

A POLICY ON HOLD:
REGULATING TELEPHONES IN CANADA

by

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ABSTRACT

In February, 1992, a new Telecommunications Act was tabled in the Canadian House of Commons. This bill has been awaited, with varying degrees of eagerness, by the industry, policy analysts and community groups, for more than 14 years. However it has not answered what was for most people the burning question: will the telephone industry be deregulated, and competition to the dominant regional monopolies be permitted in the long distance voice market? The regulatory agency, after nearly a decade of denying applicants such competitive entry, is still struggling with this question with regard to yet another application, and a decision is not anticipated until the summer.

In the meantime the United States regulator, after breaking up the monopoly telephone company AT&T more than a decade ago, has allowed competition into all viable sectors of the industry. A multitude of new products and systems has emerged, long distance rates have dropped (although with the corollary that local rates have risen), and Canadian businesses are threatening to bypass the Canadian system if the same advantages cannot be obtained here.

The objective of this thesis is to explain why the Canadian government, despite its Conservative ideology, has found it so difficult to grasp the nettle and follow the United States down the deregulation road. Barriers to change have been erected by provincial governments, consumer groups, unions, and social welfare advocates, all of whom see the telephone as an instrument of social policy, and consider that deregulation would be a threat to universal accessibility and affordability.

This study explains the complexities of the telephone industry, especially the

way in which the long-distance and local calling systems are linked so that cross-subsidization of customers has been possible. It discusses the problems that such linkage causes for fair and accurate allocation of costs, and the effect that this has had on the debate about deregulation. It also looks at the various statist, pluralist and political culture explanations for the prolonged procrastination of the Canadian government, with emphasis on the opportunity which both policy-makers and interest groups have had to learn from the American experience.

In addition to an examination of explanatory factors, the argument is made that the regulated status quo has many advantages for Canada, despite the costs it may impose on the business sector. The telephone is an integral part of the daily lives of all Canadian citizens, and changes in regulatory policy will affect every one. This thesis analyses the development of such policy in Canada and explores the opportunity costs for all sectors of our society.

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"You can get a scientist in here and he'll
separate costs until he's blue in the face
and you'll get an answer. Now what are
you going to do with it? So it costs \$85
per month for a phone on a farm: tell me
what to do next?"

Telephone company official, quoted in a
report to the Department of Communications
by Simon Fraser University,
November 1987, p. 23

CHAPTER I: INTRODUCTION

In February, 1992, the federal Minister of Communications tabled a new Telecommunications Act for consideration by the House of Commons. This bill has been awaited, with varying degrees of eagerness, by the industry, policy analysts and community groups, for more than 14 years. Since the Trudeau government's first attempt in 1978 to pass a new federal communications law died because it was not given high enough priority, successive Ministers, both Liberal and Conservative, have been promising a comprehensive and definitive policy, but have not, until this month, delivered.

The President of the Canadian Business Telecommunications Alliance announced that this bill "would take the future of telecommunications in Canada off hold." Other observers were not so sure: in fact most people are waiting for the other shoe to drop, in the shape of an imminent decision from the telecommunications regulator, the Canadian Radio-television and Telecommunications Commission (CRTC), regarding entry of competition into the telephone industry.

Why are policy initiatives by the government and the regulator with regard to the telephone sector so anxiously awaited, and so significant for both Canadian industry and consumers?

For the first six or seven decades of this century relative harmony reigned in the arena of telecommunications. Canadians in every corner of the country enjoyed one of the best telephone systems in the world, with prices and service that were the envy of subscribers elsewhere. Government policy was based on traditional attitudes towards a 'natural monopoly': regulating price, entry and rate of return, in return for the economies of scale and scope enjoyed by the respective provincial telephone companies. There was a high degree of congruence between the objectives of the politicians, the regulators, and the telephone

companies themselves, all of whom wanted to ensure the maximum spread of telephone service.

However a series of technological and economic changes over the last two decades have challenged the underlying premises of telecommunications systems. Competition has, as a result, become viable in certain areas of the telephone industry, and its natural monopoly status is being called into question. The burgeoning telecommunications sector - with its new reliance on computers, fax machines, cellular radios, etc. - has become a crucial part of the business infrastructure in all western nations, and therefore essential to the competitiveness of their economies.

The response of the United States to these developments has been to break up the monopoly AT&T, allow competition into all viable sectors, and partially deregulate the whole system. A multitude of new products and systems has emerged, and long distance call rates have dropped, although with the corollary that local rates have risen. In Canada the regulator has been under ever-increasing pressure to follow the American example. However, despite allowing some liberalisation in the areas of equipment and reselling, the CRTC has so far balked at taking the all-important step of allowing competition in long distance services, or allowing the telephone companies to 'rate rebalance' (i.e. raise local rates in order to bring down long distance rates). The current application before the CRTC from would-be competitors Unitel and BCRL,¹ which involved mammoth hearings in the summer of 1991, may be the straw that breaks the camel's back; but it is evident from the length of time it is taking the Commission to come to a decision that it is very perplexed about what course to take.

In the meantime the government, responsible for direction to the regulator,

has done nothing but equivocate and stall. Fourteen years of studies, reports, committee and task force hearings and interprovincial negotiations produced, until last month, nothing but vague statements of 'principles', and superficial tinkering with the classification of carriers. Even the new bill does not address the burning issue of whether or not to allow competition. The ambivalence of Canadian policy makers about the technological ferment in telecommunications was once captured by a Minister of Communications in his description of developments as "a nightmare of opportunity."²

Why are the opportunities seen as a nightmare? And why are both the CRTC and the government so reluctant to grasp the nettle and follow the United States down the deregulation road?

This paper will attempt to answer these questions by examining the stakes for the interest groups and institutional actors involved in policy development, and by exploring different theoretical models of explanation. It will look at the effects that deregulation can have on different groups in society, and how attitudes to these effects have influenced policy.

Explaining divergences or delays in policy-making, is, in economic parlance, a form of 'positive' analysis. In addition, this paper will also undertake some 'normative' analysis. Underlying the debate about deregulation of telecommunications (like many other economic and social debates) are two different paradigms or worldviews. Analysis of these paradigms helps to explain much of the conflict over both definitions of the issues and prognostications for the future.

In order to understand the policy issues at stake in the deregulation debate it is necessary to grasp the complexities of both the Canadian telephone industry and the technical system itself. Chapter II therefore describes the

relationship between the regulatory instrument and the industry, as a basis for proceeding, in Chapter III, to the "story" of how Canadian policy has evolved to its present point. Theories explaining the procrastination described in the story, which are explored in Chapter V, will likewise depend on an understanding of the effects of deregulation, to be found in Chapter IV. Chapter VI will discuss the conflicting values which are basic to the debate, and Chapter VII will contain my own policy recommendations, as well as an attempt to predict future developments.

The telephone is an integral part of the daily lives of all Canadian citizens. For businesses efficient telecommunications are essential to their international competitiveness; for the individual consumer the ability to make unlimited local calls has been as natural as breathing; for the homebound, the lonely, the handicapped, the telephone is a lifeline. Changes in policy regarding this industry will affect everyone. This thesis analyses the development of such policy in Canada and explores the opportunity costs for all sectors of our society.

FOOTNOTES to Chapter I

1. Unitel Communications Inc. is a combination of Rogers Cable and CNCP, and BCRL a consortium of B.C. Rail Telecommunications and Lightel Inc.

2. Janisch H., and Irwin, "Information Technology and Public Policy: Regulatory Implications for Canada," Osgood Hall Law Journal, 20, 1982, p 622.

CHAPTER II: REGULATION AND THE TELEPHONE INDUSTRY

Any analysis of the development of policy depends on an understanding of the background to the issues involved. This chapter will therefore describe the relationship of government to the telecommunications industry in Canada, and the original rationale for the regulatory instrument. It will also explain how regulated telephone tariffs have successfully been used for the first three-quarters of this century as an instrument of social and economic policy, why the question of deregulating the industry is now on the agenda, and what the consequences of deregulation would be.

THE CANADIAN SCENE

The telephone industry has played a very important part in the history of Canada. Along with railways, the development of a unified, universally accessible telephone system was a way to meet the challenge of communicating across the vast land mass and tying the regions together as a nation.

However, unlike the United States, Canada has no single national carrier with the facilities to provide a complete telephone service to the public in all regions of the country. Instead, it has a tangled and complex patchwork of foreign and domestic, public, private and mixed ownership consisting of dozens of small and nine relatively large, full service terrestrial carriers, scattered across the country and operating, essentially, within the boundaries of single provinces. Despite this multiplicity of companies, however, for technical and economic reasons which will be explored below, each carrier is in fact a monopoly within its own region.

All these companies (together with Telesat Canada, established in 1969 to create a domestic satellite system) are associated in what used to be known as the Trans Canada Telephone System and is now called Telecom Canada. The

original - and ongoing - functions of Telecom are to plan the construction of a national system (ensuring, especially, compatibility), to unify rates and service offerings, and to divide revenues from traffic involving non-adjacent territories. As well as providing local telephone service to customers in each region, the phone companies together provide national and international long distance service.

In fact, with the exception of calls between Quebec and Ontario on Bell Canada's system, no interprovincial public telephone communication can be provided without using the equipment of more than one telephone company, regardless of whether the transmission is made by cable, microwave or satellite.

All such communications must travel from an individual telephone set through local lines to a local exchange and then on to a long-distance exchange for interprovincial routing. The same equipment and personnel are employed for the provision of both long-distance and local service.¹ This indivisibility of services is of utmost salience with regard to policy for the telephone industry, as we shall see.

Another major carrier, which merges with Telecom Canada into an overseas network operated by Teleglobe Canada, is Unitel (known until its recent merger with Rogers Cable and Cantel as CNCP Telecommunications). Unitel has traditionally been restricted to providing private line service, meaning that the voice traffic it carries cannot be connected to the switched telephone network operated by Telecom Canada. For the last decade CNCP, along with equipment manufacturers, resellers, and other would-be competitors, has been challenging the monopoly of the existing telephone companies. In 1984, in 1987, and again in 1991 CNCP/Unitel has applied to the CRTC to be allowed to interconnect with the monopoly network and provide alternative long-distance services, but although

the CRTC has allowed considerable liberalization in the equipment and reselling market, it has consistently denied access to the long-distance telephone market.

(The decision from the 1991 hearings is not expected until June of this year.)

It is this challenge which has been spearheading the pressure for deregulation of the industry in Canada.

WHY REGULATION? THE POLICY INSTRUMENT RATIONALE

For the first six or seven decades of this century government policy for the telephone industry was based on traditional attitudes towards a 'natural monopoly'. "Some situations exist," asserts Schmalensee in his book on The Control of Natural Monopolies, "in which there is at best a prima facie case that the market mechanism will not yield acceptable performance unless special control mechanisms are employed. Public utilities such as electricity, gas distribution, water and sewers and telephone service are among these situations."² A natural monopoly arises when increasing returns to scale are sufficiently significant that any feasible level of demand can be met at lower average cost by a single firm than by two or more firms. Natural monopolies also usually have heavy 'sunk costs', such as the huge amount of infrastructural investment in terms of local lines or networks which characterise the telephone system.

A natural monopoly represents a case in which the market cannot work efficiently or equitably. Protection of the industry (in the shape of control of entry and exit) is necessary in order to ensure fair rates of return on capital, and protection of consumers (in the shape of rate control) is necessary to prevent the industry from using its monopoly position to extract excessive profits. Traditionally, governments have tried to provide this kind of protection in two ways: government ownership (as in England and most of Europe,

Japan and Australia), or investor-ownership, overseen and controlled by government-established regulatory bodies, as in the U.S.

In Canada both kinds of regulation evolved, complementing the patchwork of telephone companies. Until the end of 1989, when a Supreme Court case ruled that the federal government had all-encompassing jurisdiction (see Chapter III), seven provinces - Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland - exercised regulatory authority over the major telephone companies in their territories, and in the three Prairie provinces the government actually owned the companies.³ However the two largest telephone companies in Canada - Bell Canada and the British Columbia Telephone Company (BC Tel) fell within federal jurisdiction, by virtue of provisions in their respective 'Special Acts of Incorporation' declaring them to be 'for the general advantage of Canada'.⁴ Northwest Tel, Telesat Canada, Unitel and Teleglobe Canada (originally a crown corporation but now privately owned) were also federally regulated.

Until the Supreme Court ruling and the subsequent Telecommunications Act currently tabled in Parliament, the allocation of jurisdiction over telecommunications was based on provisions in the Constitution Act of 1867 (which were essentially unchanged by the 1982 Constitution Act). Of course the only form of electronic communication known to the Fathers of Confederation was the telegraph, and thus the federal government was assigned responsibility for "telegraphs ... connecting the provinces with any other or others of the provinces".⁵ That explicit power was supported by more general provisions in the constitution such as the power to make laws for the "Peace, Order and Good Government" of the country⁶, and the exclusion from provincial jurisdiction of "such works as, although wholly situate within the province, are before or after

their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more provinces".⁷ The claims of provincial jurisdiction, on the other hand, have been based on other sections of the Constitution Act conferring power to legislate with respect to "local works and understandings", property and civil rights within the province, and "matters of merely local or private nature within the province".⁸

While these jurisdictional divisions worked perfectly well while the telephone industry in general was considered a natural monopoly, once the idea of deregulation was introduced harmony was disrupted, and the conflicting claims and ideologies of the federal and provincial governments became a giant roadblock to the entry of competition, as will be discussed in Chapter III.

Starting with a Board of Railway Commissioners in 1903, various federal bodies regulated telephone and telegraph rates in Canada, until in 1976 the Canadian Radio-Television and Telecommunications Commission (CRTC) took over the function. The CRTC immediately recognised that regulation can be a planning instrument as well as a policing tool, and, "rejecting the traditionally limited, negative, proscriptive role of its predecessor, assumed an expanded, positive and prescriptive role."⁹

REGULATION AS SOCIAL POLICY

Regulation by government of industry is sometimes intended to effect a transfer of wealth from one group to another. In general, that transfer is intended to take place from producers to consumers, or among certain types of consumers. When regulation either seeks to make the market work better, or to control monopolistic pricing activities, it is described as 'economic'. However sometimes regulation will be deemed to be 'social', inasmuch as it is intended to benefit all consumers by forcing industry to meet needs which are uneconomic,

whether these are for certain services or to compensate for the socially detrimental effects of its activities.¹⁰

For the first 70 odd years of this century the regulator was not really required to act in a social role: the industry performed this function itself.

Following in the footsteps of Alexander Graham Bell, the group of people who created the North American telephone system worked to implement a 'grand system' in which the monopoly telephone company "would provide service in virtually every home and office, linking local systems throughout the nation and the civilized world ... affordable by everyone."¹¹ McLure's Magazine, in 1914, attested that

*the telephone [used to be] a luxury - the privilege of a social and commercial aristocracy. About 1900, however, the Bell Co. started a campaign, unparalleled in its energy, persistence and success, to democratize this instrument - to make it part of the daily life of every man, woman and child.¹²

The industry was able to achieve the goal of universal and affordable service by exploiting the indivisibility of its infrastructure (described above). All switched calls, no matter what their origin or their destination, have to use the same equipment. This facilitated the practice of 'cost-averaging', by which the entire operating territory was treated as one unit from which revenues sufficient to cover company-wide expenses were extracted, without necessarily relating cost to price in any specific service or locale. The industry was thus able to develop 'value for service' pricing, which meant that rural customers could be charged the same rates as urban customers, even though the costs of providing the service were higher for them; that local rates could be subsidized by long distance rates; and that different rate groups could be created for business and residential subscribers.¹³

This kind of cross-subsidization was practised in both Canada and the United States, and contributed substantially to the goal of universal availability.

Discrimination between buyers of a service who exhibit different demand elasticities is, of course, a widely accepted method of increasing the total number of subscribers. By increasing the number of subscribers, the overall cost of providing a service can be made affordable. Thus the growth of subscribers from the time of the telephone's invention until the late 1960s was dependent on the support of cross-subsidies. They were basic to the pricing of telephone service.¹⁴

The goal of universal availability has largely been achieved in most of North America. However the cross-subsidization of rural by urban customers and of local rates by long distance users has continued in Canada to this day in pursuit of the goal of universal affordability. It is recognised by regulators across the country that the telephone is not simply a commercial product, but an instrument of social policy. As Horowitz puts it,

universal telephone service [has come] to embody a principle that access to information and the means of communication is part of being a citizen. Universal telephone service allows individuals to be part of the fabric of national life, if only due to a legally embedded principle of mandatory access to the equipment at cheap rates.¹⁵

The goal of universality - which encompasses fair and reasonable rates, the maintenance of rural communities, and regional development - has remained high on the agenda for the telephone companies, the provincial governments, and the regulator. However the social compact which endured for close to three-quarters of a century, serving both the industry and its customers well, is now being questioned, and the regulator which presided over it is besieged. What has caused the climate to change?

DEREGULATION ON THE AGENDA

According to John Kingdon, issues get onto the government's agenda when the three process streams which flow through the system - streams of problems, politics and policies - come together.¹⁶ After decades of relatively tranquil monopoly

regulation in the telecommunications industry everything changed. Into the 'problems stream' came the discovery of new technology which challenged the notion that the industry could continue as a monopoly, and a questioning of the efficiency of the regulatory instrument itself, under the new technological conditions. Into the 'policies stream' came the U.S. experience; and the 'political stream' experienced pressure from the potential competitors (operators of the new technology), reinforced by the government's ideological trend towards deregulation and privatization. As we will see later, the lack of value congruence with regard to possible policies has served as a constraint on actual policy formulation, but the impetus of the confluence of these three streams forced the issue onto the agenda anyway.

The Technological Revolution

As Langdon Winner remarks in an article on the advent of computers and advanced communication technologies, contemporary attitudes towards the new technology are often framed in powerful metaphors of revolution and paradigmatic change.¹⁷ This is certainly true in the telecommunication industry. One scholar contends that we are currently in the throes of a "revolution of such pervasive scope and profound impact that it may well match the Industrial Revolution in its effects,"¹⁸ and another exclaims that "the technological genie is out of the bottle, never to return".¹⁹ Plain old telephones (known in industry jargon as POTS) are being upstaged by an ever-increasing list of PANS (Pretty Amazing New Services), including such 'intelligent' machines as copiers, computers, fax units, and cellular radios. Link-ups can be made by satellites, cable TV or terrestrial microwaves, and can be offered by common or specialized carriers, and on an inter-corporate or private basis. The convergence of telecommunications and computer industries, as well as massive growth in the information sector, have meant considerable changes in what were previously stable patterns of

industrial organisation.²⁰

The over-riding significance of these developments is the extent to which they make it possible for competition to the established telephone companies to provide equivalent or similar services using the new technologies. Traditional concepts of natural monopoly and regulation are therefore being challenged. A central feature of conventional utility regulation is restriction of entry, but as Alfred Kahn put it, "the key question is, 'if competitors want to enter, how natural can the monopoly be?'"²¹

Competitors most certainly do want to enter, but only in certain sectors of the industry. While the long-distance market looks inviting, the local market does not, because most of the characteristics of a natural monopoly still apply there. This fact is crucial to the debate about deregulation. The other significant effect of the new technology is that the tele-communications network has become much more than a device for providing traditional POTS to businesses and households. It has become an important input for a wide variety of industries, and business users are demanding ever greater and more sophisticated technical capabilities from the networks. As a representative of the Department of Communications acknowledged to a meeting of Telecommunications carriers:

under conditions of advanced industrialization, telecommunications can no longer be considered as simply one among a number of important industrial sectors; rather it must be seen as the nervous system of the entire economic order.²²

Indeed the technological revolution has shifted the central focus of the telecommunications industry from universal service to international competitiveness, with significant consequences for evolving government policy.

Pressures for Convergence with the U.S.

In the United States the response of government and regulatory officials to this technological revolution has been to partially deregulate the

telecommunications industry, and allow competition into the long distance sector.

In the early 1980s 'Ma Bell' was swept up in an tide of deregulation which engulfed other previously controlled industries such as airlines, trucking and banking. Its divestiture, following other pro-competitive rulings by the Federal Commission on Communications (FCC), went a long way towards breaking up the monopoly, although complete deregulation has certainly not yet been achieved.

The U.S. experience has ensured that deregulation would be on the agenda for Canadian policy makers. As a result of deregulation in the U.S. long distance costs have come down (see below) and Canadian businesses see this as a threat to their competitiveness. Because of the proximity of the U.S. border it is technologically possible for Canadian businesses to bypass the domestic system and link into U.S. systems. As well, Free Trade and juxtaposition with our American neighbours create pressures for convergence in many other policies besides telecommunications.

In addition, the ideology of the Canadian Conservative government, which has now been in power for 8 years, has very closely resembled that of recent American governments. In much of the Western world Keynesian economics, with its promise that governments might control their national economies through manipulation of demand and supply, became discredited in face of world-wide recessions. Monetarist policies, which principally attack inflation and decry expenditure by the state, took over. Although 'Reaganomics' undoubtedly went further down this road than the Mulroney government has seemed inclined to do, for many conservative philosophers any kind of government rule or regulation is a form of coercion.²³ Deregulation is therefore linked to the issue of personal freedom: i.e. personal liberty comes with freedom from state 'interference' in private actions. As Pat Marchak puts it, "the New Right sees itself on a moral crusade to free humankind from the bondage of government intervention."²⁴

It is obvious from this discussion of how deregulation has come onto the political agenda that there are considerable pressures for Canadian policy to converge with that of the United States. A large part of this thesis will be devoted to explaining why these pressures have so far been resisted. But in order to follow how the story has unfolded it is important to understand at this point the most salient consequences of deregulation.

THE CONSEQUENCES OF DEREGULATION

The central rationale for competition is that it normally results in a more efficient market place, allows for greater consumer choice at the lowest possible prices and, especially in periods of rapid change, provides for a better allocation of investment capital and other scarce resources. Business leaders and most economists agree that a sophisticated telecommunications infrastructure is essential to economies in the late twentieth century, and that the more competition there is the more innovation and productivity will occur. Freed from the 'crippling burden' of regulation, the argument goes, businesses will have more time and money to spend in research, and the once-monopoly telephone companies will be forced to lower their prices to meet the competition.

Indeed, in the United States, the opening up of the market to competition has resulted in lower long-distance rates, and choice of service from different suppliers. Since the opening of the terminal equipment market (which has already been allowed in Canada as well), there has been an explosion of telephone styles and capabilities - novelty phones, cordless phones, phones with memory, sophisticated business phone systems, etcetera.

But there's a rub. And the rub lies in the fact that the new equipment and the new services are only useful when connected to telephone lines - lines which continue to exhibit natural monopoly characteristics.

It is not possible, as mentioned above, to separate the provision of long-

distance and local services, because they utilize the same basic switches and loops. Before the advent of modern technology, long-distance calls had to pass, like local calls, through the old copper wires. Now, long-distance calls may be transmitted by microwave, satellite, or optical fibres, and this is where competition is feasible. The basic local exchange, however, with which the long-distance apparatus must still be interconnected, remains a natural monopoly, and there is not yet any technology which could replace it. Consequently, potential competitors are not breaking down the doors demanding entry to this sector: they are happy to leave it to the franchised telephone companies.

Deregulation, or the admittance of competition, undermines service universality. The telephone companies have been subsidizing local costs from long distance rates, and rural customers from urban ones. Entry centering on the most lucrative markets ('cream-skimming') invariably drives prices towards actual costs there, leaving the telephone companies insufficient funds with which to cross-subsidize. The telephone companies are then forced to 'rate rebalance', thus raising the prices of local calls and the rates to rural areas. This is exactly what has happened in the U.S. While long distance rates have come down and the consumer has a plethora of choice of new products, the price of local calls has soared. In some areas local measured service (LMS) has been adopted and customers are charged for every local call. Schiller describes the situation:

In the U.S. the entire industry's centre of gravity has already shifted away from delivery of basic telephone service toward exploitation of specialized enhanced services targeted at businesses and wealthy individuals ... the amazing truth is that nobody wants to be burdened with the all-too-real, enormous historical costs of the U.S. telephone network ... [but] the fact remains that ... somebody has to pay. The residential consumer has been fingered for the job.²⁵

In Canada the CRTC has heard arguments from the telephone companies that full rate rebalancing would result in dramatic rises in local rates and large numbers of subscribers being forced to drop off the network.²⁶ Even the potential

competitors and their economist supporters do not disagree about these consequences; they only dispute their significance.

It is very seldom that a government policy can create winners without at the same time creating some losers. In the case of policy regarding deregulation of telephones, the winners are big business and potential competitors. The losers are most residential customers, small business, rural areas, the poor and disadvantaged. In other words, eliminating the cross-subsidization which is made possible by regulation and monopoly control involves a fundamental redistribution of income. This has been a crucial factor in the policy debate.

FOOTNOTES to Chapter 2

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2. Schmalensee, R., The Control of Natural Monopolies, Lexington Books, Toronto, 1979, p. 1.

3. For the fascinating history of how the various telephone companies and their regulatory bodies were formed, including the predatory tactics of Bell Canada and the response of public-minded provincial authorities, see (inter alia) R. Babe, Telecommunications in Canada, University of Toronto Press, 1990, and M. Denny, Government Enterprise in Western Canada's Telecommunications, Discussion Paper No 301 for Economic Council of Canada, Ottawa, 1986.

4. Bell Tel was originally created by an Act of Parliament and endowed with powers to construct telephone lines throughout Canada alongside all public rights of way, whether provincially controlled or not. This was contested by Quebec and other provinces, who enacted legislation governing the installations within their boundaries. Britain's Privy Council also ruled that Bell's local and long distance operations (covering both Ontario and Quebec) were not divisible for purposes of regulation. As a result Parliament declared Bell's works to be "for the general advantage of Canada". Promoters of BC Tel apparently chose to have their company regulated by the federal government, having apparently had some previous experience with provincial regulation! (see T. McPhail, and S. Hamilton, eds,

Communication in the 80s, Conference Proceedings, University of Calgary, 1984, p. 16).

5. McPhail, p. 4.

6. Preamble to Section 91, Constitution Act.

7. Paragraph 92(10) of Constitution Act.

8. Subsection 92(10), (13), and (16) of the Constitution Act.

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21. Alfred Kahn, quoted in Schmalensee, inter alia.
22. McPhail, p. 7
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CHAPTER III:

CANADIAN POLICY: PROTAGONISTS AND PROCRASTINATION

Introduction

Government policy is never, of course, made in a vacuum. The previous chapter explained how, after over half a century of relatively stable and uneventful regulation of the telephone industry, the question of deregulation came on to the political agenda. The purpose of this chapter will be to describe the government's irresolute and incremental responses to the pressures for deregulation, and the interests within our plural society which have influenced these responses.

The first stirrings of change in the telephone industry occurred with the creation, in 1968, of a new Federal Department of Communications. The rationale for this was that "telecommunications legislation and regulation as it now exists is, to a considerable degree, uncoordinated and in certain areas inadequate."¹

Guided by 'Green'(1973) and 'Grey'(1975) Papers incorporating 'Proposals for a Telecommunications Policy for Canada', the creation of the CRTC (1976) was seen as the first stage in a complete review of policy; the second stage of which was to establish for the first time a set of national objectives similar to those governing the regulation of broadcasting. A 1977 position paper recommended recognition of a "national" dimension, and a "proper equilibrium between national and regional interests in the regulation of all telecom carrier services." In addition, the federal government's policy paper intimated that some services "might perhaps better be provided in the public interest under competitive conditions."² However when Trudeau tried to achieve provincial agreement to entrenching communications policy in the constitution in 1980, negotiations broke down completely.

In 1985 the then Conservative Minister of Communications Marcel Masse rationalized the government's continuing indecision in terms of due care and attention: "We are talking about an excellent telecommunication system, which has taken 100 years to build. I cannot and should not allow it to be changed overnight, to the detriment of the Canadian public."³ The Minister went on to outline the four principles which would "guide him through" yet another review of telecommunications policy: universal access to the telecommunications system at affordable prices; a commitment to ensure that the telecommunications sector remains at the forefront of technological progress and benefits all Canadians; maintenance of international competitiveness; and a 'uniquely Canadian approach'. Subsequent Ministers have all reaffirmed their commitment to these principles.

The pivotal problem for the government, of course, is that the second and third principles conflict with the first. Beneficiaries and losers are different, depending upon which principle takes precedence. Let us look at the protagonists who see themselves as these potential beneficiaries or losers with regard to changing telecommunications policies.

Interest Groups and their Stakes

The chief protagonists in favour of deregulation are big business and the companies, such as Unitel, who want to be able to compete with the monopoly telephone companies. Deregulation would bring down the cost of long-distance calls and fax messages which, because of increased reliance on this technology throughout the business world, is becoming a ever greater percentage of business expenses. More and more sophisticated telecommunications networks are essential for the movement of information within and between economies. Two major business groups - the Canadian Business Telecommunications Alliance (CBTA) and

Communications Competition Coalition (CCC) -have formed to pressure government into deregulating and allowing competition into the telecommunications market.

In fact long distance business calling is highly concentrated, and the top 1% of business locations accounts for approximately 50% of total switched calling minutes.⁴ (For B.C. Tel, for example, 20% of its business subscribers generated 89% of its long distance revenues, and in New Brunswick 3% provide 53% of total business revenue.⁵) Nearly all the entry strategies are targeted at the needs of these large users for specialized and advanced communications. (A British workshop on 'universal service' identified the "fundamental distinction" as far as telephone policy was concerned as being "between large businesses and everyone else".)⁶

The stakes for potential competitors are fairly obvious: they want a piece of what they see as a lucrative pie. At the moment they are only asking for entry into the long distance market, because this is where the profits would be.

However even though at the moment it would be uneconomic for them to try to compete in the local exchange systems, if local rates were pushed high enough, the alternative systems that were not previously competitive could become so. In other words, it is certainly in the interests of telecommunications manufacturers to push for a rise in local rates because then they might be able to enter a market previously closed to them by price, rather than by regulation.⁷

Supported by an array of economists, potential competitors such as Unitel and BCRL also argue that competition benefits the economy, as it allows greater consumer choice and provides for a better allocation of investment capital and other scarce resources. (See Chapter VI for further discussion of this viewpoint.)

Although the major telephone companies, Bell Canada and BCTel, originally

opposed the advent of any competition, they seem in the last five or six years to have become reconciled to the inevitability of it, and at the last two CRTC hearings have concentrated their energies on making the argument for rate rebalancing: asking that they may be allowed to raise local rates in order to offset the cross-subsidization from long-distance calls. They are also arguing strenuously for large 'contributions' from the would-be competitors to pay for the costs of interconnection to their networks. The applicants, on the other hand, assert that they must be protected from the advantages of incumbency enjoyed by the existing telephone companies. (See Chapter IV).

Two groups are joined in opposition to deregulation: the telecommunications workers union, and consumer advocates. The dominant union in the telecommunications industry, the Communications Workers of Canada (CWC), has been very active since the original threat of deregulation emerged with CNCP's application to the CRTC in 1984. Looking warily across the border the Canadian union sees that AT&T's workforce has been considerably reduced,⁸ and what was previously considered a job for life has become highly insecure. With the entry of non-unionised companies into telecommunications and the establishment of non-unionised subsidiaries, what used to be a 100% union membership is now down to 35%.⁹

At the same time, as Banting points out, Canadian unions have traditionally seen themselves as champions of the underdog, and have allied themselves with social policy groups to promote fair and comprehensive welfare policies.¹⁰ In this role the CWC and its branches have made common cause with the consumer and social policy groups in pointing out the effects of deregulatory policies on the poor and disadvantaged.

Spurred on by American statistics, and using arguments of equity, groups such

as the Consumers Association of Canada, the Canadian Council on Social Development, the Social Planning Council of B.C., the Public Interest Advocacy Centre, Federated Anti-Poverty Groups, Old Age Pensioners' Organisations and Senior Citizens' Associations have appeared before the CRTC to argue that the telephone is a basic and indispensable part of modern society, which the policy makers should ensure is available to all who need it, regardless of their income. (See Chapter VI for the central debate regarding these arguments.) As well as intervening in CRTC hearings public interest groups have formed coalitions with other groups such as the unions and some small businesses, and have sponsored a well-advertised visit to Canada by Ralph Nader, who has now recanted from his original pro-competition position and is warning Canadians not to make the same mistake as their U.S. neighbours.

Provincial Governments

No matter what policy area one is studying, in Canada the role of federal/provincial relations is always preeminent. Telecommunications is no exception.

As was pointed out in Chapter II, the three Prairie provinces own their own telephone companies, and the four Maritime provinces exercise regulatory authority over the companies in their territories.

As a study commissioned in 1989 by the Communications Ministers of the Prairie provinces notes, telephone services have always been a critical element to life in the Prairies. "Vast, thinly populated areas, with people living in often times harsh climates, have always made communications both very important and very difficult to provide."¹¹ Public ownership of telecommunication networks was established very early in the settlement of all these areas. In the first session of the Alberta legislature in 1906, the government passed its first telephone legislation entitled "An Act Empowering Municipalities to Establish and

Operate Telephone Systems."¹² There was considerable fear among officials and public that the private monopoly, Bell Telephone, would not provide services throughout the sparsely populated territories at a reasonable price, and this was buttressed by the conviction that telephones were a public utility like water and electricity.¹³

The objectives of these provincial governments have remained the same to this day: "the provision of high-class telephone services to provincial residents, accessible to all at a reasonable rate structure."¹⁴ These governments see communications as fundamental to regional economic and social development, and have used their telephone companies as an instrument to achieve this. Without exception they have argued before the CRTC that competition would result in seriously detrimental impacts on both their rural and urban subscribers.¹⁵ As Newfoundland Tel commented at the latest hearings, in a competitive, market driven environment, investment decisions are geared to anticipated returns. If rural areas don't appear to generate returns, then investment won't be made there.¹⁶

Federal-provincial conflicts over telecommunications first burst out into the open at a joint conference in 1973, when the federal government released its position paper, "Proposals for a Communications Policy for Canada", in which it intimated for the first time that new entrants might be permitted. The provinces' response was to deny the federal government any significant decision-making power, and this remained their position through several years of almost annual conferences. Communications was part of the agenda for the September 1980 Conference of First Ministers on the Constitution, and at that time the Trudeau government was willing to concede responsibility over intraprovincial operations of the telecommunications carriers to the provinces and yield limited

responsibility over cable systems. However, the federal government proposed further to retain for itself exclusive responsibility for national and satellite communications carriers, and exclusive responsibility over interprovincial and international rates and services. The provinces countered with their "Best Efforts Draft" in which there would be exclusive provincial jurisdiction over all telecommunications works and undertakings wholly situated within a province, with concurrent but paramount provincial jurisdiction over those extending beyond provincial boundaries.¹⁷ The issue proved insoluble, and no new provisions were included in the Constitution Act of 1982.

As Schultz suggests, "it is highly likely that if it had been left to the governments alone, the constitutional 'sleeping dogs' would have been let lie",¹⁸ but in 1983 the dogs were forcibly awakened when CNCP applied to the CRTC for an order requiring Alberta Government Telephones (AGT) to interconnect with it on terms similar to those which had been previously granted with Bell and B.C. Tel. CNCP had not been able to negotiate acceptable interconnection rights with any of the non-federally regulated carriers, and decided that individual negotiations with seven jurisdictions would be extremely expensive. The CRTC application was an attempt to resolve this confusion.

When AGT applied to the Federal Court for a writ of prohibition to prevent the CRTC from proceeding with the application, the constitutional issue was finally before the courts. The case was appealed through various levels, but in August of 1989 the Supreme Court affirmed that "AGT is an interprovincial undertaking ... and accordingly lies exclusively within federal jurisdiction. However, as a provincial Crown agent, AGT is entitled to claim Crown immunity."¹⁹

This ruling finally confirmed that the federal government is legally entitled to regulate all major telephone companies in Canada, owing to their provincial

interconnectedness. Alberta's immediate response was to privatize their telephone company and acknowledge that it was now to be regulated by the CRTC. All provincial companies have had to allow their customers to purchase their own telecommunications equipment, such as telephones, switchboards, etc., in order to make their policies consistent with the CRTC regulated telephone companies.

However some provinces have insisted on negotiating 'Memorandums of Understanding' with the federal government, whereby regulation will only be transferred over a negotiated period.

The Regulatory Response

As was noted in Chapter I, the CRTC has, since its inception, seen itself in a positive and prescriptive role. Until the Supreme Court decision it only regulated 70% of the industry, but its pending decision in the Unitel/BCRL case will now affect telephone systems right across the country.

Through a series of regulatory decisions the CRTC has in fact provided for a slow but steady introduction of greater competition into several areas of the telecommunications sector which previously had been treated as essentially monopolistic. Since the late 1970s the Commission has allowed terminal interconnection, facilities-based competition in data and private line voice services, and has liberalized the rules with respect to enhanced services competition and resale and sharing.²⁰ The Commission has justified its policy of regulatory forbearance on the grounds that "a) in appropriate circumstances market forces alone may be sufficient to assure 'just and reasonable' rates, and b) the costs of regulation to the industry, the regulator and ultimately to consumers and taxpayers, are not always warranted."²¹

On the other hand, the Commission has so far balked at taking the all-important step of allowing competition in long distance services, or allowing the

telephone companies to 'rate rebalance' (i.e. raise local rates in order to bring down long distance rates). In 1984 CNCP applied for permission to interconnect with part of the public switched telephone network to provide long distance service on a competing basis with BC Tel and Bell Canada. As the CRTC's report on this test proceeding exclaimed, " No more difficult question of telecommunication regulation policy has been before the Commission."²¹ In 1987 Bell Canada filed tariff revisions providing for the implementation of a rate rebalancing plan, in an obvious effort to forestall the claims of would-be competitors that they could provide cheaper long distance rates. A year later, after a comprehensive review of Bell's revenue requirements, the Commission denied them the right to rebalance, finding that long distance rates could decrease without any corresponding local rate increases. However, in a speech after the decision the Chair of the Commission stated that it considered "that significant social and economic benefits would result from rate rebalancing and the resultant reduction of rates for long distance service. It could, for example, further facilitate communications, stimulate economic activity and improve the international competitiveness of Canadian business." On the other hand, Mr. Bureau continued, "In considering any rebalancing proposal, the Commission will always be concerned about the impact of increased local rates ... [we will] not make any decisions which would jeopardize the principle of universal accessibility to telephone service at an affordable price."²²

Analytical models of public policy often develop a version of "capture theory" with regard to regulatory agencies. Theodore Lowi claims that legislation founding many regulatory agencies often calls for contradictory goals, to be resolved (or avoided and masked) by ceding tremendous discretionary power to the agencies. This power is then seized and manipulated by interest

groups - usually those whom the regulation was set up to control.²⁴ Paul Pross also notes that regulatory tribunals deal with complex and highly technical matters and therefore "often depend on the informational resources of the groups they are meant to control. [They] even - by defining very narrowly the public's right to intervene in regulatory hearings - lose the capacity to assess the broader public interest."²⁵

The CRTC, however, has not succumbed to this temptation. It has encouraged widespread participation in its hearings, stating that "in very few of the cases can all the issues be decided solely on the basis of the interests of the parties before the Commission".²⁶ In keeping with this principle, the Commission has awarded costs to intervenors, tried to give wide distribution to information, and required greater financial disclosure. In fact Schultz and Alexandroff see such liberal inclusion of broad participation as a form of capture by public interest groups, arguing that it "makes the process of accommodation and the resolution of conflicts more difficult."²⁷

Public interest intervenors certainly don't agree with this assessment. To date they have much appreciated the CRTC's openness to their perceptions and points of view. However, they are worried about the future of regulation if competition is allowed in, even on a circumscribed basis. The CRTC also regulates broadcasting and cable systems, and in this area its record is definitely dubious. In the name of "creating more Canadian choices" it has granted dozens of licences to new commercial stations, extracting in return promises of commitment to Canadian content, which are then routinely violated. Concession after concession has been made to the private sector whenever economic hardship is pleaded.²⁸ The fear is that if Unitel and others are allowed to compete in the telephone sector, they will not be held to their licensing

requirements for very long.

Lowi certainly gives an accurate description of the relationship between the government and the communications regulatory agency in his criticism that many regulatory statutes are devoid of any meaningful guidelines beyond a perfunctory and abstract proscription to regulate in the public interest. In 'normative' theory the relative roles and relationship of a government department and a regulatory agency should be quite straight forward: the department has broad policy responsibility (which should be clearly expressed in legislation) while the detailed and day-to-day decision making role falls to the regulatory agency. In practice, in the area of communications in Canada, this has not been the case.

In the absence of clear guidelines from the government, the CRTC has seen itself as having a legislative responsibility to deal with particular applications as they are presented, even when they have implications which go beyond the agency's jurisdiction, and policy has, de facto, been made on an incremental basis. The pending decision to be taken by the CRTC in the Unitel case will have enormous ramifications for telecommunications policy in Canada, as will be discussed in Chapter VI.

The Federal Department of Communications

One major problem for the Department of Communications, which applies to the CRTC as well, has been that the field of "communications" includes not only telecommunications, but also broadcasting, and culture in general. Doern and Phidd note that "the Communications Ministry is characterized by the presence of a stable of enterprises ... in [some] circumstances the lack of ministerial time and attention may prevent desired actions from being achieved."²⁹ Issues concerning the CBC and cable broadcasting have tended to dominate the agenda for the Department over the last decade, especially during the debate over the 'Free

Trade' Agreement. Telecommunications have had to take a back seat, which made life simpler for the federal government anyway, since the status quo was being defended so vehemently by many of the provinces.

Nevertheless, if the issues involved in telecommunications policy had not been so complex it would obviously have been easier for the Department to set the clear and unequivocal guidelines which are so sorely needed. In 1987 the Minister of Communications took a significant step in announcing a new 'Policy Framework for Telecommunications' which established two classes of telecommunications carriers. The first class (Type 1 carriers) included all those who owned and operated interprovincial and international network facilities, while Type 2 included value-added network suppliers (VANs) and resellers of authorized services, all of whom have to use facilities leased from Type 1 carriers. The new policy established that carriers in Class 1 would be governed in the future by the three key conditions: 80% Canadian ownership, availability of interconnection, and limited, regulated entry. For Class 2 carriers, on the other hand, there was to be open and unrestricted entry. The announcement explained that the two different sets of rules governing the operation of Class 1 and Class 2 carriers were designed to recognise the differences in the nature and economics of their businesses. The idea was to foster competition, while "ensuring that the basic integrity of the Canadian system is protected both from the point of view of local subscribers and of the sovereignty of the country."³⁰ The distinctions, while clarifying some areas, left the question of competition in the long-distance market unanswered, and the really hot potato remained in the lap of the CRTC.

The New Act

The new Telecommunications Bill which was tabled in the House of Commons on February 27th, 1992, "replaces the hodgepodge of outdated legislation" which

governed the industry to date with a "coherent statutory basis for the management of this strategic sector."³¹ The timing of the tabling of this Bill is puzzling. Five years have elapsed since the abovementioned classification announcement, and two-and-a-half since the Supreme Court decision gave the federal government complete jurisdiction over telecommunications. Why, when the CRTC decision on the Unitel case is imminent, bring in the Bill now? It is possible that the government sees the combination of the new power of 'forebearance' for the CRTC and its own new power to 'direct' as enabling the introduction of competition without explicitly legislating deregulation.

The provision which gives the CRTC the power of forbearance: i.e. the power not to regulate competitive businesses has already drawn a lot of fire. The Liberal Communications critic charges that this clause "will lead to deregulation through the back door."³² The problem is the definition of "competitive". In fact four years ago CNCP started selling private lines without approval and the CRTC asserted that it did not need to regulate because the sector was "sufficiently competitive". The TWU successfully appealed the case at the time, but the new Act will allow the CRTC to forebear whenever it so desires. Many of the newcomers and resellers in the business are hybrids, who rent some of their facilities and own others, and who provide a mixture of 'enhanced' and 'basic' services. Distinctions about who are competitive and who are not will become more and more blurred.

Under the new legislation cable companies will be allowed to provide any telecommunications service they want, without any regulation, although the Minister stated that the government would move to regulate this new part of cable companies' business "once it becomes a major source of business".³³ In theory this would give cable companies the power to offer local service, but it is unlikely that this would happen in the near future, as the huge expense would not

be worth it. This provision could prove to be the dark horse of the Act, depending on how technology progresses.

The Act also confirms both the primacy of federal jurisdiction over telecommunications already mandated by the Supreme Court and the Type 1/2 carrier distinction which was put into effect in 1987, although it goes further and gives the Minister power to licence all carriers. This latter provision has also been challenged by the Opposition on the grounds that it will politicize entry into the industry, and remove power from the CRTC. (Proponents of deregulation, on the other hand, would rather the market was left to decide.)³⁴

The Act itself does not direct policy (particularly with regard to competition), but it does give the federal government power to do so. Although of course the government should have been doing this all along, the effect of the Act should be that it will have to consult the public about policy from now on.

However there are no guidelines in the Act regarding public disclosure, and there are fears that "direction" could simply mean political manipulation without explanation. Also the power of direction prior to a case, added to the power to review after it (which the government already has), may make the role of the CRTC almost redundant.

This new Act has, of course, now to take its course through the legislative process. The Liberals are pressing the government to allow it to go to the Standing Committee on Communications and Culture, where it would be properly aired and interest groups could appear. However, the Conservatives are suggesting it may simply be 'fast-tracked' through a special Legislative Committee. The fact that it was sneaked in at this point, just after a controversial Budget, and buried by all the publicity surrounding the constitutional debates, does not augur well for the possibility that the public will get a chance to consider the Bill's implications.

In any case, as has already been pointed out, the Act does not in fact set any policy regarding competition in the Type 1 market. The government has once again left the CRTC to make the crucial decision.

The CRTC and the Unitel Decision

"There are times," John Kingdon asserts, "with the passage of a landmark legislation or the adoption of a precedent-setting decision, when a new principle is established. Once this occurs, public policy in that arena is never quite the same again."³⁵ As noted in the B.C. Government submission to the 1991 hearings before the CRTC, the decision taken in this case will define telecommunications policy for Canada. The implications and ramifications of the decision will affect the current and political structure of the industry as well as all classes of users of telecom services.³⁶

In other hearings throughout the last decade the CRTC has, as has already been mentioned, been moving closer and closer to allowing competition in all segments of the telecommunications business. After its 1987 decision to deny rate rebalancing for the time being, the Commission's Chair signalled that it considered that significant social and economic benefits, such as the stimulation of the economy and international competitiveness, could result from rate rebalancing and the consequent lowering of long-distance rates.

At the same time, however, Mr. Bureau reiterated the Commission's commitment to the principle of universal accessibility at an affordable price, and this, of course, is what has been making the decision so difficult for the Commissioners.

At the moment a decision is promised for June, which will mean that it will have taken nearly a year to reach a resolution.

The CRTC may, indeed, find itself in an untenable situation. Janisch concludes that "regulators are likely to find, when facing the high tide of technology, that they possess Canute's more limited powers rather than those of

technology, that they possess Canute's more limited powers rather than those of Moses."³⁷ Commentators from both Britain and the States argue that regulatory bodies, faced with an ever-increasing and burgeoning technological sphere, and perpetual challenges, cannot respond effectively. Instead they end up deciding that the only way to regain some control is to deregulate, and allow competition.³⁸ However, any power that they initially regain is then challenged again, as we see from the pressure for even further deregulation in the U.S.

Whatever decision the CRTC eventually makes in the Unitel case, it will almost certainly be appealed to the Cabinet, which has always had the power to "vary and review". Public interest groups and the TWU hope that if a national debate is not generated by the new Telecommunications Act, it will be inspired by such an appeal. Certainly the issues need to be understood and discussed in an open, public forum.

Conclusion

This chapter has given an overview of the stakes for Canadian protagonists in the telecommunications debate, and the hesitant steps which have been taken by both the government department and the regulatory agency in trying to develop a coherent policy.

One of the greatest problems for everyone has been the difficulty in evaluating what effects deregulation will have on both the economy and the social fabric of society. This will be the subject of the next chapter.

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34. Globe and Mail, February 28th, 1992, p. B3.
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38. Hills, p. 41.

CHAPTER IV: DEREGULATION AND ITS EFFECTS

Introduction

The most salient consequence of deregulation in the telephone industry - the removal of cross-subsidization and its subsequent effect on both long distance and local rates - has already been discussed in Chapter II. In some ways it has been easy for Canadians, both policy makers and protagonists, to analyse deregulation's effects by observing the experience of the United States since the break up of AT&T and the advent of competition over a decade ago. The American experience will therefore be described in some detail in this chapter. As will become clear, deregulation has in fact resulted in a form of re-regulation in the States, and telecommunications policy there is still in a state of flux. There is still considerable confusion about causal theory, the fair allocation of costs, and the division of responsibility for ensuring affordable access to the telephone system. This confusion, involving conflicting definitions and prognostications, is currently reflected in the presentations by Canadian protagonists to the CRTC, and in the negotiations between the provincial and federal levels of government in Canada, as we shall see.

THE AMERICAN EXPERIENCE

For many decades the monolithic company of AT&T (affectionately known as 'Ma Bell') served the interests of Americans well. "It was an article of faith within the Bell system that caring for the public would allow it to earn the return to which it was entitled under regulation".¹ AT&T was also so enormous and all-encompassing that challenging its monopoly seemed an impossible task. Schmalensee writing as late as 1979 commented that "The telephone industry in the United States poses special problems, since AT&T's size, relative to other corporations in the economy, serves to make take over of the bulk of the

telephone industry virtually impossible."²

However, both the Justice Department and the FCC began in the 1970s to nibble away at the edges of the AT&T elephant. The structure of the company was controversial not primarily because of its size, but because it operated in both competitive and monopoly markets and because it owned most of the local telephone networks, which were needed by AT&T's competitors to provide their services.

Beginning with a 1959 decision (the "Above 890 "decision), the FCC gradually allowed competition in the provision of private lines for long distance service.

Over the next two decades, a series of court cases and agency actions (including the "Carterphone" and "Specialized Common Carrier" decisions) continued this trend, while new rivals became an active and vocal political force. Competition in the provision of long distance services forced AT&T to lower prices in this field, and this began to undermine the sources for the policy of cross-subsidization (see Chapter II). In 1974 the Justice Department filed an anti-trust suit, arguing that "AT&T had both the incentive and opportunity to engage in anticompetitive practices and that it had done so repeatedly in the past".³

Beleaguered on all sides, AT&T in 1976 and 1977 led an effort to restrict competition by statute. The proposed bill, which would have prohibited 'duplication' (i.e. competition), was nicknamed by opponents "the Bell bill", and although it had considerable support (especially from the millions of company employees and shareholders), Congress did not pass it, or even seriously consider it.⁴

The reason for this was that by the late 1970s a remarkable political consensus was forming in the United States regarding the desirability of pro-competitive deregulation. As Derthick and Quirk describe it, the ideology was embraced by not only all the elite and institutional actors - the White House,

the House and the Senate, the Courts and the regulators - but by the consumer movement as well.⁵ Policy entrepreneurs such as Ralph Nader and others convinced consumers that competition could only be beneficial, although they later regretted this. (See below.) In fact, as Temin comments, "the changes that took place were expressed in terms of the technology of communications, but the pervasiveness of deregulation in the late '70s demonstrates clearly that ideology, not technology, was the prime mover."⁶

In January 1982 AT&T (now under new leadership) and the Department of Justice jointly announced that they had reached a settlement in the long trust case, and the agreement was embodied in a Modification of Final Judgement (MFJ), which then became the basic blueprint for divestiture and deregulation. AT&T was broken into eight parts: seven regional companies which provided local exchange services (henceforth known as Bell Operating Companies, or BOCs), and an eighth which was permitted to provide competitive services in unregulated markets. New firms wishing to enter the interexchange (long distance) market now have full access rights to the locally switched networks of the naturally monopolistic and still regulated telephone companies providing local exchange service.

There are now three major networks competing in the field of telecommunications - AT&T, MCI and US Sprint. In customer equipment most markets are now structurally competitive, and long distance charges have, as predicted, fallen. On the other hand, local rates have soared. By requiring that access to the local exchange be non-discriminatory and unbundled, the MFJ forced the FCC to devise a new system of pricing and cost recovery, with the result that local exchange service prices have risen sharply during the 1980s. Prices have increased most rapidly in the least urbanized states and, within these states, in the smallest communities.⁷

Deregulation and the General Public

At the time of the break-up of AT&T the consumer movement was favourably disposed towards deregulation in general because of its perception that a) the costs of regulation were always passed onto the consumer and b) regulatory agencies were at best incompetent and at worst 'captured' and corrupt. Politicians in favour of deregulating telecommunications were seen as standing up to and winning against the big business monopoly 'Ma Bell'. 'Nader's Raiders', eager to expose the wrong doing of regulators, produced a series of books on the incompetence and pro-business bias they believed they found in government agencies. There was no evidence, according to commentators, that consumer representatives, except for some state regulatory commissioners, "shared the Cassandra-like warnings about the threat to universal service that AT&T executives issued in this period."

This consumer complacency changed dramatically in the years following divestiture. Passivity and satisfaction gave way to outrage, especially when the FCC brought in sizable 'subscriber access' charges, which were designed to compensate for the abolition of cross-subsidization, and which hit local telephone subscribers very hard. Congress, suddenly waking up to the political dangers of the situation, leapt into action with a proposed 'Universal Telephone Preservation Act', and although in the end no legislation was passed, the FCC was forced to drop its original proposal and proceed only with charges that Congress would accept. In fact the proposal engendered so much controversy that the Commission came within four Senate votes of having its telecommunications responsibility severely reduced. The proceedings in Congress aimed at modifying the Commission's proposals reflected considerable confusion over the causes of local rate increases; but what the politicians did finally understand were the

distributional aspects of the deregulation.'

By then, however, it was too late. "One could perhaps sympathise with those AT&T executives who might have wistfully asked: 'Where were you when we needed you?'"¹⁰ Despite the Congressional opposition the FCC has over the last decade gradually introduced higher and higher 'access' charges. Customers faced with a plethora of new choices they do not want and cannot afford miss the simplicity and security of the old system. The monthly telephone bill, as a Los Angeles Times reporter relates,

has become a modern Gordian knot ... There are basic charges and universal surcharges, Zone Unit Measure charges, tax (local) and tax (federal). There's a charge for policing the telephone company and another to subsidize telephone service for the deaf and disabled and another to call 911. And there's also a monthly charge for access to the long-distance companies.¹¹

Rates vary from state to state and from company to company. Some customers pay a flat monthly rate, others pay for every call in 'Measured Local Service'. Long distance calls are separated into shorthaul intrastate calls and longer interstate calls (and some of these rates have fallen dramatically while others have declined very little.)

In sum, Alfred Kahn, a self-confessed proponent of deregulation, admits that although the business community has seen "real benefits of competition, the subscriber to basic telephone service, I suspect, would take a great deal of convincing that he is better off because of it."¹²

Re-regulation, rather than Deregulation

Divestiture has not in fact meant complete deregulation. The FCC has not retired from the field, the nature and extent of competition in telecommunications services are far from clear, and regulation has not withered away. According to Richard Vietor "the pricing structure created by past policies continues to foil the market structuring dictum of Judge Harold Greene (in the MFJ)",¹³ and the

monopolistic segregation of the BOCs is under constant seige. Judge Greene has become a de facto regulator and his court has consistently refused requests to waive the 'core' restrictions arising out of the original settlement which barred the BOCs from providing long-distance and enhanced services. As part of the competitive battles, the non AT&T carriers seek stringent regulation of AT&T in order to limit its competitive responses to them, while AT&T seeks freedom from regulation.¹⁴

The U.S. Communications Act (1934) gives the FCC the authority to regulate the interstate portion of the industry, and to regulate the intrastate portion to the extent that it "significantly affects the FCC's interstate policies".¹⁵ Otherwise, however, regulation of the intrastate portion is left to the states. As we saw in Chapter II, this kind of regulatory division regarding the telephone network is fraught with difficulty. A U.S. Supreme Court ruling in 1986 which confirmed the dual regulatory structure also acknowledged that jurisdictional tensions would probably arise as a result of the fact that interstate and intrastate service are provided by a single integrated system.¹⁶

In fact divestiture and deregulation have created innumerable problems for state regulators. By July 1986 regulatory change was well under way, but diverged widely in substance and process from state to state.¹⁷ Some states have let the 'free market' reign, others have increased their own regulatory activity. Some are cautiously deregulating (defined by one analyst as "regulation by those who favour deregulation, but not in their lifetime".¹⁸) Unequal population distribution has meant that some states have suffered more than others from the 'unbundling' of inter-state rates. (By one reckoning if network access charges were calculated according to the marginal cost factor then they would be around \$15 in Kentucky and \$42 in Nevada.¹⁹) States worried about

the effect of deregulation on basic service have adopted a variety of regulatory arrangements including freezes, moratoria, regulatory compacts, rate caps, indexation devices and variable rates of return.²⁰ And some have felt it necessary to introduce income assistance programs to help those hit hardest by rises in local rates, while others have not.

Lifeline' Programs

In response to pressure from many state regulators, the FCC has itself introduced two programs in an attempt to offset the damage done to rural and urban residential consumers. The 'Lifeline Program' allows a reduction in fixed charges to offset the federal subscriber-line charge, and 'Link-Up America' reduces the 'access' charge. In both cases these programs are only available to low-income households satisfying a means test, subject to verification. However there is no single formula utilized by all states that qualifies individuals for these discounts. Only 29 states actually participate in the FCC programs, while other states have either developed their own or don't bother at all.²¹ Each state has developed its own unique qualifying criteria, amounts of benefits, and funding for their particular programs.²² In some cases the telephone companies in the state are required to absorb the costs of the support programs, others include a reimbursement mechanism from the state government, still others tax all subscribers.

In the opinion of some critics, the telephone assistance programs have so far been "a tattered bandage on the cost-shifting wound and a pitiful after-the-fact substitute for sound public policy."²³ Other analysts contend that they have had a significant impact on maintaining penetration among low-income families. However even these apologists admit that there are still millions of Americans without telephones and that the reason "might well be economic".²⁴

A Policy in Transition

On the whole, whether recent price trends and growing competition constitute improved performance for the industry as a whole depends to some degree on who is making the calculation. Deregulation enthusiasts like Janisch and Schultz point to the fact that

telephone customers have an unimpeded right to use telecommunications equipment of their own choice ...[and] equipment and service options that only the very largest customers previously enjoyed have been 'democratized'... Business users in many central business districts also have a local fibre optic or microwave network alternative to the local exchange telephone company, at least on a private line basis."²⁵

The primary beneficiaries from divestiture and the opening up to competition in the U.S. are the most intensive users of telecommunications services who can take advantage of new competitive options. However residential and small business customers who use ordinary telephones primarily for local calling are definitely worse off, especially those in smaller communities. And, in states where these groups constitute an effective political constituency, state regulators are feeling considerable pressure. The regulatory scene is very confused, with some people calling for stricter policies, while others want complete relaxation of all strictures. As Alfred Kahn observes, "we are in transition, but to what is very unclear."²⁶ An unfinished debate still rages among American policy makers as to where the successor group of companies and the reorganized, divested AT&T are yet really 'competitive.' "The FCC," maintains one analyst, "can never be certain it has created a 'natural' market or whether, like a piece of clockwork machinery, that market has to be wound up again every few years by a regulated reconstruction of the industry."²⁷

Telecommunications policy in the United States is still, nearly a decade after the divestiture of AT&T, in a state of flux. The FCC has tried to bring in what it sees as 'rationalizing' regulations (primarily in the shape of

subscriber access charges), but these have been strongly resisted by Congress. Members of Congress are divided on the issues. Having agreed that they preferred competition to monopoly, now they cannot achieve consensus on the extent to which competition is desirable, or on the best approach to pricing regulated services. Congress has failed to enact any substantial change in laws governing the industry, and after years of debate on various proposed bills, there is still no definitive Communications policy. Many of the dilemmas facing Canadian policy-makers before deregulation are still facing Americans after deregulation has effectively taken place. This cannot help but affect the decision makers in Canada.

CONFLICTING DEFINITIONS AND PROGNOSTICATIONS

While Canadians can look to the U.S. experience for evidence of how deregulation has worked there, the continuing uncertainties of the transition process raise further questions about the future for a deregulated industry both in the U.S. and Canada. Presentations to the CRTC in the current Unitel case incorporate differing interpretations and definitions which, as Thibault and Walker would put it, are based sometimes on cognitive conflict and sometimes on conflict of interest.¹⁸ In other words some of the differences represent genuine lack of firm technological evidence one way or the other, and others reflect incompatible paradigms or values. (This latter aspect will be discussed further in Chapter VI.)

How much will prices really change?

The first question most Canadians would probably ask regarding this debate is how much would long-distance rates really come down, and local rates go up? The answer to this is as slippery as an eel: it varies with every analysis one reads. One economist in favour of competition assesses that "if prices [were]

set at marginal cost for each type of service, local service rates would have to increase by 70%, while long distance rates would decline by a comparable amount."²⁹ A study commissioned by the Prairie Provinces forecast a rise in rates under competition of as much as 140% in urban areas and 168% in rural.³⁰ The B.C. Government economists estimate that, even with contributions from Unitel, local rates would have to increase 24.6% by 1996 and 43.6% by 2002.³¹ In the U.S. it varies from state to state and from carrier to carrier. Proponents of deregulation such as the Communications Competition Coalition probably do not help their cause with advocates for the poor by making such remarks as, "So what if local rates go up \$10 or \$12 a month? That's beer and a pizza."³² One thing that is fairly predictable is that local rates would increase more in Canada than they have in the States, because of our higher per capita costs due to our smaller population and its distribution over huge distances.³³

Causal theory: the allocation of costs

As has already been explained, the physical indivisibility of the telephone network is a very important factor in the whole debate. The problem of developing cost measurements that appropriately reflect cost causation is particularly difficult because a high proportion of the network costs are incurred in the process of providing multiple services.

It is important for a start to distinguish between the terms "access" and "local service". Access to the telephone network is the ability to make or receive telephone calls, and is a fixed cost. Once a person has access he or she can use the network to make or receive local or long-distance calls. Therefore access costs are joint costs, and as such there is no way, other than arbitrarily, to allocate the costs to any one service.³⁴ The separation procedures adopted in the U.S. have led to much controversy, with some parties

claiming that too much of the cost is being allocated to local service, while others claim that it is not enough.³⁵

The conventional wisdom, with statistics to back it up, is that long distance toll service has been subsidizing local service. However a growing number of critics argue that local exchange service generates profits, and "only curious accounting practices create the illusion of a necessary subsidy from long distance."³⁶ These critics also point out that each different type and class of service offered by the telephone network imposes different technical standards and costs on the common system. The cost of the local exchange plant, which would be a certain amount if only providing a basic local service, is affected by the cost of providing an increasing variety of 'premium' services. (High-speed data communication, for instance, requires different, higher-quality signals because computers are unable to filter out noise on the line that is indiscernible to the human ear.) The principle of allocating cost based on cost causation, economists agree, requires that the allocation method identify the incremental cost incurred by the more complex services and assign them to the cost-causer. As Horwitz points out, in order to keep large sophisticated business users in the system, telephone companies upgrade their facilities and then add these costs to the ratebase, which is then charged out to the basic residential user. "Hence the new environment of competitive telecommunications in effect reverses the traditionally alleged direction of cross-subsidy: the new-market driven cross-subsidy goes from basic and local users to sophisticated and business users."³⁷

Gabel observes that regulators will have to come to grips with the local exchange common cost problem, or for all intents and purposes give up the task of regulation. The FCC in the U.S. has largely chosen the latter path, electing

to allocate as far as possible the interstate share of the common and joint loop costs back to the local telephone subscribers, and to use 'relative use' as an allocator of common costs between basic and information-age services. However, Gabel argues that regulators should be concentrating on the task of determining the independent or stand-alone costs for local service, for long-distance service, and for enhanced and specialized services, so that they can be fairly allocated to their individual users.³⁸

Contribution Payments

All parties appearing before the latest CRTC hearings did in fact agree that, because of the common infrastructure, traffic which utilizes access facilities should bear responsibility for the recovery of access costs, whether local, toll, or other competitive network services. Therefore contribution payments should be made by all applicants to reflect these responsibilities.

"Contribution, its definition and level of payment, is the single most important factor to be determined in the event of introducing competition in the MTS/WATS market," contends the B.C. Government's CRTC submission.³⁹ However, in this matter as in many others, the participants do not agree on the concepts. In Unitel's view contribution would be required for calls that are interconnected at both ends of the public switched telephone network, but not for calls which access the network in other ways, which Unitel considers would be newly stimulated traffic.

The telephone companies, on the other hand, view contribution as a social subsidy of toll surplus revenue to basic service, and therefore argue that contribution obligations should be shared equally among long distance voice service providers.⁴⁰ Once again, designing an accurate contribution test is made exceptionally difficult by the cost-allocation problem.

Another area of concern raised by many participants in the CRTC hearings was the potential unsustainability of currently proposed contribution levels. There was a suspicion on the part of many that once competitors had gained access, they would begin to plead unfairness or economic inefficiency regarding the size of their contributions. The CRTC's record regarding holding broadcasting stations to their promises does not, as previously mentioned, inspire much trust.

Offsetting Costs and Benefits

When is a cost not a cost, or a benefit not a benefit? And when can they be said to offset each other? The language of the telecommunications debate is replete with references to economies of scale, productivity, cost/revenue imbalances, and 'threats' of drop-off and bypass.

The applicants and respondents before the latest CRTC hearings disagreed fundamentally about the impact of competition on their revenues. Unitel's position was that even though the telephone companies would lose revenue in a competitive environment, because prices will come down, the combination of non-price stimulation, productivity improvements, lowered costs from carrying less traffic, and contribution payments from Unitel would more than compensate for the revenues that would migrate to Unitel. The telephone companies argued that not only would their revenues be lower, but that their costs of providing service would be higher. The reasons for this include the loss of economies of scale, which reduces the rate of decline in current unit costs; the additional costs associated with the required switch modifications to enable interconnection to occur; and the ongoing costs associated with interconnection.⁴¹

Voluminous amounts of evidence were submitted to the latest CRTC hearings concerning economies of scale. The telephone companies (especially the smaller provincial ones) believe that their present economies of scale would be

jeopardized by competitive entry, and that there would be consequent decrease in productivity. The applicants claim that such economies are not necessarily indicative of the most efficient or cost-effective industry structure, and that entrants might introduce new technologies which would reduce costs.⁴²

The telephone companies also pointed out that the cost-revenue imbalances in the long-distance market varied considerably according to whether a call originated from a remote location or a larger centre. As the remoter areas are subsidized by the more heavily populated ones, the cost-price imbalances would create considerable potential for 'cream-skimming' by entrants, who could focus their efforts on capturing business customers in larger population centres who have high volume of long distance calling. BCRL disputed this, saying that it did not believe that route-averaged pricing was necessary because it was a form of subsidy, resulting in an artificial constraint on the attainment of a fully competitive market.

One factor that no-one could dispute was that expenditures on advertising and marketing are likely to increase dramatically in a competitive environment, as parties fight for market share and consumer awareness of new products offered.

(AT&T is now the largest advertiser in the US, spending \$600-700 million annually.) Some intervenors in the hearings wondered whether these costs would not offset other savings, and felt it would be germane to ask residential consumers whether they would prefer to have that kind of money spent on fighting for their custom or used to subsidize their rates.

There was also some debate about how much influence a change in telecommunications costs would have on an industry or firm's ability to compete more effectively in either the Canadian, U.S., or global market. Given the fact that such costs are but a small percentage of most firms' overall expenses (less

than 1% by one estimate), it would probably take a substantial change in telephone usage to affect their international competitiveness.¹³ In the same vein, one can question the contention by those in favour of deregulation that companies who are making savings through lower long-distance costs will pass those savings on to the consumer in the form of lower prices. Even if this could be proved (why not passed on to shareholders in larger profits, or managers in larger salaries?), the opposing argument can be made that consumers, faced with higher costs for local calls, may not be able to afford other products they might otherwise have bought.

Threats of 'bypass' and 'drop-off' are bogies brandished by the two sides of the deregulation debate. Advocates of competition say that unless big companies are given alternatives to the existing telephone system they will purchase their own terminal equipment or find ways of linking into U.S. systems in order to bypass the Canadian network. A recent Financial Times of Canada article estimated that Bell Canada was losing many of its most lucrative customers (including retailers, travel firms and large manufacturers) to new telecommunications 'supercentres' in the United States.¹⁴ Although there is some evidence that this is happening, it is very difficult to measure how much, partly because of the fact that telephone companies are prevented by privacy restrictions from monitoring which customers might be bypassing, and partly because there seems to be some reluctance on the part of businesses to admit to 'cross-border shopping'.¹⁵ On the other hand opponents of deregulation cite the possibility of large numbers of people having to disconnect their telephones if local or access rates go too high. However evidence from the U.S. in this area is very mixed, and disagreement occurs over what number of subscribers dropping off would be "significant".¹⁶ The point is made that people may not actually

drop off but, because the telephone is such a basic necessity, may give up other needs instead. Others claim that there was "never" any threat to universal service in the U.S.⁴⁷ If that were true one would have to wonder why the FCC and so many states have bothered to bring in 'Lifeline' programs.

The relationship between competition and lower toll rates

A 1990 OECD study concluded that there was no evidence to suggest any relationship between competition and lower telephone rates.⁴⁸ In fact there is considerable debate among the experts about whether the price reductions in long-distance rates in the U.S. and the burgeoning choice of products everywhere is due to competition or simply the result of "opportunities created by exogenous technological change".⁴⁹ The Federal-Provincial-Territorial Task Force Report found that "Canadian companies appear to have kept pace with international technological developments, and have built one of the most modern and functionally efficient telecommunication networks in the world", without the benefit of competition.⁵⁰ Officials from Bell and B.C.Tel point to the competitive situation that already exists here with regard to specialized consumer products and declare that "Canadian telephone companies can equal U.S. long-distance rates within five years by only increasing local rates to the inflation rate."⁵¹ In fact long-distance rates have already come down, without any corresponding increase in local charges. The TWU points out that the telephone companies have not lost out from doing this: they still make 13% return on their equity.⁵²

"Real" Competition, or Just Some?

Critics accuse Unitel and BCRL of wanting competition only on their terms. Not only have these would-be competitors suggested to the CRTC that they should be given discounts on contributions, but they have asked to be allowed to price

their services 15% below the telephone companies' rates for the first four years, and for a waiver of the modification costs of hooking to existing networks. Unitel argues that it needs those measures to allow it to become established in the market, and to offset the advantages of the incumbent telephone companies.

In opening up the market in the U.S., the FCC has never imposed a requirement that the start-up entrants undertake to provide service on a ubiquitous basis, but has permitted them to be highly selective in defining the scope of their service offerings, while at the same time refusing to permit the original carriers to abandon any market area. The result is competition in some areas and not in others, regulation of some carriers and not of others. In fact the Prairie Provincial Study contends that competitors could not survive without some artificial and costly market sharing arrangement.⁵³ Even competitors want standards for interconnection, for example, so that different networks can be individually tailored and yet uniform. A U.S. observer sums up:

Whether a competitive industry is feasible in the long run and exactly how competitive it will be is unknown. The powerful short-run incentives offered by the current price structure should not be underestimated. There is a mistaken tendency to perceive the successful current entry into telecommunications as a signal that many firms can survive in the industry at prices that are lower than current prices.⁵⁴

The Record of Deregulation

Indeed, the most likely scenario if competition was introduced into the telephone industry in Canada is that it would only be transitory. After a shake-out, there would be a brief period of lower long distance rates, then concentration would occur. Ralph Nader emphasizes that in the U.S. the decline in long-distance rates has ended, and prices are going up again - "an off-repeated trend after deregulation."⁵⁵ Only two major competitors to AT&T have emerged in the States (MCI and US Sprint) and at one point there were rumours that they were in

trouble, although those seem to be laid to rest now. Canadian economist Shaym Khemani's research for the Macdonald Commission indicated that industrial concentration levels are generally found to be higher in the Canadian economy than those prevailing in the U.S., and that a large proportion of Canadian industry operates under 'oligopolistic' market conditions.⁵⁶ Consulting reports for the federal government Task Force Study point out that if competition means only a small number of firms, with one or two dominant ones, then the industry performance is likely to deteriorate because of poor resource allocation.⁵⁷

Surveying the record of other deregulated industries does not give one much encouragement. Horwitz describes the consequences in the U.S.: The Bus Regulatory Reform Act has made it much easier for bus companies to abandon unprofitable routes and hundreds of rural communities and small towns now have no public transportation; mergers in the deregulated railroad industry have reduced the number of large rail-freight carriers to so few that shippers have charged that they are captives to monopoly power; and "concentration, instability and differentially distributed benefits" characterize the partially deregulated banking system.⁵⁸

In the airline industry competition has indeed lowered fares and increased service - on high density routes. However, without the obligation to serve and the subsidy of low-density routes which were preserved by regulation, many small communities have been abandoned.

The reductions in airfares and gains in productivity were and continue to be spread in a highly differential, some might say discriminatory, fashion ... Passengers on competitive high density routes receive substantial discounts; passengers on low-density, generally non competitive routes, see fares go up.⁵⁹

Under deregulation in the U.S. several new airlines and some older ones have declared bankruptcy. The industry is now more concentrated than in the pre-

deregulation era.⁶⁰ The same trend has been evident here in Canada since deregulation of the airlines. In 1987 when legislation was enacted Canada had Air Canada and C.P. Air and five privately owned regional carriers, including P.W.A., Wardair, Nordair, Quebecair, and Eastern Provincial Airlines. Now we have only two airlines, and they are each fighting for their lives. Where are the benefits of competition here? Peter Newman entitled an essay on air travel for Macleans "Killing us softly with open-skies initiatives".⁶¹

Given the record of deregulation in other industries, it would seem that claims for its effectiveness may be somewhat exaggerated. Certainly there is no guarantee that competition would be any more lively in telecommunications than it has been in other deregulated areas. An oligopoly situation in the telephone industry would mean the worst of all worlds: cross-subsidization would be abolished so that local rates would rise, but there would be very little competition to spur a continuing decrease in long-distance rates.

Assessment

Informed observers of the post-divestiture scene in the United States differ in their assessments, and they are often inconclusive about the extent and consequences of competition. Partisan participants in Canada differ in both their definitions and their prognostications for the future. These uncertainties have all contributed in their own way to the dilemma facing Canadian policy makers, and to the lengthy process of decision-making, as will be discussed in the next chapter.

FOOTNOTES for Chapter IV

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By the end of 1986 the six largest carriers controlled an estimated 84% of the market, as opposed to 73% in 1978 (the last year under regulation). (p. 269).
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CHAPTER V: EXPLANATIONS

Introduction

The previous chapters have described the government's relationship to the telephone industry, how deregulation has appeared on the political agenda after decades of fairly stable regulation, what the effects of deregulation would be, and the long and tortured equivocation of the government's 'uniquely Canadian approach' to telecommunications policy. In this chapter we will focus on the possible explanations for this political procrastination.

The pressures on the Canadian government to follow the Americans down the deregulation road - in other words the rationale for policy convergence in the two countries - are, as we have seen, very strong. American business has, with the advent of competition, accrued an advantage over Canadian companies with their lower long-distance calling rates. It has also become relatively easy technologically for Canadian businesses to 'bypass' the Canadian system and connect up with American systems.

Last but not least, the ideological orientation of the Conservative government which has been in power in Canada for the last eight years has closely resembled that of its American neighbours. The Mulroney government has taken a number of major initiatives in favour of privatisation, deregulation, cuts in incentive and subsidy programs, and other reductions in government intervention. It has not apologised for its pro-business bias, citing the neo-conservative case for aggregate economic efficiency, and arguing that growth in the economy has to be stimulated. It has also not been afraid to bring in unpopular measures which it deemed necessary, such as Free Trade and the General Sales Tax. Why, then, has it been so reluctant to succumb to the pressures from the business community and deregulate the telephone industry?

There is probably no one answer to this question, but a combination of factors, which call for various theoretical explanations.

Pluralist or Interest Group Explanations

The preceding chapters have explained how, because of the cross-subsidization issue, regulation of telephones creates different groups of beneficiaries and losers in society as a whole. The current regulated structure benefits residential and local customers, while business users and companies who would like to compete in the telephone service market see it as a burden. On the other hand deregulation would, as we have seen from the American experience, benefit businesses, while the bulk of the population, who make mostly local calls, would suffer.

Business coalitions, such as the CBTA, have certainly represented their case to government, although Janisch and Schultz maintain that their views have been either excluded or dismissed by federal/provincial task forces (despite surveys of business users done by their studies) and that the business community has failed to "inspire a positive vision."¹ Such potential competitors as Unitel and BCRL have, of course, presented their pro-deregulation vision to the CRTC.

Much public policy analysis comes to the conclusion that when benefits are concentrated for one particular group and the costs diffuse for another, then policy favouring the former can be fairly easily implemented. James Wilson's theory of 'client politics' would assume that the diffused cost of telephone deregulation to most consumers would guarantee a lack of objection from them'. Mancur Olson hypothesizes that, given the difference the average person thinks they can make with either a vote or a voice through a group (which is 'vanishingly small'), the typical citizen is usually 'rationally ignorant' about public affairs. "Some groups such as consumers, taxpayers, the unemployed and

the poor, do not have either the selective incentives or the small numbers needed to organize, so they will be left out of the bargaining."³

However, consumer and advocacy groups in this country have rather turned these theories on their head. There seem to be two reasons why they have had more effect on deregulation policy than their counterparts in the U.S. In the first place, they have been able to watch the American experience of soaring local costs, and observe the results (not always positive) of deregulation in other industries. Secondly, as mentioned in Chapter IV, Canada's huge expanse, small population and geographic distribution of that population has made even more stark the problem of who should pay for the 'non-traffic-sensitive' or access costs, which are substantially greater per capita in Canada.

Public choice theorists Hartle and Trebilcock argue that politicians are utility maximizers who try to select the most politically efficient policies. While many of the economists' studies of the effect of competition in the telephone industry concentrate on aggregate costs and benefits, as Trebilcock et al point out

aggregate costs and benefits are of little interest to politicians. What is important is the distribution of the costs and benefits, but only so far as they further the vote-maximization objective ... that is to say the distribution of costs and benefits should magnify gains and depreciate pains.'

The Canadian government realizes that a new telecommunications policy which supports deregulation, or the opening up to competition, would be seen by the general public as favouring big business, at the expense of the residential consumer. They also recognise that this would not be popular. A leaked Department of Communications document in 1985 cautioned that "the government must not look like the supporter of the industry in rebalancing: consultations must be arranged to avoid giving such an impression ... the government must prevent

at all costs the formation of a common front between consumers, small business and provinces." The Financial Times reports dismissively that "Ottawa is scared to death of the idea of raising the cost of basic service for poor single parents while giving multinationals a break on long distance."

The Department was a little premature in anticipating a reaction from the public in general. Due to the lack of easily accessible analysis, the issue of deregulation in the telephone industry is still early in Downs' 'Issue Attention Cycle'. While CRTC hearings have acted as a 'focusing event' for the public interest groups, they have not received much coverage in the media, and the advent of a new Telecommunications Bill was considered of such little significance by the Globe and Mail that coverage was buried on page B3.' However both the CRTC and the government have, as has already been pointed out, been warned by the after-the-fact reaction of large numbers of consumers in the United States, and the resulting plight of state regulators there. There is no doubt that the prospect of a revolt of large numbers of residential consumers come election time must be a factor in the government's calculations.

Provincial governments in Canada have not needed to observe the experience of U.S. state governments in order to recognise the pitfalls of deregulation. In fact until now it has been the governments which own or regulate their own telephone companies in the Prairies and the Maritimes who have created the biggest stumbling block for the federal government in its attempt to arrive at a coherent policy for telecommunications.

Statist Explanations:
Jurisdictional problems and the Division of Powers

Leo Panitch has noted that "while [some] argue that amongst Western societies there has been a tendency towards the centralisation of state power at the expense of sub-central institutions, this does not hold for Canada, where

provincial state power has historically been important and has become increasingly more so in recent years."⁹ As we saw in Chapter III, the provincial governments which own and regulate the telephone companies in their territories are firmly committed to the principles of universality and affordability (particularly with regard to their rural constituents), and use their telephone systems as instruments of social policy. During the seventies and most of the eighties these provinces made it very difficult for the federal government to change the status quo. Negotiations over telecommunications between Canadian federal and provincial representatives never came to an acceptable conclusion. As Janisch and Schultz scathingly described the process: "the second-order question of who should act has overwhelmed the first-order question of what should be done out of a misguided concern not to offend any of the players in the federal provincial game."¹⁰

Even though the Supreme Court AGT case finally confirmed in 1989 that the federal government had jurisdiction over all telephone companies in Canada, the Minister of Communications has been careful to negotiate separate "Memorandums of Agreement" with some of the provinces, whereby regulation will only be transferred over a specified period. An agreement signed with Manitoba in March 1991, for instance, was praised by the provincial Minister as having a "definite made-in-Manitoba flavour". It contained mechanisms to "ensure the availability of reliable and affordable telecommunications goods and services in urban, rural and remote areas", as well as a plan for a CRTC commissioner, "who could reflect the circumstances and concerns of Manitobans in the regulatory process" to be resident in the province.¹¹

One would have thought that the removal of the stumbling block of jurisdictional disputes would have given the Federal government a clear

opportunity to proceed immediately with a new Telecommunications Bill. But in fact it took two and a half years for such legislation to reach the order papers.

For an explanation for this continued lag one probably has to look again at the American experience.

As we saw in Chapter III it is the state regulators who have borne the brunt of the effect that deregulation has had on local rates. Depending on the politics of the state, different means have been employed to try to offset these effects, but it is to their state governments that people have turned for such remedial action. The Canadian federal government has expressed the view that it "should exercise all of the powers required to ensure the integrity of the national market, while the provinces should retain responsibility for matters relating to activities carried out entirely within their borders."¹² This would, of course, put the provinces squarely on the hook for dealing with the consequences to local customers. As Alberta's Deputy Minister of Communications wryly attested to a conference in 1984:

The politicians among us will see that the necessity for constantly rising local rates which have to be shouldered by the local elected representatives is not nearly as comfortable a thing as the responsibility for lowering long distance rates which would fall to the lot of the federal regulatory body and the federal government. Local politicians do not like to preside over rising local charges, and as long as one telephone company is responsible for both long distance telephone service and local telephone service, that problem does not have to be met.¹³

Kathryn Harrison has identified the fact that while government officials prefer to implement policies that will bring them cudos from voters, an equally strong motivation can be "blame avoidance."¹⁴ The federal government would, no doubt, like to be able to take credit for any boost to big business and the national economy given by deregulation, but does not want to be seen as responsible for the inevitable increases in local rates. Welfare is

traditionally within the jurisdiction of the provincial governments, so if income supplements have to be given to customers in order to save them from dropping off the network (as has happened in the U.S.), these will have to come out of provincial budgets. Presumably this has been another factor in the continuing negotiations between the two levels of government which has served to stall any policy of deregulation.

Learning Experience: The U.S. Influence

Peter Hall has pointed out that "formulation of policy is a process of solving the puzzles generated by the often unintended consequences of past policies,"¹⁵ and these policies can be those of other countries as well as one's own. The influence of events in the United States on the development of policy in Canada has been mentioned on several occasions in this paper. It is not only sensitive political antennae that have told the Canadian government to expect a revolt from many consumers and provincial politicians if they start down the road to deregulation. They only have to look south of the border, to benefit from the American experience.

Propelled by the convergence of technology and ideology in the early 1980s into the divestiture of AT&T, none of the institutional actors in the U.S. grasped the implications of this act at the time it was happening, and the affected interest groups were equally unprepared. The Globe and Mail commented that "people in the U.S. learned the hard way that it wasn't possible to put their telecommunications system back together again after it was torn apart by corporate greed."¹⁶ Canadian policy makers, on the other hand, have the luxury now of being able to evaluate developments in the U.S. A Federal-Provincial Task Force set up to "analyse the potential impact of competition in public voice long distance in terms of economic and industrial costs and benefits for Canada"

commissioned a plethora of research into the American experience. The final Report emphasizes the customer confusion and complexity that competition has created in the U.S. and argues that none of the existing evidence shows conclusively that competition has had either a positive or a negative macro-economic effect.

The continuing confusion in the U.S. over how much further to deregulate, the lack of clarity about whether technology or competition are responsible for some of the changes which have come about, and the indisputable rises in local rates, which have in turn necessitated new welfare programs, have all been discouraging lessons for Canadians. The TWU's use of advertisements featuring Ralph Nader recanting from his original pro-deregulation stance was a clever reinforcement of these lessons.

Canada's trading relationship with the U.S. has also affected the decision making process. Multilateral trade negotiations regarding telecommunications have been going on for years under the General Agreement on Tariffs and Trade (GATT). During these negotiations the United States has been demanding that Canada and other industrialized countries open their long-distance telephone markets to unrestricted foreign competition. In the opinion of some analysts, the Canadian Conservative government has been hoping that the GATT talks would settle this issue in favour of the U.S. and that then they would be able to claim that they had been forced into deregulating.¹⁷ However the GATT talks have floundered, not least because of the opposition of many countries in the European Community to the U.S. demands.

In fact the Free Trade Agreement between the U.S. and Canada already opens the door to potential U.S. entry into the Canadian telecommunications market. One of the issues holding up the CRTC decision is the knowledge that even if only

Unitel/BCRL were allowed to enter the long distance market, the CRTC could not then continue to regulate a duopoly. Under the Free Trade Agreement U.S. firms can only be kept out as long as there is no Canadian domestic competition: once the can of worms is opened, it will be a free-for-all, and any kind of regulation would be very difficult indeed.¹¹

A final note on learning experience: Canadian policy makers do not have to look only at the United States for examples in telecommunications policy. In Britain, where the Thatcher government privatised and deregulated the telephone industry, only one new entrant has so far attempted to compete with British Telecom, despite the fact that competitors are allowed to offer both local and long distance service. The rest of the European Community has steadfastly resisted the introduction of any competition into government-owned monopoly telephone operations, and has concentrated on government funding of telecommunications development.

Uncertainty

The persistent uncertainties and confusion which characterize the regulatory transition process in the U.S. have compounded the debate in Canada. Protagonists on both sides point to the American experience to prove their own case. The structural indivisibility of the telephone network system continues to cause considerable problems in the fair and efficient allocation of costs, as no-one really knows for sure where the responsibilities lie. This, along with other problems in definition and measurement, has made it very difficult for either regulators or government officials to appear to be fair to everyone: something which, in our political system, is very important.

Political Culture

Uncertainty, as Dahrendorf observes, inspires competition, social and

political conflict, and institutions that provide suitable conditions for this conflict.¹⁹ In democratic societies the leaders of these institutions cannot make public policy without taking into consideration the values and beliefs of the population. Voters take into account not only who benefits from a policy, but whether it is legitimate for that group to benefit.²⁰

Notwithstanding the conservative ideology of the current federal government noted earlier, Canadians embrace a very strong commitment to fairness, as emphasized by the latest government proposals for a new constitution. This document also asserts that "Canada is a country that cares for the disadvantaged."²¹ At a national conference on economic issues (held as part of the constitutional debate) discussion turned to the necessity for a Social Charter to offset the effects of the deregulatory and decentralising economic proposals being proposed. If Canadians are to be more exposed to market forces, it was argued, then they should also have more protection from market instability in the form of guaranteed income security. Such a Social Charter may well be part of the final constitutional package.

Banting has observed that although "a resurgent conservative critique" has revived conceptions of "a fundamental incompatibility between economic efficiency and social equity" in Canada, there has been "vigorous resistance to any such shift within important elements of the political system, and only a limited resonance in public attitudes as a whole. The basic legitimacy of the welfare state is not an issue for the Canadian public."²²

And implicit in Canadians' support of the welfare state has been a preference for the concept of universality. A debate about the respective advantages and disadvantages of universality versus selectivity has surfaced again in Canada just in the last month, when the Conservatives' new budget announced their

intention to eliminate family allowances and replace them with a child tax credit. But for several decades the superiority of universality was the accepted wisdom. In researching the "Politics of Economic Policy" for the Macdonald Commission writers noted that a new social contract developed in Canada between the 1940s and 70s. Changes in programs, the bases for allocating benefits, and the forms in which they would be delivered, transformed welfare from a system of relief to one of social insurance and universal entitlement.²³ The early debate over medicare was cast in terms of increased equality for Canadians who could not afford private insurance coverage, and the expansion of federal and provincial funding for higher education was advocated on the grounds of increasing the accessibility of qualified low-income Canadians to educational opportunities. A major cross-national study of public attitudes toward taxing and spending in the mid-1970s found a high degree of convergence in support for programs that are universal in their distribution of benefits, and a subsequent study commissioned by the Ontario Economic Council in the '80s revealed a similar pattern. One Macdonald Commission analyst concluded that "these findings suggest that there are important political pitfalls in the path of those deficit reduction strategies that rely upon the elimination of the universal dimension of social programs."²⁴ In Banting's words:

Universality lies at the very heart of the development of the welfare state in Canada... The whole history of the welfare state over the last fifty years can be summarized in large part as a sustained flight from selectivity."²⁵

Because cross-subsidization of customer categories inherent in regulation of telephones is a particularly efficient form of universality (requiring virtually no administrative costs), this preference of Canadians for universal programs has probably had an impact on the thinking of politicians regarding telecommunications policy. It is also possible that this aspect of political

culture supplies part of the answer to the lack of convergence with U.S. policy, as Americans appear to have different attitudes towards the relative merits of universal and selective programs.

Lipset, in his analysis of the differences between Canada and United States, Continental Divide, quotes a 1988 journalist's observation that the election debates 'on what Canada was all about' emphasized "social programs ... and a willingness to use government power to redress the inequalities of the market place."¹⁶ Lipset suggests that the United States, on the other hand, follows Thomas Jefferson's dictum 'government governs best which governs least': "One society leans toward communitarianism - the public mobilization of resources to fulfil group objectives; the other sees individualism - private endeavour - as the way an 'unseen hand' produces optimum, socially beneficial results."¹⁷

Canadian commentator Drover agrees:

Rooted in the American Revolution and safeguarded by the constitution, the political mind set of the U.S. remains wary of the collective provision of social benefits. Where assistance is required, philanthropy is preferred. Where government, of necessity, is involved, a minimalist approach is advocated. Where collective provision is mandated through the public sector, it is sectionalized and fragmented.¹⁸

Some analysts feel that this difference in attitudes between Americans and Canadians has been exaggerated, and that as far as specific income security programs are concerned the role of selective systems has declined in the U.S., especially during the 1980s, whereas it has steadily expanded in Canada.¹⁹ Nevertheless, at least the perception of such differences certainly does seem to have been salient to telecommunications issues. A spokesperson for an international marketing firm recently commented regarding the telecommunications issue that "the U.S. industry has always been more driven to a private-line, cost-based philosophy. We're shifting towards that but social issues are still

more prevalent in Canada."³⁰

Both the intervention of the state in the form of regulatory instruments and the aim of income distribution incorporated in cross-subsidies fit accepted Canadian norms. Americans, who strongly emphasize individualism and market performance, have "a more punitive attitude towards the poor,"³¹ and in general prefer vertical redistribution when strictly necessary, while Canadians have placed more value on horizontal redistribution and the social commonalities of citizenship.³² And while most Americans seem to have been convinced by economists that regulation is bad for the consumer, Canadians do not necessarily agree. Johnston's study for the Macdonald Commission shows that while there may be some resentment against regulation in general, when specific kinds of regulation are mentioned there is usually support.³³

The patchwork of 'lifeline' programs, which has led in the U.S. to citizens of different states receiving very different levels of help (as described in Chapter II) also appears a very unsatisfactory situation to Canadians. Throughout the endless debate on the Canadian constitution one constant thread has been the defence of federally supported social programs as a means of unifying the nation. Opponents of decentralization fear that there will be little left to identify people as Canadian citizens once national standards, and federal financial sustenance for them, are abandoned. And voter support for regional transfers is based on the belief that all Canadians should have equal opportunities, no matter where they live.³⁴

Political culture in Canada may well be changing, after two terms of Conservative government and several years of recession. (See further discussion in Chapter VII.) The new emphasis in social policy has been on the idea that welfare state measures should be designed principally to provide support for the

poor, while universal social programs are attacked.¹⁵ Although the popular CBC program Morningside noted in January of 1992 that a "seachange in opinion" would be needed to challenge universality in this country, the Conservative government, in announcing the intended elimination of family allowances, are obviously counting on the fact that such a seachange may already have occurred. Nevertheless, the prevailing cultural climate of successive decades has undoubtedly had an effect on the decisions of politicians up till now.

Conclusion

In sum, despite the distribution of interests in Canada and the pressures from our American neighbours, Canadian politicians and the regulatory agency have continued to bar the advent of competition into the long distance sector of the telecommunications industry. A combination of pluralist, statist, cultural and negative emulation determinants have contrived to keep Canadian policy-makers suspended on the horns of a dilemma which is yet to be resolved.

These explanations tell us why the policy-makers have had such a difficult time coming to a decision, but they do not look at the justice issues involved.

The arguments used by protagonists on both sides of the regulation/deregulation debate spring from very different points of view. These will be the subject of the next chapter.

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CHAPTER VI: CONFLICTING VALUES

Introduction

As part of the national infrastructure of a country, telecommunications are integral to local and national politics, to society and to the economy, and telecommunications policy must consider more than one broad notion of national concern.

The movement towards deregulation has brought into the limelight a transfer of resources from one group to another which was practised for many years without any public discussion of the rights and wrongs of such a transfer. The bargain implicit in cross-subsidization was satisfactory to everyone, and continuing improvements in the telephone system achieved 'pareto optimality': the general level of welfare was increased without anyone being worse off.

However technology has altered the previous balance, and it is now not possible to change the regulatory status quo without creating new winners and losers. Concepts of accessibility and affordability jostle in the deregulation debate with ideas of efficiency and competitiveness. Analysis is often undertaken on the basis of normative values. When a trade-off between efficiency and social justice becomes necessary in any issue the relative weight given to these two concepts will vary depending on the worldview of the protagonists. For the government the challenge is to arrive at what will be perceived as fair and just compromises among competing priorities and points of view. This chapter will look at the two main paradigms at work here: the 'free market' view, which believes that competition will work for the benefit of everyone, and the 'social welfare' view, which has less faith in the ability of the free market to deliver a just and equitable outcome.

Two paradigms

A montage of images from the advertising media in the 1990s seems to sum up the conflicting values which are central to this policy debate.

On the TV screen apple-cheeked grandmothers and grandfathers in rocking chairs happily listen to their grandchildren half a continent away telling them of their daily happenings. An adult brother and sister giggle on the phone about their widowed parent's late-blooming romance. The news of a new baby brings joy. These cosy scenes are presented with justifiable pride by a telephone company, "bringing people together".

Later in the viewing evening the same telephone company appeals to business users with pictures of sharks, and vultures, representing the sphere of economic competition: "Being able to communicate gives you the edge in this brutish world."

However, picking up the paper the next morning, you may find a full page advertisement from Unitel, presenting a more naive vision of the marketplace: "Competition," the large type claims, "brings out the best in all of us!"¹

Which of these images resonates with you?

Deborah Stone observes that definitions of policy problems usually have heroes and villains and innocent victims, and they pit the forces of evil against the forces of good.¹ In our story of telecommunications policy we have two versions. For the Communications Competition Coalition and the anti-regulation school of economists the villains are the regulators, the innocent victims are the customers who have to pay exorbitant long-distance rates, and the heroes are the swashbuckling potential competitors who only want to make the market more efficient. The second version is propounded by the Telecommunications Union, the Consumers Association, and advocates for the poor. In this version the villains

are the potential competitors and big business, the innocent victims are the residential and rural consumers, the poor and the homebound, and the heroes are the regulators.

For the government, these opposing ideological positions represent a classic conflict between the goals of national economic efficiency on the one hand, and universal access and distributional equity on the other.

The Free Market View

The most important claim of the free market is that it has the ability to maximize aggregate social welfare. Under certain conditions (i.e. individuals are deemed to be the best judges of their own welfare and able to act so as to maximize it, a sufficient number of competing firms or individuals exist that no-one can exercise power over prices or costs, and there are no externalities, or costs and benefits that are not reflected in prices) efficiency is automatically achieved through the market mechanisms of supply and demand. The interaction of these forces determine how resources will be used and for what purpose, and prices act as a rationing device in the determination of the distribution of the goods and services produced. A competitive market transmits the correct signals to producers that reflect the values of consumers.

Of course the rigorous conditions required for the existence of perfectly competitive markets are seldom found in the real world. Modern-day market economies exhibit imperfections of varying degrees, including monopoly elements, lack of complete knowledge on the part of consumers and producers, and external costs such as pollution. Certain services such as national defence are in demand, but will not be provided by private enterprise because of the free rider element.

Free market economists admit that such imperfections exist, and may require

some correction or intervention by the state, but they insist that for the sake of efficiency these should be kept to the absolute minimum. 'Public goods' are limited to such services as defence, traffic control and lighthouses, where 'free riding' cannot possibly be avoided. Everything that can possibly be supplied by the free market (including medical care, housing, insurance against economic insecurity) should be. Provided the contract is entered into without duress, "to prohibit the agreement not only reduces aggregate social welfare, it is a paternalistic imposition showing lack of respect for both parties as freewilling and autonomous beings."

Economic growth, argues this paradigm, necessitates a willingness to tolerate change that makes some people worse off. Charles Schultze contends that an important advantage of the market as a means of social organisation is "its 'devil take the hindmost' approach to questions of individual equity." From the standpoint of efficiency the more completely and rapidly the economy shifts production to meet changes in consumer tastes, production technologies, resource availability or locational advantages, the better. And these changes will, on balance, generate gains for society in the form of generally higher living standards, even if some sectors of society have to suffer losses of jobs and income in order to achieve them.⁵

The philosophical argument put forward by such applicants as Unitel and BCRL at the CRTC hearings is that competitive markets provide powerful incentives towards cost minimization (technical efficiency) and towards the rapid introduction of product or service improvements (dynamic efficiency). It is the rivalry at the heart of the competitive process that, according to this argument, creates rewards for managers, workers and owners from a combination of reducing costs, creating new products and services, finding better methods of production

or distribution, and responding appropriately to new needs.' The applicants insist that no one monopoly company can be all things to all customers, and that competitors may invent innovative new services to meet a previously unidentified demand.

From the point of view of free market economists, the competitive market should be left to do its work in as unrestricted and unregulated a manner as possible. While Pareto optimality may be difficult to achieve, a 'potential Pareto improvement' can be said to have taken place as long as "the gainers have gained enough so that they could fully compensate the losers and still be better off," and a policy change creates such a potential Pareto improvement "even if the losers are not actually compensated." If, however, society decides that some people are overly disadvantaged by the free market process and should be compensated, then they should be targeted by means tests and assisted by narrowly selective programs.

Economists are more comfortable talking about efficiency than about equity or fairness.' Schultze praises economic incentives precisely because they "reduce the need for compassion, patriotism, brotherly love and cultural solidarity as motivating forces behind social improvement." For those who argue the social welfare viewpoint, however, these motivations carry more weight.

The Social Welfare View

Even such proponents of a social justice model as Rawls agree that under certain circumstances the free market is both fair and efficient¹⁸, but for him and many others there is often a significant tension between the goals of economic efficiency and growth on the one hand and more equal distribution of income on the other. According to Rawls' 'Difference Principle' an increase in Pareto efficiency can only be said to have taken place if the policy is also

(though not necessarily only) to the advantage of the least well-off.¹¹

Theories of regulation spring mainly from welfare economics, a school of economics which believes in the capability of state intervention to secure socially desirable redistribution as well as general economic efficiency. The free market may need to be replaced by regulatory institutions not because it is inefficient, as Strick points out, but because in the process it may produce an unacceptable distribution of income.¹² It may also be able to unfairly exploit the fact that some products have an 'inelastic demand', i.e. if their price was to rise sharply most people would, in the short run at least, simply pay the extra cost, rather than significantly reduce usage of something they consider an absolute necessity.

There are some goods which, although not strictly falling into the 'public goods' category, can be defined as 'primary goods' or 'basic needs'. Harris, while concluding that it is very difficult to argue for the provision of any good on the basis of pure 'need', nevertheless maintains that there is a notion of "what is necessary to protect and preserve someone's full status as a full member of his/her community." Such effective membership in the community is a right of all citizens and therefore society is justified in regulating the market in order to ensure that it is achieved.¹³ While traditional economists assert that the need for a telephone is simply an example of an 'inelastic demand', to Harris and others the means of communication is essential for integrating citizens into their community.

Claus Offe sees this attempt to categorize certain goods as basic or citizenship needs as the state's attempt to universalize a commodity, as expressed in such institutions as schools, transportation facilities, the post office, hospitals, etc.¹⁴ Haar and Fessler also argue that enterprises

providing functions and services that are essential and public in character have "a common law duty to serve: a positive obligation to provide all members of the public with equal, adequate and non-discriminatory access." Noting that of course it costs far more to deliver a letter, pipe in water, or wire in telephone service to some parts of the country than to others, they ask whether this means it is fair to deny people living in those places equal access. They go on to describe how American courts, in a series of decisions regarding municipalities and utilities, insisted on equality of access to all as a fundamental principle.¹⁵

The original acts of incorporation of Bell Canada and B.C. Tel recognised this 'duty to serve' the public in their provisions declaring them to be 'for the general advantage of Canada.' And the governments of the Canadian prairie provinces have consistently committed themselves to the principle with regard to their telephone companies. As a spokesperson for Alberta Government Telephones eloquently put it:

Our cornerstone is ... the belief that telephone service is a necessity for both the social and economic well being of the community, and that benefits accrue not only to the person being served, but also to all others who might wish to communicate with him... If there is any sizable segment of our society that cannot afford basic telephone service, then all of society becomes handicapped. It symbolizes the disintegration of some of our most basic social values.¹⁶

(At the recent CRTC hearings Unitel questioned B.C.Tel's position that it had a mandated 'obligation to serve', submitting that the company provided general telephone service "because it was in its interest to do so."¹⁷ Obviously Unitel would see its own interest in targeting the profitable consumer sectors and ignoring the others.)

Harris observes that the protection and preservation of a person's status as a full member of society turns directly and immediately on the opportunity and

ability to consume or gain access to the particular service to which they should have a right, and that this supports the tendency to rely upon universal services in kind. For example, one may have a right to education, although not a right to income which may or may not be spent on education. Thus a universal system is required that ensures delivery of the specific requirement. Furthermore, he notes, universal services in kind may help create some sense of community membership by encouraging common participation in their consumption and, to some degree, in their delivery."

Universality vs Selectivity

The issue of universality vs selectivity has particular relevance to deregulation of telephones because cross-subsidization is a very simple way to ensure that those who need the 'in kind' telephone service receive it. The alternative is the kind of targeted subsidization of specific groups chosen by various U.S. states. As we have seen, free market economists tend to prefer selective subsidy programs (if any), whereas welfare economics lean toward universal programs. Selective or targeted programs, such as the American 'Lifeline' programs, emphasize vertical redistribution from rich to poor, and employ various criteria to decide who should benefit from them. Universal, or "entitlement" programs, on the other hand, emphasize horizontal redistribution (from the healthy to the sick, from the employed to the unemployed, from urban areas to rural ones), and are provided on the basis of common citizenship. Universality avoids divisions among those who are entitled and those who are not: it eliminates a two-tier system that results in "second-class" citizens and "second-class" services."

Proponents of selectivity argue that universal programs are too expensive because they cover too many people, target too small a share of benefits on the

poor, and enlarge the role of government. In actual fact, selectivity tends to give government an even more intrusive role, in deciding who is worthy, in designing and administering means tests, and in executing cumbersome 'take-up' procedures. Indeed, the administrative costs are far higher in selective than in universal programs. As Okun puts it, transfers via the tax system are like a leaky bucket.²⁰ In between taking the money from the high income earner and giving it to the low income person the 'leaks' include all the administrative costs, and the more selective testing has to be done the more leaks occur. The other primary objections to selectivity are the stigmatism attached to special programs and the difficulties attached to claiming them. As many economists have concluded, where selectivity is involved, those in greatest need often fail to apply either through ignorance of their rights, dislike of the means testing procedure, or the difficulty found by the less educated and articulate in coming forward to establish their entitlement.

There are three essential goals fulfilled by the welfare state, writes Banting, and universality is associated with all of them, "or more accurately with the prevailing balance among them."²¹ Among the three goals - of redistribution, social integration and security - it is the latter which has had the most political salience. Selective programs are particularly vulnerable to cutting back in tough economic times, or when governments start to lean further to the right. It is much easier for politicians to tighten the screws on selectively defined groups without much voting power, than to cut back on benefits that are universally available as an entitlement to all. Defenders of the status quo in the telephone industry see regulated cross-subsidization as a secure, uncomplicated, and administratively inexpensive form of redistribution which ensures universal and affordable access to the system. Reliance on special

`lifeline' support programs would be susceptible to any political change of heart or sudden need for savings at any time. Some provinces might decide they could not afford to subsidize telephones for the poor, while others would have to cut back on other priorities in order to find the funds. In fact the very same people who argue that help for the poor should come from the tax system, not from `inefficient' cross-subsidies, are those who argue that our levels of taxation are `inefficiently' high because they dampen market spending. One can see where that logic will lead.

Making the Connection

From the standpoint of free market economists, the primary problem in the telecommunications industry is how to get long distance prices down and local prices up. For them "one beautiful feature of a market economy is that departures from efficient pricing automatically set in motion corrective forces."²² Prices for Canadian long distance calls are too high compared to the U.S.: the solution is to allow entry of competition so that long distance prices will be forced down and the flow of subsidy from local calls will disappear. For BCRL (applying with Unitel to enter the long distance market) any form of subsidy "gives users incorrect economic signals which result in distortions in consumption patterns."²³ In other words the farmer on the Prairies facing the actual high cost of a telephone should simply have to make a choice between the means of communication and some other consumer product.

Advocates of deregulation dismiss the "great Canadian threat-to-universal service phobia" as a lot of "fretting and fussing," which interferes with the important goal of enabling Canadian business to be more competitive.²⁴ Social welfare advocates, on the other hand, feel that universal and affordable access should be the primary policy goal. The telephone, they affirm, has become a basic

and essential part of modern society. And, most importantly, it is just those who find it hardest to afford a telephone who need it the most. Senior citizens, the handicapped, users of crisis and information lines, all depend on the telephone as a means of communication in a way the more able-bodied do not.

The telephone, as an astonishing number of private letters addressed to the CRTC stress, "is a necessity, not for amusement."²⁵ It also plays a central part in a large range of social services, which, in their contribution to the prevention and cure of many social ills, go a long way to reducing social costs.²⁶

While most people would agree that for the handicapped and homebound (and even many voluntary agencies) the telephone is a basic need, it has been suggested that although most residential consumers "seem to regard the right to free local calls as a fundamental principle" this may simply be something they have got used to, and really have no 'right' to at all.²⁷ However it is worth remembering that for most Canadians the telephone has become an indispensable part of our daily lives. An Ottawa columnist has observed that "Canadians use the telephone more than anyone else on earth,"²⁸ and Babe calculates that in 1987 Canadians engaged in some 37 billion telephone calls: 1436 per person.²⁹

Most of those calls are local ones. Estimates suggest that "some 35% of residential consumers do not even make a long distance call in the course of any given month."³⁰ Large rises in price for local calls would mean a very great change in lifestyle for the great bulk of Canadian users, as anyone who has lived in countries where you pay for every minute (like England and Australia) will attest.

One American approach has been to separate out the charges for access to the telephone on one hand, and local calls on the other. Some economists suggest that the introduction of Local Measured Service (LMS), whereby the subscriber is

charged for every minute of every local call, in the same way long distance calls are dealt with now, would more accurately reflect usage. When flat rate charges rise there is no way a subscriber can escape or soften the blow except by disconnecting from the network, whereas if each call is paid for the consumer can 'substitute' by cutting down on the number or length of calls. However it is doubtful that LMS would be more efficient economically, as there are considerable costs associated with measuring local calls. Companies do not have the equipment or the personnel to either conduct the measurement or see to complicated billing arrangements.

A greater problem, however, is in separating out the costs of access and use, which takes us back to the dilemmas discussed in Chapter IV. As we saw there, because of the indivisibility of the network, any allocation of costs to a particular service has to be arbitrary. Is it fair that the ordinary customer who only wants the Plain Old Telephone Service pay the same access fee (for the same boxes and lines) as the business customer who wants all the Pretty Amazing New Services? Should the customers in remote rural areas (who constitute a significant percentage of the population in Canada), for whom the actual costs of providing service are astronomical, pay the same access fee as urban customers? And if not, how does one arrive at a reasonable price? In fact the structure of the telephone system is such that, whether it is deregulated or not, the question will continue to hover: who is subsidizing whom, and what is the justice of the matter?

The indivisible structure of the network is at the root of this dilemma of conflicting values. Due to the current evolution of technology, part of the system (long distance calling) has become viable for competitive entry, while the other (local calling) has not. If the local service part was through

technological changes to lose its natural monopoly status, then it is possible that the arguments of the free market economists might justly prevail and if enough competitors could be found, they might drive down the prices in this sector. But until this is the case, the social welfare viewpoint concludes, regulation must persist in order to ensure fair and equitable distribution of costs and benefits.

Conclusion

In sum, the free-market/deregulation supporters concentrate on aggregate benefits and ignore equity concerns, while the social welfare/regulation proponents are more concerned about equity than uncertain efficiency gains foregone. And the structural complexities of the telephone system make it very difficult to allocate costs in ways which are clearly fair.

Nonetheless, it is clear that the advantages of deregulation would accrue very substantially to a small percentage of the population, namely big business and a few potential competitors such as Unitel. (As already mentioned, the top 1% of business locations accounts for approximately 50% of total long distance calling, and 35% of residential customers never make a long distance call.) Deregulation would bring down the costs of long distance telecommunications in the workplace and would probably stem the flow of businesses bypassing the Canadian system, and this would no doubt have a positive effect on the Canadian economy. The important question would seem to be: how large an effect, and would it 'trickle down' to benefit most Canadian citizens? If not, the average Canadian, as the Department of Communications surmised, will see deregulation as a gift to big business at his or her expense. Millions of people will see their telephone bills dramatically increase, and their tax bills go up to pay for special subsidies to the poor and disadvantaged. Telephone companies who are

committed to serving all their customers equally, and a universal subsidization scheme which is an administrative bargain, will be things of the past.

The opportunity costs are indeed considerable, whatever policy the government decides to support. The incompatible paradigms described in this chapter do not make it easier for either government or the regulatory agency to come to a decision that is both efficient and fair. Thibault and Walker suggest that in 'mixed' disputes, where there is a high level of both cognitive conflict and conflict of interest, or values, the two issues must be separated. Matters of logical fact must be assessed by a third party, and the conflict of interest should be resolved through adversarial judicial kinds of proceedings, or the political process. The CRTC has been trying to address the first issue, albeit with substantial constraints imposed by the second. The government will have to decide which paradigm it is going to embrace, and act accordingly.

FOOTNOTES to Chapter VI

1. The Globe and Mail, Tuesday, October 15, 1991.
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3. Harris, D., Justifying State Welfare, Basil Blackwell, Oxford, 1987, p.20.
4. quoted in Rhoads, The Economic View of the World, Cambridge University Press, Cambridge, 1985, p.100.
5. Ibid, p. 100-01.
6. Government of B.C., p. 58.
7. Brander, J., Government Policy and Business, Butterworths, Vancouver, 1988, p. 16.
8. Brander, p. 29, Rhoads, p. 82, Khemani in lecture to MBA students.
9. quoted in Rhoads, p. 55.
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12. Strick, J., The Economics of Government Regulation, Thompson Educational Publishing, Toronto, 1990, p.26.
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15. Haar, C., and Fessler, D., Fairness and Justice, Simon and Schuster, New York, 1986 pp. 15 and 150, inter alia.
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17. B.C. Government, p. 43.
18. Harris, p. 150.
19. Findlay, P., "Social Welfare in Canada, The Case for Universality," Canadian Social Work Review, 1983, p. 18.
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21. Banting, "The Role of Universality," p.8-9.
22. Wenders, J., The Economics of Telecommunications, Ballinger Publishing Co., Cambridge Mass, 1987, p.5.
23. Government of B.C., p. 34.
24. Janish and Schultz, p. 28.
25. Letter of intervention on file at CRTC office.
26. See Lester, D., for valuable data on "The Use of the Telephone in Counselling and Crisis Intervention", in Pool.
27. Brander, p. 220.
28. Stewart MacLeod, "We are a Chatty Group up Here," Macleans, January, 1991, p. 64.
29. Babe, p. 22.
30. Aufderheide, p. 82. Mitchell (p. 72) also notes that "some 32% of Rochester Telephone's residential subscribers make no interstate calls in a given month."

CONCLUSION: WHY NOT FORWARD TO THE PAST?

Canadians cannot afford telecommunications designed yesterday, they cannot afford to become an information-satellite of the United States, they cannot afford to deny themselves the opportunity that developing technology affords to fashion for themselves a more rewarding way of life. Above all, they cannot afford to wait and see how the information-revolution turns out; they must start planning and taking action now - not tomorrow, but today.

Instant World, Department of Communications, 1971

Canadians have not waited during the last two decades to develop new technology (the monopoly telephone companies have done this very successfully); they have not denied themselves the opportunity to have all the new 'designer' equipment (competition is unregulated in this market). But they have waited to see how deregulation in the long-distance market has turned out in other countries such as the U.S., which has proved to be a valuable learning experience.

My contention, in this concluding chapter on the telecommunications policy debate, is that Canadians should continue to wait to see how the technological revolution turns out, and not make policy decisions now that they may shortly regret. As Alfred Kahn has observed with regard to developments in the U.S., "it would be very difficult to put the regulatory Humpty Dumpty together again," once it had been dismantled.¹

The Technological Variable

The dependent variable which began this whole debate may well in the near future dramatically alter the ground rules again. Two technologies which have been developed for other sectors - fibre optics and wireless systems - may eventually make it feasible to have competition in the local telephone sector. If fibre optic cable could be made available to every household, then telephone service could be provided by cable companies and television by telephone companies. The advantage of such new systems is that they do not require the

large upfront 'sunk' investments of the present technology, and can easily be adapted to technological improvements in end user equipment. This would mean that competition could viably be introduced into that part of the telephone system which continues, until now, to exhibit features of a natural monopoly: i.e. the local network. Under those circumstances, local rates might not have to rise, and the whole rationale for delaying deregulation would disappear. However, no one knows at this point which of the new technologies will win out.

As Noll postulates:

The error can be in either direction: fiber optics, information services, and Integrated Services Digital Network may drive us to a reintegrated monopoly; or they, along with Open Network Architecture and radio telephony, may drive us to competing integrated suppliers of both services and equipment.¹

My question: Why should we commit ourselves to a policy of deregulation now, with all its consequent disadvantages to the non-business consumer, when the rationale for doing so may change again within a few short years?

The International Perspective

Long-term policy decisions in the telecommunications sector have to take into consideration whether competition - even if it was advantageous for the domestic sector - would enhance or impede the ability of Canadian firms to participate on a global scale. Telecommunications, while being fiercely competitive globally, is at the same time being reduced to a select group of a few very large firms working globally in strategic partnerships.³ The OECD has estimated that large telecommunication manufacturers need to have at least 8% of the world digital central office market to remain viable and that future developments will demand at least 16% of the world market to remain viable ... "There will be mergers, acquisitions and joint ventures in the struggle to obtain a large market share."⁴ In Europe, Japan, and the Pacific Rim countries, government-controlled

telecommunications authorities are pouring huge sums into public-network infrastructure modernization so that they can compete in the global market. Countries which have many companies competing within the system will be at a disadvantage with regard to research and development, which will no longer be undertaken with system-wide improvement in mind, as even U.S. analysts admit.⁵ Canada's Teleglobe maintains that one monopoly carrier can actually provide lower rates than a handful of smaller ones, because of the fact that charges per minute have to be bilaterally negotiated. "The country is [actually] better served by having a single entity to negotiate from a position of strength with the rest of the world."⁶ In fact even such proponents of deregulation as Business Communications Review confess that

when the perspective on competition and deregulation shifts from a domestic to a world-wide orientation ... it becomes a double edged sword ... It may be better to have fewer companies that are strong enough to compete against the large companies in Europe and Asia."⁷

My question: When we already have large efficient firms in Canada who are dedicated to maximizing the regulated system, why would we want to jeopardize our international position by breaking this system up?

The cornucopia of gadgetry

While some commentators sing the praises of all the amazing new telecommunications services and claim that competition will provide even more choice, others point out that it is technology, not competition, that has stimulated the array of innovations. Still others wonder how the ordinary residential consumer has benefitted. A recent issue of the Globe and Mail ran a special section on telecommunications. Several of the articles carried titles such as "Look what they've done to my phone", "Computer calls badger householders", and "Confused and Amazed".⁸ They described services such as 'telemarketing,' which mean that computers can badger you at any time of the day

or night, to sell you things you don't want; touch-tone phones which give you many numerical choices, but never the person you are trying to reach; and bills for calls you didn't make on phones across the country.' The wry comments were poking fun for effect, but they contained more than a large grain of truth.

As previously pointed out, in the U.S. the costs of sophisticated upgrading of the network are added to the ratebase and then charged out to all subscribers as 'access costs'. Under deregulation it is the ordinary residential consumer who will be asked to pay large amounts more for services that he or she does not really want. My question: If the demand for advanced and complex services is generated by businesses and business people, then why should they not continue to pay for them through the regulated price system?

The Advantages of the Status Quo

Most Canadian telephone customers (excluding big business) are very happy with the service that they currently receive from their regulated telephone companies.

Their bills are models of simplicity and clarity, and just about every service or equipment they desire is available. At a conference on "Communications in the Eighties" every speaker, whether for or against deregulation, agreed that "Canadians are probably among the best served consumers of communications services and products in the world" while "the Canadian telecom manufacturing industry represents one of Canada's few international high technology success stories."¹⁰ An OECD study found that Canada's prices for all business telecommunications services are equal to the average of 24 developed nations and lower than many major trading partners. Although Canada's long distance charges might be higher, once local usage was factored into the 'basket' the resulting costs were comparable to, if not better than many other OECD countries.

As has already been pointed out, Canadian telephone companies have kept pace

with international technological developments, and have already begun to bring down long-distance rates, without any corresponding increase in local charges. The companies also argue that one-stop shopping, not competition, will give big business better service at cheaper prices.

"One way or another," states the Prairie Provincial Study, "under competition, subscribers would have to bear unnecessary costs from lost efficiency, duplicated facilities, wasted spending on network rearrangements, rivalrous advertising, duplicated billing systems, and so on."¹¹ My question: At this point the current system is still weakly pareto efficient. It is still possible to make some people (long distance users) better off by lowering rates, without making anyone else worse off. While this is still the case, why not continue to enjoy it?

Changing Perceptions

The answer to all the above questions is of course that to follow a policy of maintaining the status quo will result in greater and greater numbers of corporations and firms taking their telecommunications business south of the border. It is interesting to note that although it is twenty-one years since the Department of Communications first stated that Canadians could not afford to wait and see how the information revolution turned out (see above), and ten years since the Americans deregulated their telephones, the same April 1992 Financial Times article which direly predicts a massive exodus to the States admits that "the trends haven't battered Bell's earnings yet," and that "Bell was 35% more efficient in processing long-distance calls than AT&T in 1989 and is still considered to be ahead."¹² Nevertheless, there is still a significant perception among many analysts that the Canadian telephone system is losing valuable customers, that it is losing the race to be a world leader, and that

deregulation is the answer to these problems.¹³

It appears, then, that the opportunity costs of maintaining the regulatory status quo in the telecommunications industry are steadily increasing. The balance between the costs and benefits for business and industry on the one hand and residential consumers on the other is changing.

Bearing this in mind, let us review the factors which have seemed to explain why the Canadian government has to date been extremely reluctant to change the regulatory system, and assess what effect they are likely to have in the future.

In the first place the government appears until now to have been more responsive to the consumer and social welfare arguments regarding the effects of deregulation than to those proffered by the business and economic community. Vote maximisation seems to have been a salient motivation. However, as just noted, the case for taking into consideration the costs to business has been getting stronger. It is also very possible that, as the recession deepens, arguments regarding loss of business and jobs to the economy in general will strike a more responsive chord in the electorate than the polemic of higher telephone rates.

Secondly, the political culture which has until recently supported the concepts of income transfers and universal programs (both of which are intrinsic to the cross-subsidization conferred by regulation) may well also be changing after several years of recession and a dominant Conservative ideology. A debate about the advantages of universality is just beginning with the government's latest attack on Family Allowances, and it is not at all certain where it will end. Despite the commitment of some sectors of the populace to a protective and justice-enhancing Social Charter, in these 'belt-tightening' days the balance may indeed have altered between those who concur with the old order and those who

prefer the new.

Thirdly, just as the U.S. experience has so far served to warn Canadians of the pitfalls and disadvantages of deregulation, so in future it may point the way to advantages. If local rates stabilize and low-income assistance plans can be standardized across the country, and if the Americans can come through their 'transition period' with a coherent strategy for re-regulation, then Canadians may decide on positive emulation. And, of course, if U.S. long-distance rates continue to drop at a faster rate than Canada's, then that pressure will continue to escalate.

The fourth factor which was a serious stumbling block to deregulation for many years - jurisdictional problems between the federal and provincial governments - seems to have been removed by the Supreme Court ruling and subsequent confirmation of federal supremacy in the new Telecommunications Act. However it is likely that the federal government will still face opposition from provinces who feel committed to the interests of their rural constituents, and who will not want to be burdened with the responsibility for providing extra targeted subsidies and income supplements. Thus while other stumbling blocks may be removed, the old bogey of federal-provincial relations may continue to postpone a decision on deregulation for a while yet.

Predicting the Future

"Despite what some companies may tell you," a recent AT&T advertisement reads, "the future direction of communications is practically impossible to predict."¹⁴

Nevertheless, following the above analysis, I will take the risk of predicting that the Canadian government will shortly decide that it cannot meet all four of its "guiding objectives", and that the principles of protection and promotion of the competitiveness of Canadian business, and stimulation of the economy, will

have to take precedence over the principles of universal accessibility and affordability. (In its "uniquely Canadian" way it will, of course, try to avoid explicitly admitting that this is what it is doing.)

There are two ways in which the government could effect such a policy. Either it could - as the free market economists would prefer - deregulate and allow competition into the long distance sector, or it could allow the existing telephone companies to retain their monopolies but practice rate-rebalancing: i.e. lower long distance rates and raise local. If it chooses the first route it will have to deal with the consequences under the Free Trade Agreement, and allow U.S. firms such as AT&T, Sprint, and MCI to compete in the Canadian market. This would of course mean not partial re-regulation as has occurred in the U.S., but complete deregulation with virtually no role at all for the CRTC. If it chooses the second route and simply allows rate rebalancing it will continue to face the ire of all the free market economists and would-be participants in the telecommunications business who believe that competition is necessary for an efficient economy. Besides, if cross-subsidization is eliminated, then much of the rationale for regulation of any kind is also removed.

Whichever of these two courses the government chooses to follow, the ordinary residential customer who relies mainly on local calling, and the poor and disadvantaged who rely on their telephones for vital communication with the world, will lose their protection. Provincially-owned telephone companies will no longer be able to practise their 'duty to serve'. The social compact which prevailed for decades after the initial invention of the telephone will be broken.

Conclusion

This paper has examined in some detail the long and tortuous development of

Canadian government policy with regard to the telecommunications industry. It has reviewed the rationale for regulation and the pressures for deregulation, and looked at the consequences of both policies. It has attempted to explain why, in the face of seemingly overwhelming pressures to deregulate, both the government and the regulator have clung to the status quo. It has also described the competing values or world-views which have underpinned the debate about the effects and the relative merits of regulation and competition.

The story is not yet ended. The CRTC decision on the Unitel application has still to be handed down, and most commentators predict that, whatever that decision is, it will be appealed to Cabinet by the protagonists on the side that has "lost". At that point it is sincerely to be hoped that a public, national debate will take place. The issues deserve a thorough, well-informed airing, and the values involved should be clearly understood and discussed. Neither competition nor regulation should be seen as ends in themselves, but as a means to achievement of broader social objectives, and what those objectives are should be decided by an informed public, which can then direct its elected officials. The time has come for the government to take telecommunications policy off hold, expose it to public discussion, and then respond to the message on its answering machine.

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2. Noll, p. 47.

3. B.C. Government, p. 50.

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5. Weber, J., "Is the U.S. Losing its Telecommunications Edge?", Communications Week, 22 May 1989, pp. 40-46.

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11. Prairie Provincial Study, pp. iv-v.
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