incorporate various categories of religious content which would be generally categorized as either 'promotional' or 'reflective'. Promotional

programming would include all content which promoted a single, pre-eminent view of faith, in the manner of proselytizing. Reflective programming would include content which investigated moral, theological and spiritual issues, or which portrayed the devotional activities of various faiths, and heritage religious music. Religious FM stations, if licensed, would then be required to submit a binding promise of performance which included a balance ratio such that substantially more reflective programming would be aired than promotional programming. (The precise ratio was not stated, but to be greater than 2:1). A similar principle could be applied to the licensing of a national cable satellite television network, with the additional proviso that it be structured as a consortium with representation from all religious organizations and institutions regarded as demographically significant. In addition, it was proposed that an application to provide a primarily promotional national television religious network might be considered if it was to be delivered as a discretionary pay per channel television service. (This, of course, would be unacceptable to electronic church operators who seek to convert the uncommitted through the media ministry). [32]

Religious Programming by Existing Licensees

Although most of this chapter has been devoted to the question of religious station licensing, participants were equally if not more concerned about the performance of existing licensees in the field of religious programming. Many noted with dismay the decline of free time or public service religious programming, and the concomitant rise of paid-for programming, often of a promotional nature, to the extent that 93 per cent of religious television time was paid-for. A number of causes seemed to have been at work: audience disinterest in traditional religious programs; the unwillingness of established churches to devote extra resources to producing innovative religious programs; and the increasing willingness of evangelical Christian groups to pay for time because, as minority Christian groups, they were often last in line to receive free time. And as a result of this willingness of some groups to pay, private stations began to see religious programming as another source of revenue and thus offered less (if any) free time. Recommendations for improvement included requirements, through condition of license, for a minimum amount of religious programming each year by both networks and local stations; increased provision of free time; improved communication and consultation between networks, local stations and religious groups through appropriately constituted advisory committees and

the like; and an enhanced role for the CBC. Barrett and Flemington also applied their 'balance ratio' idea to existing licensees: under their proposal, for each hour of promotional programming which a licensee aired, it would be required to schedule two hours of reflective religious programming, which it could either produce itself or acquire from external sources. The authors maintained that this requirement would reverse the current preponderance of paid-for promotional religious programming on television and radio, mostly of the evangelical Christian variety.

Discussion

One thing stands out clearly from the religious hearing: participants used the term 'balance' in different ways to organize their advocacy positions vis a vis the potential distribution of a tangible asset, namely the license to broadcast. Thus the strongest protagonists for a religious license (in terms of organizational resources and advocacy devoted to this end), the evangelical Christian groups, adopted a system-wide model of balance and de-emphasized the problem of obtaining balance within an individual station. On the other hand, mainstream Christian, Jewish and Muslim groups, as well other concerned groups and individuals, tended to focus on the problems of balance which an evangelical station might have, and to discount the solely system-wide approach to balance.

Also underlying these two differing perspectives on balance is a debate about the proper scope of broadcasting regulation by government. Some of the system-wide balance proponents saw optimal operation of the broadcasting system depending upon competing licensees obtaining sufficient audience support in the form of ratings or direct contributions; essentially an application of free market principles to broadcasting. [33] Others rejected this approach as not being in the Canadian broadcasting tradition and as effectively limiting access to the airwaves to those who could afford to pay. [34] Closely tied to the debate about the scope of regulation is the question of frequency scarcity, with one side saying that there are plenty of frequencies and another claiming that this was not yet the case. In effect, the former view implies that frequencies may now be treated as private property, able to be used by the licensee for virtually any purpose within generally applicable law and otherwise regulated by the forces of the marketplace; while the latter is saying that frequencies are still public property and thus subject to standards of public accountability through government regulation and supervision. It may be asked here precisely what is meant by saying that frequencies are public property: to what extent is this an intrinsic technological property, thus subject to change due to technological advance, and to what extent is such classification a result of intentional social and political decision not

dependent on technological change? This question is too large to be answered within this thesis; it is raised, however, to demonstrate that behind differing definitions of balance lie a series of questions about the extent and socio-political meaning of frequency scarcity.

We must not forget, of course, the 'third position' in this debate about balance: that a religious station could conceivably be balanced, both within itself and as a balancing element in the system as a whole, if it were set up under specific structural and/or regulatory conditions. Thus we saw the proposal, consistent with some of the commission's existing policy approaches, for FM-style regulation of a balance ratio which would leave the individual licensee largely responsible for determining how the ratio was fulfilled. And, in distinction, there were the proposals for more representative participation in the structure of the broadcasting organization, ranging from advisory boards to strictly proportional representation and separation of carriage and content, the latter not common within the Canadian broadcasting tradition. But clearly, motivation for both types of proposals (FM-style regulation versus a participation structure) was to realize a more representative portrayal of Canadian religious diversity than is prevailing within the present broadcasting system, or which would be given by an essentially evangelical Christian station.

References

1. See, CRTC, Decision (80-423), 9 July 1980; Decision (81-259), 14 April 1981.
2. Decision (80-423).
3. CRTC, Notice of Public Hearing, 17 August 1981.
4. Ibid.
5. Brief by The Committee for Justice and Liberty Foundation, pp. 4-5; See also Brief by Crossroads Christian Communications Inc., p. 12; Brief by G. R. Conway, p. 25.
6. Brief by Professor Peter Slater.
7. Brief by Douglas Barrett and Peter Flemington, pp. 36-43; Brief by University of Sudbury, p. 5; Brief by Interchurch Communication, pp. 3-4.
8. Brief by The Committee for Justice and Liberty Foundation, p. 5.
9. Brief by The Committee for Justice and Liberty Foundation, p. 16.
10. See, for example: Brief by Crossroads Christian Communications Inc.; Brief by G. R. Conway.
11. Brief by The Committee for Justice and Liberty Foundation, p. 12.
12. Brief by the Baptist Federation of Canada, pp. 4-5.
13. For example, Brief by G. R. Conway.
14. CRTC, Transcripts of the Public Hearing on Religious Broadcasting, 26-29 January 1982, p. 670. (Hereinafter referred to as Transcripts.)
15. For example: Brief by John Hylton and Gary Mavaara; Brief

by Douglas Barrett and Peter Flemington. On the distinction between balance of views and balance of program types, see Mavaara, Transcripts, p. 219.

16. Brief by Barrett and Flemington, p. 25. Cf. similar distinctions made in the Crossroads Christian Communications Brief, p. 21.
17. Transcripts, p. 214.
18. Transcripts, p. 229.
19. Transcripts, pp. 215-16.
20. Barrett, Transcripts, p. 710.
21. Vincent di Norcia (University of Sudbury), Transcripts, p. 834.
22. Brief by Canadian Broadcasting Corporation, pp. 7-8.
23. Mavaara, Transcripts, p. 198.
24. Commissioner Gower and G. R. Conway, Transcripts, pp. 1006-1010.
25. Brief by Hylton and Mavaara.
26. Transcripts, p. 1019.
27. Brief by Barrett and Flemington; Brief by University of Sudbury; Brief by Status of Women Action Group; Commissioner DeStefano, Transcripts, p. 665; Brief by Hylton and Mavaara.
28. Brief by Canadian Jewish Congress; Brief by the League of Rights of B'nai Brith.
29. Brief by Interchurch Communication; cf. Transcripts, pp. 400-10.
30. Brief by Committee for Justice and Liberty Foundation. The appendix contains a useful summary of the workings of the Dutch system, with bibliography.
31. Brief by Council of Christian Reform Churches in Canada; Brief by Marie Jalsevac.
32. Commissioner Gower, Transcripts, pp. 720-21.

33. For example, Robert Wenman, M.P., Transcripts, p. 94; Brief by Baptist Federation of Canada; Brief by Crossroads Christian Communication Inc.
34. Dr. John O'Brien, Transcripts, p. 405.

VI. A GUIDE TO THE PUBLIC DISCOURSE ON BALANCE

Reviewing what has been said about balance by the commission and by participants in hearings and seminars, it is clear that the term takes on many different meanings. To some extent this is inevitable. However, it is part of the task of this thesis to look for some regularities and consistencies in the way the term is used in CRTC public forums. In this respect, the discussion of balance in CRTC forums can best be understood as relating to mainly two dimensions of content: viewpoints and program types.

The primary focus of this thesis is upon balance of views and controversial broadcasting; however the discourse about balance of views is often closely inter-twined with discourse about balance of program types. This is especially noticeable at the Seminar on Balance and the religious broadcasting hearing, where there was a definite interplay in the discussion, between the two dimensions of balance. To some extent this interplay reflects a rhetorical purpose, but it also reflects a deeper structural inter-relationship between balance of views and balance of program types.

This chapter will thus be an exercise in clarification of the relationship between these two dimensions of balance, and at

the same time I will seek to identify the main issues and concerns about the media expressed in the discourse about balance. It is important to distinguish here between the 'official' discourse on the subject contained in reports and statements by government agencies and inquiries, and discourse by participants at CRTC public forums. In what follows I will attempt to delineate the various aspects of balance contained in the official discourse, and to show how this relates to the use of the term by public participants. Central to understanding this relationship are the distinctions I make between dimensions, models and criteria of balance, which can be viewed as analytic tools to help make the discourse intelligible. It is hoped that these distinctions will help clarify some of the uses of 'balance' encountered in previous chapters.

Two Dimensions of Balance: Viewpoints and Program Types

Fundamental to understanding the way the discourse on balance has developed is that there are two dimensions of balance which predominate in the official policy discourse: balance of views and balance of program types. In the present Broadcasting Act the distinction between balance of program types and balance of viewpoints is indicated in the difference between the requirements for "varied and comprehensive" programming" (i.e. balance between program types), [1] and for

programming which provides a balanced opportunity for expression of differing views.

The origins of these two dimensions of balance can be traced along quite separate paths: balance of program types has been a major content-evaluation concept used by the CBC, in the reports of the Massey and Fowler Royal Commissions, and the Fowler Committee report. Program types are usually said to be defined in relation to three factors: program format, subject matter, and audience functions of the content. The commission has different sets of categories for radio and television, used for program logs, and in the case of FM policy, for regulatory purposes. The difficulties of developing a comprehensive and mutually exclusive set of categories for content which has multiple attributes is well-known. In general there is a problem of matching actual audience perceptions of content-type differences with existing program categories. This has been highlighted with respect to music categories, for example, at the religious hearings and also the recent radio policy hearings. I will not, however, venture further into questioning the validity of these typologies. My purpose here is to show that historically there is a definition of balance which is specific to program types, which can be distinguished from balance of views.

Balance of views, concerned with the expression of opinions on social, moral and political issues, was first formally

expressed in the 1939 CBC policy on controversial broadcasting. In the early days of radio, a 'viewpoint' usually referred to the opinion expressed by a speaker in the commentary format. With the beginning of radio news, the rule was that announcers and reporters could report the views of others in the news context, but must remain impartial and could not express their own opinion. Today, while these same considerations generally apply, the editorial control which journalists and producers have over visual and audio tracks means that viewpoints must be considered not only at the level of individual speakers, but also in terms of the overall tone and composition of the program or program segment. Similarly for news, it is no longer enough to focus only on the professional attitudes or ethics of journalists, since a great variety of media-institutional factors affect what is selected or omitted as news. As clearly demonstrated by the 'Air of Death' hearing and the 1977 CBC Inquiry, the defining of 'viewpoint' becomes increasingly complex as more levels of audio-visual information are taken into account, and even more so in the context of the contingencies and structural constraints of media production.

Of critical importance to the commission's policy on balance of views, and one which differentiates it sharply from balance of program types, is that balance of views is required for views on matters which are of public concern or controversial. A topic can be controversial without being of

public concern, and vice versa. Controversy may exist in the community at large (as in CFCF) or it may be a controversy within the scientific community (part of the consideration in 'Air of Death'), or some other community of interest.

Controversy may not even exist until a program is aired. The commission leaves judgement of the extent of controversy to the broadcasting licensee, unless public review is deemed necessary. Similarly the definition of 'opportunity' for the expression of views is usually left to the broadcaster, although the CFCF report tends to adopt the position that the licensee should actively seek out and broadcast differing views, and not merely announce it is willing to provide opportunity to reply.

The Choice and Exposure Models of Balance

Balance can be considered as the range of content options from which the viewer or listener can choose at any one time, or as the diversity of content (of views or program types) to which the viewer or listener should (or expects to) be exposed over a period of time. Essentially we are dealing here with two different models of the relationship between the viewer or listener and broadcast content. Choice is gauged in relation to the relatively simultaneous content options provided by the broadcasting system, while exposure occurs in relation to the content of a particular station. Thus we may call these models the system-choice models and the station-exposure model; or, for

short, the choice and exposure models. The two models emphasize different aspects or assumptions about viewer behaviour, and different temporal aspects (synchronic versus diachronic). The models do not necessarily exclude each other and may in fact be complementary; choice, or decision on the part of media users is a precondition to exposure. What is important is that the official discourse recognizes one or other of these models as appropriate in certain contexts but not in others.

On the basis of past and present broadcasting policies, it is evident that these models are not equally preferred for each dimension of a balance. Within each dimension of balance, the two models receive different emphasis. In the case of program types, up until the 1950's the emphasis was solely on balance within the station, with providing a diversity of programs to meet the diverse tastes and interests of the audience; this was essentially an exposure model, although it also contains some elements of choice over time. Beginning with the 1957 Fowler report, the notion of complementarity between the content options available over the system at particular times (especially prime time, when the most people are viewing) was developed, and seen as a desirable improvement over the tendency of private stations to compete for audience by providing similar programs at the same times. Fowler again raised this in his 1965 report, but it is important to note he was stressing complementary scheduling practices, not specialization by

licensees in particular types of programming:

We reject this specialization theory for Canadian television. Even for radio, specialization in one field of programming is not satisfactory. Many studies have shown that an audience develops listening habits towards its preferred station ... The faithful listener should have the opportunity to be put in contact with a variety of programs. [2]

Fowler thus introduced a limited version of the choice model of balance of program types while retaining the exposure model. This generally continued to be the policy for both radio and television, until the new FM policy in 1975, which allowed greater specialization in program types by each station, and also attempted to change the 'sound' of FM radio in comparison to AM by requiring FM licensees to provide a certain amount of 'foreground format' programming, distinct from AM's 'rolling format'. [3] In television, the commission has generally tended not to encourage station or network specialization in particular program types except in certain cases. There is, of course, linguistic specialization in the two national languages. The commission has also encouraged complementarity in scheduling for stations within each language, as seen in the licences granted for independent UHF commercial stations. For example, CITY-TV Toronto and CKVU-TV Vancouver promised to schedule extensive local news, information and/or variety as a complement to the dramatic light entertainment programming usually available at prime-time. [4] There is now also a trend towards allowing greater overall licensee specialization as can be seen in the

multi-lingual licence in Toronto, [5] and the recent licensing of pay television services devoted entirely to entertainment programming. [6]

The commission's policy on balance of program types has gradually evolved to utilizing a choice model of balance while at the same time retaining the exposure model to a greater or lesser degree, depending on the particular case. In contrast, the commission's policy on balance of views has firmly held to the exposure model. The notion of specialization of viewpoints on a per-channel basis has been rejected; the non-partisan nature and independence of the licensee is still considered to be a basic requirement. Balance of views policy stresses the 'right to hear' complete information and differing opinions, either within a single program or over a series. The commission has so far rejected the choice model for balance of views within the total broadcasting or media system, at least insofar as this is claimed to remove the station's responsibility to be balanced within its own programming. The basic reason given for this is station loyalty: the tendency for viewers and listeners to habitually tune in to just one station. (It should be noted that the commission has not presented any detailed evidence to back up this assertion, which is repeatedly made.) Generally, therefore, we can say that in balance of viewpoints, the commission has maintained an exposure model of balance, while in balance of program types there has been a shift to accepting

the choice model of balance in certain cases, but not for all licensees.

Within this broad distinction between models of balance, it is important to realize that evaluation of both balance of viewpoints and program types takes place within certain community parameters. Commissioners of the CRTC consider this to be very important. [7] For example, it would not be acceptable to allow a licensee to specialize in a particular program type (e.g. sports) in a single-station market. The special needs of remote and underserved communities are considered particularly important. Along the viewpoints dimension of balance, community considerations also play an important part. This can be seen in the CFCF case, in the tension between the English and French communities in Montreal, which was exacerbated by the disproportionately large number of radio stations serving the minority english-language population. [8] The CFCF example illustrates the difficulties in precisely defining a community, and of reconciling the relationship between the geographical community and signal reach, on one hand, and communities of interest (e.g. linguistic communities) and the market (audience) of individual stations, on the other.

Measuring Balance: Quantitative and Qualitative Criteria

The terms used to describe the qualitative and quantitative attributes of content insofar as balance is concerned, I will call the criteria of balance. For example, complementarity is a criterion for balance of program types, as discussed above. Again, diversity (or variety) and completeness (or comprehensiveness) are two criteria commonly used for describing both balance of views and program types. Strictly speaking, diversity of some kind is a precondition for balance to exist at all, since balance is usually thought of as existing between diverse elements or units. The criterion of completeness is thus a requirement that the full range of diverse views or program types be presented. But how is it determined when this 'fullness' is reached? This study of balance identifies two main criteria used in judging 'fullness' or balance: proportion and representativeness. The precise meaning and measurement of each of these criteria depends to a considerable extent on whether it is balance of views or of program types which is at issue, and whether a choice or exposure model is applicable. What follows will be a closer look at the criteria of proportion and representativeness for both balance of views and program types.

Because program types can be considered as a number of discrete categories, it is possible to measure quantitatively the proportion of time devoted to each type by a particular station can be measured for a given period. Balance can then be

considered to be reached as the proportions of time devoted to each category approach equality, or a weighting factor could be added to give prominence to particular types of programs. [9] The commission has adopted something resembling the latter approach in the FM policy, which requires licensees to adhere to the proportions of program types promised in the Promise of Performance. The commission's approach in AM radio and television is much less stringent, with about the only requirement being that the licensee provide some news and information, although the precise proportion is not specified. It is difficult to know in these instances what constitutes a balance between the various program types; back in 1965 Fowler thought the predominance of light entertainment on private television and the CBC (over 70 per cent) constituted an imbalance. [10] This situation persists today (particularly for private english-language stations); presumably it is still an imbalance. [11] (In another sense, however, it is perhaps a balance in that it reflects a stable equilibrium, the balance of programming which maximizes private station profits under existing regulation.) [12]

At the overall system level, statistical measures have also been developed to measure the diversity of types of programs available (say) on all television stations in a given market at any one time, as an indication of the simultaneous choices available to the viewer. [13] While not using statistical

measures such as these, the commission has, as we have seen, often commented on the need for an increase in the amount of choice and diversity in the system. Of course, one problem with attempting to measure or evaluate program choices within the broadcasting system in terms of choice between program types, is that choice within program types may be equally as significant or beneficial to the viewer. That is, it may be equally important to provide a variety of situation comedies, or news services, from which to choose. In this connection the Therrien report also noted that some people in remote and underserved areas wanted to receive additional American entertainment programming, as well as other types of programming such as news and current affairs. [14]

Examining the viewpoints dimension of balance, quantitative measurement of proportion is also important. The amount of time given to different views, to different issues, is important particularly to groups whose views receive little or no time at all. But the idea of giving strict numerical weighting to different views depending on the measure of support for them, for example, appears difficult to implement in practice and subject to objections in principle. For there is no a priori justification for assigning viewpoints less time or no time at all merely because they are those of a minority. It is really a question of justice which is at stake, as suggested in a brief to the religious hearing:

Justice in this context may be construed to mean that air time be distributed according to numbers of individual adherents of specific traditions [views]. ... Or justice can mean an equality of groups, as acknowledged by the Berger Commission concerning the Mackenzie Valley pipeline (where native people's values were given equal weight to those of the majority population in the south). In this context, quantitative measurements are no substitute for qualitative judgements. [15]

The proportion of time is thus only one issue in evaluating balance of views; there are also several qualitative aspects.

Perhaps the most important qualitative criterion is the notion of representativeness; that is, the extent or accuracy of correspondence between the range of views present in the media and the diversity of views actually existing in society. [16] This criterion came out most clearly in the Seminar on Balance. This is a useful approach if certain limitations are appreciated. By representativeness I do not mean a naive belief in the 'mirror analogy' of media operation, which holds that media does or should provide an undistorted 'reflection' of society. As Bruce McCay writes:

The mirror analogy, though poetically attractive, has a definite tendency to distract attention from the responsibility of media operators for content selection. As it is frequently used, the analogy suggests a 'perfect' mirror: instantaneous in its reflection, totally free from distortion, infinite in its dimensions, and pointed in all directions simultaneously. There is, I think, a place for the term 'reflection' in discussion of broadcasting, but its use must be distinguished from use of the mirror analogy to argue that selection of media content does not take place. [17]

Indeed, the notion of representativeness is valuable precisely

because it points to the fact of media re-presentation of selected aspects of reality in a new, mediated form.

Another qualification to the notion of representativeness in media content is that many of the views expressed in the media cannot be said to 'represent' any distinct, identifiable group. They are merely those of an individual, who in turn may represent a broad (or narrow) current of opinion. However, with these provisos the notion of representativeness can be (and is) used for evaluating content, and is closely tied to balance. The notion of representativeness is also used in speaking of representation in content production processes, including broadcasting advisory boards, participatory systems like the Dutch system, and affirmative action in media personnel employment.

Relating the notion of representativeness to the question of balance of views, the question becomes, what groups and issues are to be covered by the media? And what criteria of representativeness are to be used to say that this is 'balanced' coverage? Is it possible that 'representative' content will not necessarily be 'balanced' in an ideal way? What are the weighting factors (intentional or otherwise) involved? This is where individual judgement of production staff is very important. For example, the choice of speakers to represent particular views was an issue in the 'Air of Death' inquiry: was an extended interview with a government minister sufficient to

balance the differing view of an expert scientist in the field? This is the kind of problem which journalists and program directors face daily: how to balance out the asymmetries in expertise, interests, institutional commitments and availability of different speakers on a particular topic.

Of underlying importance in all these factors is that the journalist (and the production staff in general) have a large degree of control over the conditions in which views are presented. They may, for instance, choose to summarize the views of different groups rather than let those groups speak for themselves; even in the latter case the context in which representatives speak (time, questions asked, position in the schedule) is tightly controlled. There is, too, the further consideration of the spectrum of views taken to be relevant to a particular issue--there may be more than two. Again, how far should journalistic impartiality and plurality extend? Should, for instance, any coverage be given to racist groups like the Ku Klux Klan, and if so, should there be any special requirements for balance? Here we are at the very edge between balance (which tends to inclusivity or plurality of opinions) and censorship (which tends towards exclusivity). A similar kind of question was raised at the Seminar on Balance about media coverage of the Quebec separatist movement: at least one participant believed such coverage was contrary to the goal of national unity, and should not be permitted. [18]

Official Discourse and the Discourse of Participants

The intent of the discussion so far has been to differentiate program types and viewpoints as the two main dimensions of balance found in the policy discourse, and to show how differing models of balance (choice and exposure) have been emphasized in each. Further, we have seen how similar criteria of balance, such as diversity, completeness, and proportion, are applied in different ways to each dimension of balance. Complementarity is a criterion applied more to balance of program types (under both choice and exposure models), while representativeness seems to be a criterion mainly applied to balance of views.

It is not, however, intended to draw too sharp a line between the ways in which the different models and criteria of balance are applied in each dimension of content. Although the policy statements of the commission and its predecessors usually make clear distinctions between balance of program types and balance of views, the discourse of participants at public forums sometimes does not. Having made clear the various distinctions between the two dimensions of balance, it is possible to understand how these distinctions may become blurred, or be intentionally altered. Participants may thus speak of balance without clarifying which dimension of content they are referring

to. Or, it is possible to disregard the official conventions about the uses of the choice and exposure models of balance and, for example, connect the choice model with balance of views, which is what happened at the religious hearing. Such innovations in defining balance may be a result of lack of understanding of the commission's policies, or, where some tangible benefit is sought from the commission, from a desire to acknowledge the commission's oft-stated requirements for balanced programming while at the same time tailoring the definition of balance to support one's own project. The commission is aware that this goes on--it is part of the usual process of attempting to persuade the commission to one view or another. As one participant at the religious hearing remarked, the commission has over the years heard many "weird and wonderful" definitions of balance. The crucial question, of course, is which view of balance the commission finally accepts (and also, the question of how important balance is considered to be within the context of overall CRTC decision-making).

The religious hearing also demonstrates a deeper inter-relation between the balance of views and balance of types dimensions other than a purely rhetorical one. Religious programming may itself be considered as a particular type of programming (or as a set of sub-types). Controversy or balance of views considerations are of course important within the range of religious programming, but it is also possible to speak of

balance between religious programs and other types of programs (e.g. sports). Here we again face the question of adequately defining a programming typology. But in addition, the amount of time and resources given to production and airing of, for example, religious programming (however defined) or to news and current affairs, directly affects the range of views and interests which can be accommodated. There is, therefore, a deeper structural relationship between balance of views and balance of types.

Innovations in the definitions of balance by participants may be used as rhetorical means to obtain tangible benefits as well as to express genuine concerns about media content. There is a tendency to adapt the language used by the commission to incorporate these concerns. Relevant here is the move to include fictional programming and product advertisements under balance of views, such as the attempt by MacDonald (and Cadieux) at the Seminar on Balance to extend balance of views to include political and social balance. One of the issues here was the narrow range of types of people--for example the narrow range of roles assigned to women or minority cultural groups--presently portrayed in the media. In a somewhat similar vein, there were complaints at the religious hearing that entertainment programming contained 'secular humanist' values. To date, the CRTC has not included this aspect of fictional content as coming under the balance of views requirement of the Act. There is no

doubt that some of the same criteria of balance are relevant here, although the extension of balance of views to cover fictional creations raises difficulties because the same kind of journalistic responsibility to the 'truth' does not appear as relevant in a realm where poetic licence is the norm. [19] Some interesting dilemmas do arise, however, in the so-called docu-dramas which purport to recreate recent or historical events (e.g. 'The Taming of the Canadian West') or which use documentary techniques in a fictional setting. [20]

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6. CRTC, Decision (82-240), "Pay Television," 18 March 1982. The introduction of 'pay' television services in Canada raises a number of questions about the commission's policies on balance. First, the traditional requirement for balance of program types within each channel is effectively altered with the approval of specialized entertainment services. As for balance of views, it is not yet clear whether any of the pay services will be required to provide balance in the case of any news or informational programming which may be transmitted. It can be argued that pay TV services are 'discretionary' and that the underlying

rationale for the exposure model of balance (i.e. that viewers are dependent on just a few channels for news and information) is no longer appropriate. But acceptance of the choice model of balance here leads to other important questions: What if a pay channel of 'second tier' channel is licensed to provide news and information? Would such a channel be included under the balance of views requirement? Or would the service be considered supplementary to the basic 'mass channel' service, subject to control only by the expression of viewer preferences through cancellation of subscription? Equity considerations are also important here: effective viewer choices would be limited by viewers' ability and willingness to pay for discretionary services.

7. Interview with CRTC Commissioners Rosalie Gower and Real Therrien, 28 January 1982.
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9. CRTC, Research Branch, "Measure of Balance and Diversity in Programming," by N. Weir, 1973.
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17. Bruce McKay, The CBC and the Public, Ph.D dissertation prepared for the Institute for Communication Research, Stanford University, Stanford California, May 1976, p. 33.
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19. Representativeness or balance in advertising has been addressed by the CRTC and other agencies. See, CRTC, Task Force on Sex-Role Stereotyping in the Broadcast Media, Images of Women (Hull, Que.: Minister of Supply and Services, 1982); James Fleming, Minister of State for Multiculturalism, "Television Advertising: Matching the Picture of Canada to a Changing Canadian Market," Minister of State for Multiculturalism, Press Release, [Portrayal of minority cultural groups in government advertising], March 24, 1982.
20. Of relevance here is the out-of-court settlement of a libel case brought by Alberta Premier Lougheed against the CBC for his portrayal in the television docu-drama, "The Tar Sands," broadcast in 1977. See Jeff Sallot, "CBC to Pay Lougheed \$82,500 to Settle Suit over Oil Sands Drama," The Globe and Mail, 11 May 1982, pp. 1-2. On the need to warn viewers of the status of docu-drama productions, see, CRTC, Decision (79-320), "Renewal of the Canadian Broadcasting Corporation's Television and Radio Network Licences," 30 April 1979.

VII. THE CRTC AND THE SUPERVISION OF BALANCE: AN ASSESSMENT

The discussion in the preceding chapter amply illustrates the variety of issues encompassed in the concept of balance in broadcasting. I now want to focus on just one aspect of CRTC 'balance policy': its use of public inquiry procedures to deal with complaints in the context of the balance of views requirement of the Act. After evaluating past commission behaviour in this respect, I also want to discuss the extent to which the balance of views requirement is still relevant in the light of ongoing changes in the broadcasting system.

CRTC Powers in Matters of Broadcast Content

A review of the commission's legal and informal powers in matters of broadcast content is in order at this point. The CRTC may affect the programming available in the broadcasting system through its licensing powers, including condition of license, and through general content regulation. The commission may also hear complaints about programming at license renewal hearings, and it may call a special public hearing into a complaint. But as the National Indian Brotherhood case showed, the commission is not considered to be empowered to direct a licensee with respect to a specific program. The only sanctions the commission can bring against general programming irresponsibility are, in

order of severity, shortening of the license renewal term, the threat of adding more stringent conditions of license if the license is renewed, or the outright failure to renew. Such sanctions are generally too severe as a response to complaints about particular programs, and have not been used for such purposes.

In the case of complaints about specific programs commissioners must necessarily place considerable importance on the 'moral suasion' power of the commission to exhort responsible licensee behaviour. [1] The reports from the 'Air of Death' and CFCF inquiries were characterized as being 'educational' for the industry as a whole. However, there is little direct evidence on how licensees translate the recommendations of the commission's balance inquiries into their internal programming decisions. Naturally the regulatee wants to be on close co-operative terms with the regulator, and responsiveness to moral suasion is one aspect of this co-operation process. The calling of inquiries into programming matters also has the effect of inconveniencing the licensee, perhaps making other licensees more watchful of their own performance, perhaps even more wary of entering into controversial programming at all. On the other hand controversy can be good for ratings. In any case, hearings into complaints are rarely called, and the CRTC has consistently said it does not wish to restrict broadcasters' treatment of matters of

public concern.

Commission Priorities in the Hearing of Complaints

The commission normally refers complaints to the licensee, in the hope that it will be settled through private negotiation. If it chooses, the commission may investigate further, including the calling of a public hearing, which has only happened twice ('Air of Death' and CFCF). The National Indian Brotherhood case showed that the commission, and only the commission, may determine the extent of inquiry which is appropriate. In other words the commission is not accountable to any other body in its decisions about whether, and how, it should investigate complaints. This means that groups or individuals making a complaint are in a relatively powerless position if they are dissatisfied with the commission's treatment of their complaint.

The circumstances surrounding the calling the 'Air of Death' and CFCF hearings, and the CBC inquiry, suggest that the extent to which a complaint is investigated depends on the political power and authority of those who complain. In the 'Air of Death' hearing, besides the CRTC's desire to demonstrate its new domain of investigation over that of the parliamentary committee on broadcasting, there is also the fact that federal and provincial ministers (including the Prime Minister), a large private corporation (Erco) and local farmers all took an

interest in the issue and were in positions to bring pressure to bear on the commission through various avenues, including the public inquiry conducted by the Hall Commission. The build-up to the 'Air of Death' inquiry had a long gestation during which highly powerful actors were involved in making various forms of protest. In the CFCF case, the tension between the English and French-speaking communities had been building for some months, and the inquiry was ostensibly called in response to a large volume of complaints made to the commission. However, it has also been suggested that behind-the-scenes Quebec Liberals were putting pressure on the federal government to silence CFCF, although hard evidence is lacking. [2] It is not lacking, however, for the CBC inquiry which was called at the 'invitation' of the Prime Minister after the Quebec Liberals lost the 1976 election to the Parti Quebecois. The CBC inquiry was almost a return to the times of the directly politically motivated inquiries into the CBC by the parliamentary committees, although the inquiry was at least conducted in a relatively independent manner, with input from scholarly research on the CBC.

Thus as far as the three major inquiries conducted by the CRTC is concerned, they were each instances of specific governments (and corporations) coming under attack through the media. It is hard to avoid the conclusion that the commission has considered public inquiries to be justified only when

governments or powerful corporations came under attack. Government, in particular, tends to be accorded special status in the definition of what is balanced coverage, as the following statement from the 'Air of Death' report suggests:

It is our view that in examining the responsibilities of governments, special care must be taken to assure equitable opportunity for a governmental representative to relate his position to previous statements in any particular program. Moreover, constructive statements should be given due prominence, for public responsibility may reside in attempting to show real operational impasses, sometimes due to constitutional difficulties, and to explain the complexity of arriving at solutions rather than the direction of blame by implication.

The political contexts of the 'Air of Death', CFCF, and CBC inquiries, plus the the fact that inquiries were not called into complaints by less powerful interest groups (e.g. National Indian Brotherhood, Anglican Church of Canada) suggest the commission has acted less as a guardian of the less powerful and 'minority' groups, than as an instrument for use by powerful interests to discipline the media when it appeared to threaten the existing political order. Inquiries into 'Air of Death', CFCF and the CBC may have been justified, but the question really is why inquiries into other complaints were not considered to be justified. This question cannot be fully answered in this thesis, but the evidence examined here suggests that this was more due to the extent of the complainant's political influence, than to the merits of each case in terms of possible harm caused by alleged program imbalance. This

likelihood is compounded by the fact that groups are not able to challenge the commission's decision, once made. The CRTC is clearly not independent from government in the sense that the commission's attention appears to have been directed to certain issues which were of most concern to the government. The tendency for commissioners to come from a background of Liberal party support is further evidence for this contention. The commission is, however, relatively free to come to its own conclusions once an inquiry is commenced, although the record shows that these conclusions usually contain something to placate all sides of the dispute, at the same time not directly interfering in the programming decisions of the licensee.

Another asymmetry in the focus of CRTC attention on questions of balance of views is in the unequal treatment of the public and private sectors. There have been two special inquiries into complaints about CBC programming, as well as two CBC license renewal hearings at which performance in informational programming was evaluated. In contrast, the commission refrained from intervening in response to complaints about CTV television programming (National Indian Brotherhood 1972, Anglican Church of Canada 1979, Canadian Chinese Community 1980), complaints which on the face of it were substantial. In addition, CTV licence renewal decisions have not paid as much attention to performance in informational programming as have CBC renewal decisions. [3] Unlike CBC, the internal workings of

CTV news and current affairs departments, and CTV's written policies in these areas, have not been intensively investigated or publicly revealed.

What becomes apparent, then, is that a dual inequality or 'imbalance' is operating as far as the commission's supervision of balance of views is concerned. First, the commission is more attentive to complaints coming from the upper end of the political authority structure (i.e. the leadership of the major parties who hold government). Second, the commission is less inclined to investigate complaints against private licensees. Interestingly enough, the three complaints against CTV documented in this thesis were made by groups who are outside of this political elite structure--particularly in the case of the National Indian Brotherhood and the Canadian Chinese community. It is difficult to say whether the disinclination to investigate these complaints was simply because CTV is a private network, or because the complaint did not have sufficient political backing, or indeed whether this was due to other factors entirely. For example, the apparent inequity could merely reflect a procedural problem, in that these complaints may not have been considered significant enough to require a public hearing, and there were no other less costly (in terms of time and money) procedures at the commission's disposal except to refer the complaint to the licensee. [4] Certainly, however, the circumstantial pattern is one of greater attention to government concerns conjoined with

less attention to the accountability of private licensees.

The historical context presented in this thesis supports the contention that from the 1930s onward, the public sector of broadcasting has been the subject of consistent state intervention with regard to controversial programming, while the private sector has not. The CBC became embroiled in political controversy very soon after its inception in 1936, and its policy on controversial broadcasting can be seen as an attempt to standardize its procedures and insulate the organization from accusations of unfairness or imbalance. The record shows that the CBC's struggle within the political arena by no means subsided once its 1939 balance policy was announced, although the policy was and still is (in modified form) the bedrock of the CBC's self-understanding and public rationale for its coverage of public issues. The original CBC policy was formulated when CBC was largely a monopoly service, and the policy incorporated the basic democratic value of freedom of speech into the context of this monopoly. In other words, the importance of plurality of opinion, as a value in itself and consistent with democratic institutions, should not be underestimated as a factor in CBC policy. However, at the same time, there were pressures on the CBC from the very beginning to cover primarily the plurality of opinion clustered around the existing political order, specifically parliament and especially the government.

Turning to the private broadcasters, the contrast with the treatment of the CBC is stark. Hardly any evidence was uncovered by the present research to suggest that the private broadcasters were called to account on matters of balance by either the CBC, parliament, or the BBG. There are at least two possible explanations for this, which are not necessarily inconsistent with each other. One is that the private broadcasters rarely broadcast programs which were controversial in the sense of challenging existing social mores or political assumptions. In turn, this may have been because of a desire not to lose valuable audiences due to politically offending content, or due to the politically conservative tendencies of licensees, and also a desire not to alienate government support for the 'cause' of private broadcasting. The second general explanatory factor may be that the private broadcasters were considered 'less' accountable than the CBC because the CBC was after all publicly funded. From the CBC's perspective as a regulator (prior to 1958), attempting to bring private broadcasters to account may have been more political trouble than it was worth; from the government's perspective, the direct control of private station funding was not available as a disciplinary tactic as it was for the CBC, and in any case attempts to discipline private stations may not have been necessary if controversy created by them was minimal in the first instance.

There is, therefore, some historical support for the circumstantial pattern identified above. However, it may be said at this point that in modern times the CFCF inquiry is an exception to the claim that the public sector receives all of the supervisory attention, and indeed this is so. Yet it may be the exception which proves the rule. The CFCF campaign directly affected the Quebec Liberal government, and the inquiry may therefore be an instance of political authority prevailing over the sanctity of private property in the context of highly intense controversy. But there is also another unique factor operating in the CFCF episode: not only was CFCF's campaign a threat to the government; it also challenged the very basis of non-partisanship on which broadcasters are supposed to be founded. For a two-week period--not merely one program--CFCF took on the role of a partisan broadcaster. It was, perhaps, the taking of a political position for an extended period of time, challenging not only a particular government in power but also the conventionally understood role of broadcasters in covering political issues, which made CFCF a sure target for public inquiry.

The Licensee Responsibility for Balance: Is It Still Needed?

The principle of licensee non-partisanship is crucial to the present structure of the broadcasting system. It may be said that the responsibility accorded to the broadcaster for balance of views is a basic structural presumption of the broadcasting system. [5] This particular structural presumption may be contrasted with two other possibilities: a system consisting of 'partisan' broadcasters, and a system based primarily on common carrier (i.e. non-discriminatory access) principles. In the former case, the licensee would still take overall legal responsibility for content, but would no longer be required to be editorially neutral, although they could if they so chose. In other words, the licensee would be permitted to consistently and explicitly promote one point of view or ideology. Under a situation of a sufficient number of channels and a sufficient diversity of partisan groups licensed to operate the channels, a choice model of balance of views could operate. In contrast, a common carrier type of broadcaster would not be responsible for content, this being the province of each content producer who obtains access to the system. Under this structure a 'balance' of views might be struck if there was equal access by all who wanted to express views over the broadcasting system. [6]

These alternative structures of broadcasting are put forward as simplified ideals, for the purpose of illustrating

the special qualities of the present structure based on licensee responsibility for balance of views. Some of the apparent benefits of this structure are evident: political and social issues are covered by the media at no financial cost to the individuals or groups who are expressing particular points of view. This reflects the decision taken by the CBC, and maintained by all licensees ever since, to cover political and social issues in 'free time' [7] and not to accept paid-for programming on controversial issues. There is a trade-off involved here: because they do not control the resources for production and transmission, the subjects of coverage do not control how they are presented (if at all). The policy of balance and even-handed treatment for all points of view is supposed to compensate for this lack of editorial control. And central to this responsibility for balance which the broadcaster takes on, is a procedure for accountability should there be complaints of imbalance.

Earlier in this chapter I suggested that the present CRTC complaints procedure has operated in an 'unbalanced' or inequitable manner. It might be concluded from this that an improved complaints procedure is called for. However, the present procedural inadequacies could also be taken as further evidence that the whole notion of enforcing balance of views should be dispensed with. It may be argued that attempts to 'improve' accountability procedures will only lead to more

bureaucracy and possible censorship. Balance of views, it could be said, may have been relevant when the CBC was a monopoly service, but now the balance of views requirement is becoming less relevant in an era of greater channel choice, and/or greater ease of access by groups who want to express their views. Indeed, the new realities at least as far as choice is concerned cannot be denied: many more viewing and listening options are now available. The specific question I want to address here is whether these choices make the licensee responsibility for balance of views any less relevant. In this respect, more choice (in its most general sense) does not necessarily add up to more balance. It comes down to a question of the qualitative range of choices which is available. Assuming that in some sense the choices were adequate, the desirability of a choice model of balance of views as the primary emphasis in broadcasting might still be questioned. An important issue here is the relationship between actual user behaviour under conditions of choice, and the assumption that media users should be exposed to a variety of viewpoints as part of their role as informed citizens. How well does the underlying imperative implicit in the notion of balance of views--that media users be exposed to the full variety of views and information--square with user behaviour under conditions of choice? What kinds of habitual and psychological factors, such as preference for supportive information, come into play here? Too often, it

seems, actual human behaviour in this area is taken for granted, and the issue of to whom balance is appearing is not considered. Is it an abstract balance, appreciated only by media analysts, or is it balance which appears to real individuals? Clearly, as balance tends to be understood as being more outside the realm of one particular program (i.e. over a series of programs, or over the range of system-wide options) the meaningfulness of the concept in terms of its relation to individual users is less apparent.

These questions about social behaviour are sufficient reminders that it is simplistic to believe that the choice and exposure models of balance are mutually exclusive. We are dealing not simply with ideal models of how a broadcasting system could operate, but also with how it does operate as a part of human social activity. Furthermore, the true complexity of the question of choice as it relates to balance of views lies in the fact that it is impossible to totally isolate balance of views from balance of program types. Consider in this respect news, current affairs and documentary: here choice between different news and current affairs shows on different channels (not necessarily at exactly the same time-slot) is a positive benefit in terms of providing a diversity of perspectives. The extent of available choices will in turn depend on the balance of resources provided by each licensee for this kind of programming as distinct from, for instance, sports or dramatic

entertainment. Given that media are inevitably selective, we cannot expect all points of view to be adequately covered in one program or indeed on one station. So, as far as informational programming goes, providing more options to choose from may also contribute to a balance of views, provided that it is accompanied by a diversity of information providers.

It is due to the complexity of factors such as those just outlined, brought about by the phenomenon of choice in the modern broadcasting system, that I sympathize with the conclusion reached by veteran 'balance inquirer' Harry Boyle, at the Seminar on Balance: "I suggest balance as in news and information on radio and television is a criterion that is increasingly impossible to exercise." [8]

It is also proposed that greater ease of access to transmission facilities is another way in which the balance requirement is becoming redundant. However, the alternative of an equal-access broadcasting system is not yet forthcoming, except in rhetoric. The basic problem with the access approach is that even if licensees were required to be non-discriminating in granting access (which they are not), it is hard to avoid defining 'equality' of access except in terms of equal ability to pay. The signs are that, even under the existing system of discretionary access, access according to ability to pay is more prevalent today than it ever has been since the CBC's 1939 policy statement. Dissatisfaction with broadcasters' performance,

for whatever reason, combined with increased opportunities for broadcasting provided by modern technology, has led some interest-groups to seek their own partisan (or in some cases, equal access) station, as witnessed at the religious hearing. Alternatively, private organizations as well as governments purchase time on existing stations. Advocacy advertising is only one instance of the latter; religious groups are also purchasing hour-long blocks of time some of which is used for overt political purposes. [9] This seems to contradict the fundamental principle of the free-time model of broadcasting: the avoidance of structuring political debate according to who has the money to pay for the right to speak. In part the rationale of this policy is the scarcity of frequencies, although this is much less convincing than it once may have been. But the costs of entry (start-up costs), production and transmission (particularly to large audiences) still remain. In other words, broadcasting (and particularly television) is still a "highly expensive medium" as the CBC's 1939 policy put it.

Thus one of the central questions which must be asked of both the 'choice' and 'access' approaches is: who or what determines which choices will be available, and who or what determines who shall have access to the broadcasting system? A full treatment of these questions is beyond the scope of this thesis, although one thing is clear: the availability of resources is crucial in this context. As one participant at the

Seminar on Balance said: "It is absolutely necessary if you assume that there is a right to offer and a right to receive, that somehow resources are made available to make that happen." [10] It should be added that as well as financial resources, other kinds of resources such as 'media literacy' skills on the part of users, are extremely important in today's media environment.

In the context of the issues just raised, it can be appreciated that the question of dealing with grievances and complaints in regard to specific programs is just one issue among many. However, the upshot of this discussion is that 'choice' and 'access' approaches are not absolute substitutes for achieving the goals which the CBC policy on balance in controversial broadcasting originally intended. Essentially these goals stress the importance of "full interchange of opinion" as a safeguard for free and democratic institutions. Some form of balance requirement for licensees appears still to be necessary if there is to be a hearing of voices which might otherwise be unheard in the present broadcasting context. An accountability procedure is part of this requirement. But it should be immediately added that while such accountability procedures may be a necessary condition for the operation of democratic debate, they are not a sufficient condition. The predominance of entertainment fare on television is only one of many factors which suggest that broadcasting has not fulfilled

the early hopes held out for it as a great force in support of political democracy. Nor will an improved complaints procedure solve all of the problems which some see arising from the broadcast media:

[We] know very little about the causal dynamic between TV and the audience beliefs, ... the relationship between what is viewed, what is understood and what becomes a basis for action. We distort the discussion of balance if we believe that in dealing with the media and in dealing with regulating media we are dealing with a single lever of immense power, if we believe that regulatory actions with respect to single programs or stations will themselves result in significant changes in the media which will in turn transform how people relate to the world and to each other. [11]

There are, in addition, some undesirable features of any bureaucratic system to control content. But the issue of bureaucratization must be weighed against the responsibility of broadcasters in the light of their considerable influence on public attention and opinion in a highly discretionary way.

If there is to be an accountability procedure for complaints at all, it should be equitable and publicly visible in its operation, precisely so that undue influence from powerful interest groups and government can be minimized. In this chapter I have cast doubt (by no means conclusive) on the equitability of the existing CRTC procedure for holding licensees to account as far as balance of views is concerned. Governments may indeed have legitimate complaints against the media, but it may be asked whether these should be investigated at the expense of other, perhaps equally valid, complaints by

less powerful groups. The possible structure of an improved complaints procedure is beyond the scope of this study, but empirical research could be undertaken into the operation of existing complaints procedures in the CRTC, press councils, the US fairness doctrine, as well as the internal procedures of broadcasters, to design an appropriate procedure.

The entire notion of balance of views, and the accompanying procedures necessary to enforce it, may indeed be questioned. However, for the moment the question is not, do we scrap the balance of views requirement altogether? Rather, it is, how do we make the existing type of responsible broadcaster more accountable through an equitable complaints procedure, while at the same time developing means to provide the resources for equitable access to as-yet unused channels?

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1. Interview with CRTC Commissioners Rosalie Gower and Real Therrien, 28 January, 1982.
2. Transcript of Balance Seminar, p. 115.
3. CRTC, Decision (73-44), "CTV Television Network Ltd," January 22, 1973; CRTC, Decision (76-395), "CTV Television Ltd," July 5, 1976; CRTC, Decision (79-453), [CTV license renewal], 3 August 1979.
4. The results of the Anglican Church of Canada's intervention at the CTV licence hearing demonstrates that such procedures are of little value for serious investigation of complaints, unless the commission has ~~decided~~ beforehand that it wants to use the hearing for that purpose.
5. It is structural in the sense that it helps constitute the present system as it is, and it is a presumption in that it is assumed in advance and, I might add, rarely tested in retrospect.
6. It is beyond the scope of this thesis to enter into a full discussion of the concept of access in broadcasting. A concise treatment of different concepts of access is given in Benno C. Schmidt, Jr., Freedom of the Press vs. Public Access (New York: Praeger, 1976), ch. 2.
7. Barring sale of time for some election advertising by private stations.
8. Transcript of Balance Seminar, p. 419.
9. For example, the hour-long shows broadcast regularly on BCTV during summer, 1982, appealing for funds for refugees made homeless by the advance of 'communism' and 'marxism'. Also, the daily program produced by Crossroads Christian Communications Inc., '100 Huntley Street', campaigned for its viewers to urge the CRTC to approve a religious station, during the build-up to the religious hearing. This is not to mention the political rantings of the electronic

preachers coming from across the border, or re-broadcast on local Canadian stations.

10. John Hylton, Transcript of Balance Seminar, p. 25.
11. Liora Salter, Transcript of Balance Seminar, p. 83.

APPENDIX: The Participants At the Seminar on Balance*

Seminar Chairman: Mr. A. Davidson Dunton, Ottawa

Presenters: Madame Rita Cadieux, Deputy Chief
Commissioner, Canadian Human Rights
Commission, Ottawa

Hon. David MacDonald, Fellow in Residence,
Institute for Research on Public Policy,
Ottawa

Panelists: Mr. John Hylton, Communications
Lawyer, Toronto

Professor Ronald Robbins, Director,
Department of Journalism/Communications,
University of Regina

Professor Arthur Siegel, Social Sciences,
York University, Toronto

Professor Albert Breton, Department of
Political Economy and Institute for Policy
Analysis, University of Toronto

Mr. Jerry Ezekiel, Assistant Director,
Alberta Cultural Film and Literary Arts
Branch

* The appendix lists only the participants named in the summary,
and does not include the many others who attended the seminar
and participated in discussion from the floor.

Mr. Jerry Grafstein, communications lawyer
and broadcaster, Toronto

Professor Liora Salter, Department of
Communication, Simon Fraser University,
Burnaby

Rapporteurs:

Mr. Jean Fortier, head, Director, Institut
Quebecois du Cinema, Quebec

Mr. Harry Boyle, Toronto

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