

July 30, 2010

Opening Canada's Doors to Foreign Investment in Telecommunications: Options for Reform

FRIENDS of Canadian Broadcasting is a watchdog for Canadian programming on radio, television and new media supported by 100,000 Canadians. We thank Industry Canada for the opportunity to participate in this public consultation.

The rationale for loosening or removing restrictions on foreign ownership and control of telecommunications companies is that sufficient competition will drive innovative service delivery at reasonable prices. Of course, 'sufficient' and 'reasonable' are words susceptible to various interpretations. In contrast with European and American telecoms, Canada's telecom industry carries the infrastructure burden of vast geography and sparse population. Unless public policy were to follow the perverse goal of lowering prices in major urban centres at the expense of Canada's substantial rural and smaller urban population, our providers must continue to cross-subsidize rural costs with urban profits.

Hence cross-jurisdiction price comparisons, for example in wireless, can be inappropriate and misleading. Furthermore, the recent appreciation of the Canadian dollar against the Euro, Pound Sterling and United States dollar renders published comparisons obsolete – a lower Canadian dollar skewing comparisons to Canada's disadvantage. Therefore, international comparisons should be treated with great caution.

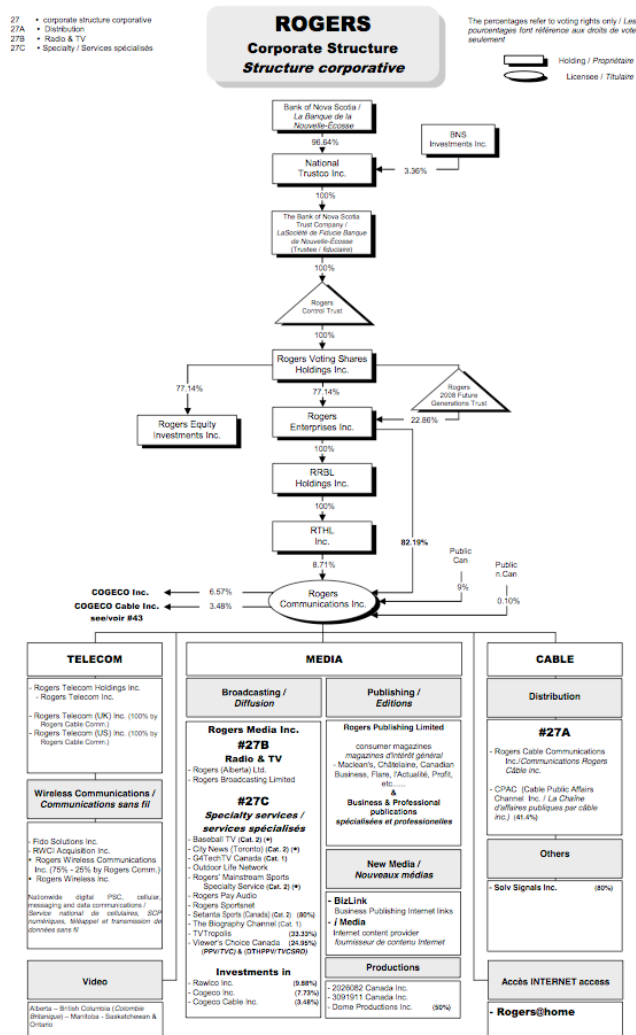
Also, where government decides to encourage additional competition, the law of unintended consequences can come into play, provoking, for example, a Bell/Telus amalgamation, or some other competition-reducing concentration of ownership – or an acquisition of a struggling new competitor by an incumbent at fire-sale prices. To head off the amalgamation threat to competition **the government should consider instituting a policy to prevent any player from growing beyond, say 40% of the telecom market place.**

Among FRIENDS' concerns regarding a possible loss of Canadian ownership and control of Canadian carriers are the export of high-end jobs, reduced protection of the personal privacy of Canadians through the intrusion of such instruments as the United States Patriot Act, loss of sovereignty through dependence on United States

routes for data flow, reduced resilience in emergencies and a threat to service access on the part of Canadians living in rural and remote areas.

Our principal concern, however, relates to Canada's **cultural sovereignty**. Canada's media and communication industries have converged in recent decades, and the pace of convergence has recently increased. CRTC's web site displays data on the corporate structure of Canada's biggest media and communications companies: BCE, CanWest, Cogeco, CTVglobemedia, Québecor, Rogers, Shaw and Telus.¹

Taking Rogers as an example, beneath a holding company known as Rogers Communications – of which the Rogers family holds 82% of the voting shares – Rogers' business lines include cable television, local and long distance telephone, Internet access, wireless, broadcasting, baseball and publishing. Last year its revenues approached \$12 billion:



¹ http://www.crtc.gc.ca/ownership/eng/title_org.htm

Although Rogers may be Canada's most converged media and communications company, it is by no means unique:

- Shaw operates in the cable and Internet businesses, and is entering wireless. Through the Shaw family's common ownership and control, Shaw is related to Corus, a radio and specialty television company, and Shaw is in the process of acquiring CanWest, one of Canada's major over-the-air television networks.
- Québecor controls Vidéotron, TVA and Sun Media, offers Internet access and plans to enter the wireless business.
- BCE controls Bell Canada, Bell Aliant, Bell TV and holds a 15% stake in CTVglobemedia – which in turn controls Canada's largest television broadcaster and the Globe and Mail.

In this integrated communications environment, changing the foreign ownership requirement for one sector – telecom – can be expected to cause a domino effect in the other sectors. If BCE were foreign owned, it would become ineligible to control Bell TV. Rogers would have to dispose of Rogers Media and Rogers Cable, and so on – unless the government were to encourage heavily-lawyered subterfuges in an attempt to camouflage reality.

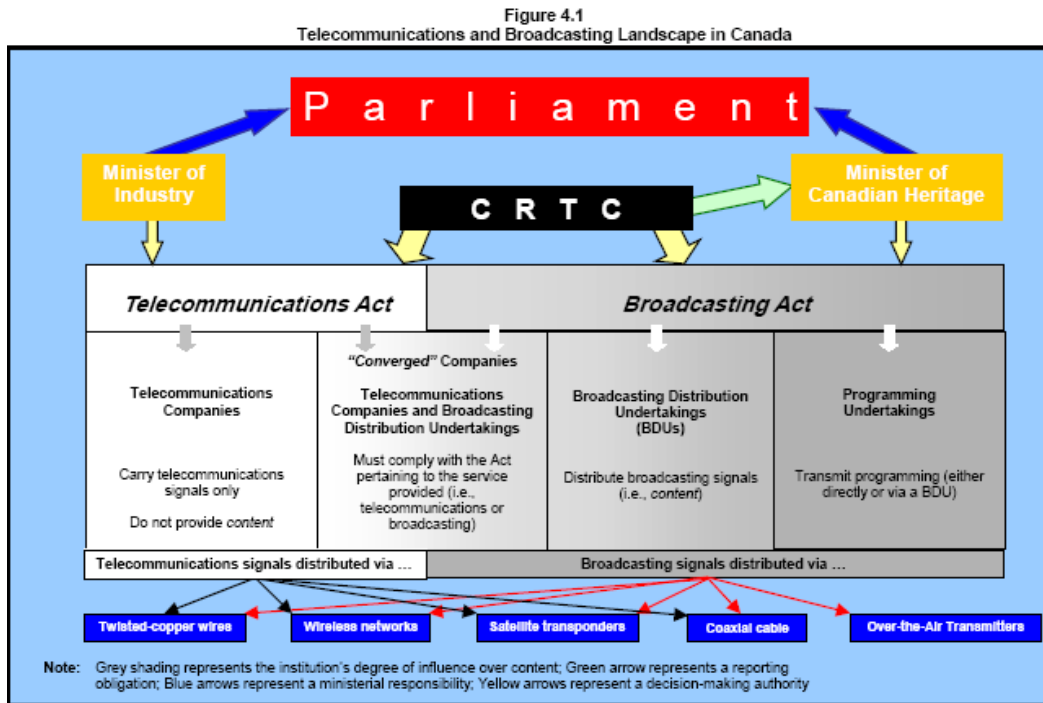
Disposing of these broadcasting assets would destabilize the Canadian broadcasting system by reducing the investor pool, as well as ending synergies between the component parts. It is likely that the affected players would instead call for changes to ownership requirements under the Broadcasting Act, just as they did successfully when telecom ownership requirements were changed in the 1990s. The Montreal Gazette reported on November 23, 1995 that “the federal government is relaxing limits on foreign ownership of Canadian cable and broadcasting companies.... (Heritage Minister Michel) Dupuy said the rule changes put the broadcasting and cable industries on the same footing as telecommunications companies.”

CanWest's former CEO, Leonard Asper, testified before the House of Commons Industry Committee in 2003 that “any changes in the rules that apply only to telecom companies would soon be of competitive significance to broadcasters as telecom companies move increasingly into the BDU (broadcasting distribution undertaking) and broadcasting businesses”. And Cogeco's Louis Audet told the same Committee that “we are suggesting that competitive equity will require that cable companies and telephone companies be treated the same way under liberalized foreign ownership rules”.

The 2003 Industry Committee's report underscored Mr. Audet's comment in the following passage:

“Technological advances and convergence of technologies, especially over the last decade, have blurred the lines that previously separated the services offered by

telecommunications common carriers and broadcasting distribution undertakings... Telecommunications carriers and BDUs are now competing for the same customers in some markets (e.g., high-speed Internet service). The telecommunications and broadcasting landscape is further complicated by vertical integration and by cross-media ownership. Clearly, defining an enterprise as a pure “telco” or “BDU” on the basis of their underlying distribution networks or the services they provide is becoming more and more difficult (see Figure 4.1).”



Canadian broadcasting is a public good which is essential to the communications infrastructure of local economies across the land. It facilitates the participation of citizens in the democratic process, and it contributes to building a distinct identity on the northern half of the North American continent. Allowing such an important instrument of Canada’s national development to fall into foreign hands would signal the demise of our cultural sovereignty.

While no patriotic Canadian would deliberately counsel such an outcome, tinkering with foreign ownership rules in one part of the media and communications industry would inevitably place other parts at risk.

Speaking on behalf of Industry Canada, Marta Morgan told the Commons Industry Committee in March 2010 that relaxing foreign ownership rules in telecom would serve to bring Canada in line with other OECD countries. None of those countries is immediately adjacent to the huge cultural and economic influence of the United

States of America.² In view of Canada’s unique position, the Government of Canada should heed the advice of the 2003 Lincoln report (“Our Cultural Sovereignty: The Second Century of Canadian Broadcasting”) “that the existing foreign ownership limits for broadcasting and telecommunications be maintained at current levels.”³

This recommendation enjoys widespread public support. An April 2010 public opinion poll by HarrisDecima commissioned by FRIENDS in collaboration with ACTRA and the CEP, found that a strong majority of Canadians oppose foreign ownership of telephone, cable and media companies:⁴



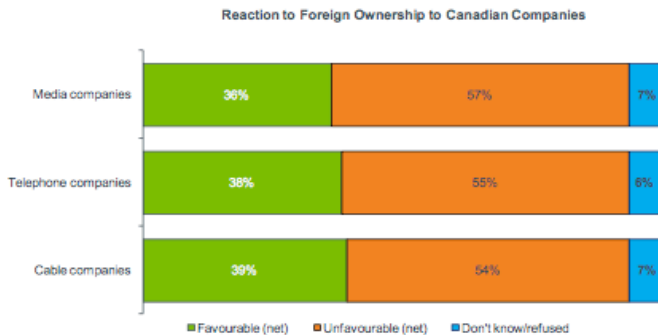
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Friends of Canadian Broadcasting, ACTRA, Communications, Energy and Paperworks Union of Canada

Foreign Ownership of Canadian Broadcasting and Telephone Companies

The majority of Canadians agree that it’s important the Canadian government work to maintain and build a culture and identity distinct from the United States (81%). Women are more likely than men to agree with this statement (84% vs. 78%). Conservative voters are less likely to agree that it’s important for Canada to maintain a distinct identity from the United States (77%).

Many Canadians have an unfavourable reaction to foreign ownership of telephone (55%), cable (54%), and media companies (57%).



There are various demographic differences related to the foreign ownership of telephone companies in Canada:

- Women are more likely than men to have an unfavourable reaction (62% vs. 48%).
- As age increases, so does the likelihood of unfavourable reactions.
- Those with a household income less than \$40k are also more likely to have a negative reaction (64%).

² “Improving Canada’s Digital Advantage”, the Department’s Digital Economy consultation paper, recognized Canada’s unique situation when it described “Canadian commercial spectrum (being) aligned with the U.S.”.

³<http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=1032284&Language=E&Mode=1&Parl=37&Ses=2>

⁴ <http://www.friends.ca/press-release/9439>

We conclude that the only option put forth in Industry Canada's discussion paper which respects Canada's cultural sovereignty is the 49% proposal earlier advanced by CRTC Chair Konrad von Finckenstein.

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