

**A CANADIAN PERSPECTIVE
ON
DIRECT BROADCAST SATELLITES
AND THE NEW WORLD
INFORMATION AND COMMUNICATION ORDER**

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I have fairly strong views on the subject of direct broadcasting. The sponsors may have been wiser to start with an academic who could have set out all sides in an objective and analytical way. But although I hold strong views and do not intend to bother with diplomatic niceties, my views lie somewhere in the middle of the extremes on the subject. As you may have noticed, Canadian governments have traditionally felt comfortable occupying this middle ground, or at least pretending to occupy it. I shall try to give you my personal, but Canadian, perspective. Because of my job, *le Canada, c'est moi!*

Any Canadian perspective on communications issues cannot help but be influenced by our intimate communications relationship with the U.S. This relationship, I believe it is accurate to say, is the most complex and sophisticated bilateral communications relationship between any two countries. The relationship is a microcosm of most of the issues at play in the wider global context.

Canada is a vast country with large rural and remote areas and with most of its population spread out along the common border with the U.S. Canadians have access to such a great amount of U.S. television that it is difficult to maintain a viable Canadian broadcasting system. We Canadians often refer to the fact that, in the field of communications, we are *both* a developed and a developing country. We are developed in that we are among the most technologically advanced countries in adapting innovative technologies to our particular requirements. But we are developing in the sense that we still have some way to go in reaching our goal of bringing the same degree of sophisticated services, enjoyed in our cities, to our rural and remote regions.

Canada knows from its own experience that not only transportation but also communications systems are essential to preserve our sovereignty and cultural identity and the economic basis

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upon which they are nourished. We also know that many current communications issues are complex. They are not susceptible to being evaluated in accordance with slogans, such as the "free flow of information" versus "non-interference in internal affairs," or the "protection of national sovereignty." Although there is usually a philosophical or political underpinning, more and more it is economic interests which are really at play. Concepts such as "open skies," "first-come, first-served," and "the free flow of information," are laissez-faire positions which just happen to accord with U.S. commercial interests.

Contrary to what has been portrayed in some quarters, the purpose of Canadian communications policies is not to cut off the flow of information across the Canada/U.S. border. Canadians will continue to have access to more U.S. television programming than citizens of any other country (more, thanks to cable, than in many parts of the U.S. itself). Canadian policies are designed to stimulate not to stifle, that is, to stimulate a variety of programs that Canadians will want to watch and thus ensure the continued viability of the Canadian broadcasting and communications systems.

Is there a serious communications gap, the redress of which requires us to make progress toward a new equilibrium, what is now referred to as "a new world information and communication order?" At the 1980 meeting in Belgrade, the UNESCO General Conference expressed the wish that UNESCO demonstrate its willingness in its short-term and medium-term activities to contribute to the classification, elaboration and application of the concept of a new world information and communication order. As members of UNESCO, therefore, governments have made a commitment. They have recognized that there is a serious gap between countries in hardware and software. With new information services brought about by a combination of communications and computer technologies, this gap can become even wider. There is a growing recognition that information means not just political power but also economic power.

The communication gap, however, is not just *between* government and countries but *within* many countries. There is a danger that some socialist governments and some countries with all-pervasive governments will try to manipulate the concept of a "new order" to justify restrictions on the flow of information to their citizens.

If UNESCO and its new International Programme for the De-

velopment of Communication (IPDC) is going to be successful, it should not waste its time in politico-rhetorical exercises (for example, in trying to define the principles that should govern a "new order"). It should, rather, proceed on the basis of the highest, not lowest, common denominator. It should recognize that there is a serious gap and concentrate upon mobilizing support for practical measures to close this gap.

I must admit that UNESCO does not have a particularly impressive track record in leaving political rhetoric aside. As a member of UNESCO's new Intergovernmental Council of the IPDC, however, Canada will be working in good faith to get right down to business assisting developing countries in adapting new communications technologies to their unique requirements.

Is a "new order" necessary in space communications? I would not dramatize the need for a "new order" since the basic equitable principles of outer space law, contained in the 1967 Outer Space Treaty, are still valid. Countries cannot appropriate outer space; which remains "the province of all mankind." It is clear, though, that if only certain countries have the technological expertise and the resources, the concept of "the province of all mankind" will have *de jure* but not *de facto* meaning.

One problem is that the international policymaking function in the outer space field is so fragmented that international policies are not keeping pace with technological developments. It is unrealistic to draw artificial distinctions between the mandates of different international organizations. Thus, it is simplistic to say that the International Telecommunication Union (ITU) deals with "hardware" issues, UNESCO with "software" issues, and the U.N. Committee on the Peaceful Uses of Outer Space takes an "overview."

How effective are these forums? So far, the ITU has managed to keep pace with technological developments, but it will be seriously challenged during this decade in continuing to do so. At the 1971, 1977 and 1979 World Administrative Radio Conferences (WARCs), substantive - not cosmetic - concessions were made to satisfy the outer space aspirations of developing countries.

As agreed to at the 1977 WARC and confirmed at the 1979 WARC, operational Direct Broadcast Satellite (DBS) systems must be in accordance with ITU *a priori* plans providing for the future requirements of all countries for radio frequencies and orbital positions. In these ITU plans, neighboring states have the

right to agree to intentional coverage of their territory by the broadcasting state ("technically unavoidable spillover" is, of course, permitted).

Moreover, the 1985-87 WARC was given the very strong mandate to guarantee all countries equitable access to the geostationary satellite orbit and the frequency bands allocated to space services. It is likely that the "first-come, first-served" principle, as it exists today, will undergo important changes at the 1985-87 WARC.

The first session in 1985 must decide which space service and frequency bands should be planned. It has already been decided that DBS will be the subject of detailed *a priori* planning; the countries of the Americas will produce a detailed plan, similar to the plan worked out for the rest of the world at the 1977 WARC, at a Regional Administrative Radio Conference (RARC) to be held in 1983.

But what about "fixed" (point-to-point) satellites? It is claimed by some that it is unnecessary to change the current "open skies" system because technological advances will ensure that there is sufficient capacity to meet the requirements of all countries. It would be inefficient, they say, to reserve orbital positions and radio frequencies for countries not yet in a position to take advantage of them. It is clear, however, that a considerable majority of countries want greater guarantees, if not through *a priori* plans, then at least through procedures guaranteeing equitable access.

Canadian views, typically, lie somewhere in the middle. We consider that it is necessary to continue to make technological advances that will ensure the most efficient use of the radio frequency spectrum. But we also wish to ensure that there are at least mechanisms in place to ensure that the reasonable future requirements of countries, including those of Canada, will be able to be met.

It remains to be seen whether UNESCO and its new IPDC will be successful in helping to bridge the communications gap. To do so, it will have to develop a close working relationship with the ITU and other governmental and non-governmental organizations.

What about the effectiveness of the U.N. Committee on the Peaceful Uses of Outer Space and its Legal and Scientific and Technical Sub-Committees? The Committee and its Legal Sub-Committee have a fine tradition of working out a body of important general treaties: the 1967 Outer Space Treaty, 1968 Agreement on the Rescue and Return of Astronauts, 1973 International

Liability Convention and the 1976 Registration Convention. But the only legal instrument completed in recent years has been the Moon Treaty. Given the 1967 Outer Space Treaty, was the Moon Treaty really necessary? Even after final concessions were made to the Moon Treaty to meet U.S. concerns about "resources" coming from the moon, it looks like the U.S. Senate will not ratify it!

With respect to principles to govern the use of DBS, the 1981 session of the Legal Sub-Committee (which ended April 10, 1981) was again deadlocked. The U.S., followed by a few other Western countries, again blocked a consensus. Is something so vital at stake in these principles to justify the U.S. opposing the consensus? I would argue — no.

As confirmed in the ITU plans, there will be very little "international" direct broadcasting via satellite. For technical reasons, DBS will not be used like high frequency shortwave broadcasting. The preamble of the principles makes this clear by stating that the unique characteristics of such satellite broadcasting not encountered in other forms of broadcasting necessitate besides relevant technical regulations also principles solely applicable to this field. It would, therefore, be unreasonable to try to apply the principles applicable to DBS to other means of dissemination of information.

When one reads the current version of the principles, one wonders what is so controversial. In specifying that an international direct television broadcasting satellite service shall only be established on the basis of agreements or arrangements in conformity with the relevant instruments of the International Telecommunication Union, the principles do not go beyond what the United States has accepted as a member of the ITU.

I fear that the U.N. Committee and its Legal Sub-Committee has ceased to be a credible negotiating forum. On any important space application, it is usually in the interest of one or both of the major space powers to block consensus. Nothing is really happening on such subjects as Remote Sensing, Nuclear Power Sources (progress is at a snail's pace), Definition of Outer Space (who needs one?), and the Geostationary-Satellite Orbit (the real action on this subject will be at the ITU's 1985-87 WARC).

Most delegations take no initiatives in the Committee and its Legal Sub-Committee and do little preparation for the sessions. The Chairmen of the parent Committee and the Legal Sub-Committee show up at the annual sessions but do not assume enough

responsibility in creating the conditions for real progress on agenda items. UNISPACE 82 should, but probably will not, come to grips with this issue of the effectiveness of the Committee on the Peaceful Uses of Outer Space.