
The Lobby Monitor

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CRTC Decision Appealed to Cabinet

Working off the widely held perception that the Liberal cabinet is unusually open to appeals of CRTC decisions, CanWest has launched an attempt to reverse a recent decision. *See CanWest, page 2.*

1996's Big Campaigns

As '96 winds down, we revisit the major campaigns of the year, many of which provide clues to the growth areas of the future. *See Review, page 3.*

Copyright Conclusion?

The Canadian Heritage Committee found a unique way of limiting lobby pressure on C-32: they all but shut out the advocacy community from the amendment procedure. *See Copyright, page 6.*

Grassroot Impact

Rhetoric aside, what's the impact of a grassroots campaign after the demonstrations are over? The two major examples of the Chretien government provide some answers. *See Making, page 7.*

Also in this issue: Registrations page 4, Registration Notes page 5. and The Top 15 Lobby /Law Firms by Active Registrations as of December '96 page 8

Registrations in this Issue

Client Organizations

Alcan Smelters and Chemicals
Alexandre Cote Ltee
Canadian Learning Television
Capital One Financial Corp
Cdn Life & Health Ins Assoc
Cdn Newspaper Assoc
Corestates Financial Corp
Ford Credit Canada Limited
General Electric Capital Can
Great West Life Assurance Co
Imasco Ltd
Inco Limited
Intrawest Devt Corporation
Investors Group Inc
Istar Internet Inc.

London Life Ins. Co.
North American Gateway Inc.
Overture Marketing
Picturetel International
Power Corporation of Can
Power Financial Corp
Retail Council of Canada
Sky Station Canada Inc.
St. John's Port Corporation
Telpay, Div. of CTI-Comtel Inc
Terminaux Portuaires du Que
Trimark Investment Mgmt. Inc.
Vertical Network Holdings
Wisconsin Pharmacal Co. Inc.
Zurich Canada

Lobby Organizations

Fasken Campbell Godfrey
Garry Rolston Associates
GPC Govt Policy Cons (Ott)
Hill & Knowlton Canada (Ott)
Hill & Knowlton Canada (Que)
Hill & Knowlton Canada (Tor)
PSC Public Sector Corp (Ott)
RCG/Remillard Consulting Gp
Roberts, Edward
Ross Mayot & Assoc
SAMCI (Ott)
Stikeman, Elliott Ott)
The Capital Hill Group (Ott)

CanWest Cabinet Challenge

Despite rumors to the contrary, an appeal of a **CRTC** decision to the federal cabinet is not unusual. What is unusual, however, is the *Chrétien* government's willingness to respond to such appeals in a positive way.

An appeal by a disgruntled applicant can always cause a stir – both in how people understand the role of the **CRTC** and how they interpret the motivations of the cabinet.

The latest example of such a petition to the Governor in Council is by **CanWest Alberta Television Inc.**, who came up short in the competition for TV stations in both Calgary and Edmonton, losing to **Craig Broadcasting**.

The case is worth exploring to understand the current state of affairs at the **CRTC**, not to mention the utility of these types of challenges in a lobby campaign.

What's going on

On November 1, **CanWest Alberta Television Inc.** announced it was going ahead with an appeal of the **CRTC**'s decision to award TV broadcasting licenses to **Craig Broadcasting** for both Calgary and Edmonton. Among the reasons cited for the challenge: the prevention of the formation of a third national broadcaster, the ignoring of technical developments and increasing international trade pressures, contradiction of Canada's trade and cultural policies, the impact on Canadian programming and the independent production industry, not to mention the failure to give Alberta a strong presence in Canadian broadcasting.

CanWest retains the services of *Denis Dawson* of **Hill and Knowlton** and brought on *Edmond Chiasson* of **Government Business Consultants** in November to help with the appeal. The cabinet has until February 1 to respond, although it has

the option of ignoring the petition altogether.

The Campaign's Angle

All those contacted agreed that the **CanWest** appeal has to be seen in the context of the company's larger ambitions – offering a national broadcasting service. “They are laying the groundwork for other applications down the road,” says one source.

Chiasson is upfront about his clients national goals. “When the question emerges as to whether or not Canada should have third broadcaster, it's important to understand whether that should be a government decision or a **CRTC** decision,” says Chiasson.

Another plank in the argument involves the new **CRTC** chair *Francoise Bertrand*. “People are going to great lengths to stress that the decision in question was not made by Bertrand. They are hoping to assure the decision makers that the decision could be sent back without necessarily undermining Bertrand's authority,” says one consultant following the situation.

CanWest has also embarked on a media campaign threatening to withdraw support of its acclaimed Canadian programming, including the popular show **Traders**. “They threaten to withdraw funding on their Canadian content but it might be misguided,” says *David Silcox*, former advisor to *Michel Dupuy* and **ADM** at the **Department of Communications** in the '80s.

Indeed, the technique might be the weakest part of **CanWest** argument. “You don't get something by taking something away,” says one cable industry lobbyist. “[The withdrawal of funding] is looked on with skepticism in the industry.”

Precedent Set?

The **CanWest** challenge was not characterized by those we spoke to as particularly likely to succeed. At the same time, the appeal did not come as a surprise to any of our sources.

“It used to be quite rare,” says *John Meisel* of **Queen's University**, a former chair of the **CRTC**. “But this government has been much more willing to do it. There have been several examples of a positive response.”

The most common example noted is the Direct-To-Home television licence decision, sent back by the cabinet last year. “The intervention of the cabinet last year on the DTH licences called into question the role of the **CRTC**,” says *Mike Mozinski* of **KPMG**. That decision did more than stir up a political tempest for the Prime Minister, according to those that watch the sector closely, it set an important example.

“The precedent was set by the DTH licenses case,” says *Debbie Lawes*, editor of **Canadian Communication Reports**. “Expect more [cabinet challenges] every time a major player is refused.”

There were steps taken by the cabinet on the telecom side, as well. It overturned a major **CRTC** decision and awarded **Bell Canada** a major rate increase.

Explanations of such a shift often lead to former chair **Keith Spicer**. “There was a perception that the **CRTC** got out of sync with the government,” says one source. “Spicer had no credibility and so there was the feeling that he could be challenged.”

The Cabinet appeal

The new year at the **CRTC** promises to bring many contentious decisions – simply because of important issues to be addressed. Predictions are that if applicants have been appealing decisions in 1996,

they are all the more likely to be doing so in 1997.

Among those contested issues are applications for a Multipoint Distribution System in Southern Ontario, applications for Local Multipoint Communication Systems, a DTH TV package, and hearings on experimental high speed internet services. The entire broadcasting sector will be further complicated by the announcement of new broadcast competition rules – expected to be a loosening of regulations.

Does the situation lead to increased lobbying? Most say yes, but the context for

such work, however, is probably different than expected.

“It’s not as political as you might think,” says Silcox. “They are in a fish-bowl on CRTC challenges and have to act accordingly. They are more likely to be careful because it is a public process that they are responding to.”

Meisel suggests that lobbying pressure has to be carefully placed. “It was all done through the Department of Communications when I was involved,” says Meisel. “The minister’s staff, the department officials -- pressure was generated

through that route. The only exception was probably **Bell** who lobbied everyone which was likely a mistake.”

Politics certainly does emerge, however, where a minister has the authority to not allow the appeal to go to cabinet. “[Minister of Canadian Heritage] **Sheila Copps** does not have to send every appeal to cabinet,” says one lobbyist. “She feels obligated, however, because it protects her and it gives the company due process which is presumably what it asked for.”

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Review '96: Major Lobby Campaigns

It’s that time of year again. With a New Year just around the corner, and everyone hunkering down for Christmas cheer, it’s time to take stock of the year’s major lobby campaigns.

So here’s our assessment of the major lobbies that swept through Ottawa last year.

Communications: The communications lobby was, far and away, the hot spot of the year. In addition to the overarching issues of convergence and competition, which put hundreds of billions of dollars into play, there was the matter of LMCS and PCS licenses and satellite slots to sort out. All in all, the key players in this lobby were kept busy through most of the year and should be looking towards a good Christmas and another prosperous year in 1997. We could say more but we’ve already said enough in Vol 7 Issues 18, 19, 20, 21 and Vol 8 Issue 1.

Financial Institutions: It was a great year for bank profits. Even the increased intensity of the bank lobby made nary a dent in the bottom line. Despite an early rejection of their attempts to move into the insurance business, the banks kept up the pressure, looking for changes in owner-

ship regulations and other areas that would allow them to attain “world class status.” Not to be outdone, the insurance industry and foreign banks continue their efforts to expand the services and financial instruments they can offer. (Vol 7 Issues 9, 11, 18, 22)

Biotechnology: The biotech lobby is growing in proportion to the number of products hitting the market, which are increasingly crossing into different sectors. Most lobbyists are there to pave the product approval process. However, a growing number from the environmental sector are banding together to oppose the continued development of the industry. Most lobby battles amount to little more than skirmishes at the moment, but there are signs that this could be a lobby to watch in 1997. (Vol 7 Issue 13, 16)

Copyright: If you’ve ever played the game Diplomacy, you will recognize the tentative nature of alliances and how the principle applies to the copyright issue. The original bill was supposed to have struck that fine balance between originators, broadcasters, users and many who fit in all or none of the camps. As the bill progressed, however, depending on the clause, amendment or the deal being

struck, players could switch from allies to opponents in a matter of minutes. The end result still hasn’t been sorted out. With new forms of property coming on stream, and international pressures growing, IP issues will be providing advocacy jobs for a good long while. (Vol 7 Issue 11 and Vol 8 Issue 2, 4)

Softwood lumber: The question was who would be eligible for softwood export quotas? The big battle was between the producers and the wholesalers. The mainly western producers shut the many eastern wholesalers right out of the market. Once that battle was won, the issue was how to divide the spoils among the provinces and the producers. In sorting out the winners and losers, Ottawa has managed to install a secondary capital market in lumber export quota and introduce the “great incentive” of tremendous rigidities against innovation and efficiency. That’s progress? (See Vol 7 Issues 18)

Tobacco: A new tobacco control bill finally saw the light of day. From health groups to motorsport, there seemed no end to the groups involved. Need we say more than we already have? (Vol 7 Issue 21, 22 and Vol 8 Issue 3)

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Registration Notes

Floating an Idea

Look up - look way up. Is it a bird? A plane? Forget the Goodyear blimp, here's a celestial body with a truly nineties purpose. **Garry Rolston**, of **Garry Rolston Associates** has registered on behalf of **Sky Station Canada Inc.** to pursue the always incendiary issue of spectrum allocation at Industry Canada. Sky Station Canada Inc. is a new Canadian company seeking to provide super high speed internet access through the use of large balloons floated 80,000 - 90,000 feet in the atmosphere as relay stations. The company is seeking to secure spectrum in the 47 gigahertz bandwidth range for this technology.

While affiliated with Sky Station International in Washington, Sky Station Canada Inc. will follow the rules on Canadian ownership to the letter, according to **President Robert Bowen**, to avoid any potential problems. The company is also actively seeking partnerships with other telecommunications companies in the 'Mother Bell' family.

Better Safe Than Sorry

Ross Mayot, of **Ross Mayot and Associates**, took the "better safe than sorry" approach with his recent registration on behalf of Canadian Learning Television. CLT is one of the lucky ones: a specialty channel that applied for a license from the CRTC during last year's fooforaw and actually *got* one. So why the need for a lobbyist? In mid-October, the Quebec government appealed the CRTC's decision to grant CLT a license on constitutional grounds, arguing that education is a purely provincial jurisdiction. The federal cabinet saw otherwise, however, and CLT received word in early December that the appeal had been soundly quashed. Mayot says that now that the appeal has been dealt with, he foresees little need for formal lobbying efforts as CLT scrambles to get full coverage across the country before its broadcast debut.

Getting Help With Procurement

What with the continuing cutbacks in departmental budgets, frazzled civil ser-

vants are trying desperately to reduce spending on decadent luxuries like transportation costs. With that in mind, **Picturetel International**, a company that provides videoconferencing services, has engaged the services of **Bruce Maynard** of the **Public Sector Company Ltd.**, to help get the company established in government procurement circles. **Michael Evans** from Picturetel explains, "PSC is helping us get registered for a standing offer with government. It's easier for the government to acquire our services if the standards and conditions of a standing offer are met." PSC has set up a meeting with a senior procurement official from **Public Works and Government Services** to get the ball rolling. A quick look at the **Open Bidding Service (OBS)** points to a Letter of Interest for videoconferencing services posted by PWGSC. Lights, camera, lobby!

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The Lobby Monitor will break for Christmas following this edition

The next publishing date will be January 17, 1997

To all our subscribers we wish the best of the holiday season

**Merry Christmas from
ARC Publications**

Copyright Update

When Reform MP *Jim Abbott* couldn't understand the amendments to bill **C-32**, the copyright legislation, he stormed out on the Canadian Heritage Committee meetings. The lobbyists, however, who also got lost amidst the sub-amendments, clauses, votes and revisions, had no such option.

Amendments to the copyright legislation were passed through committee at lightning speed with little opportunity for observers to understand what was being added to the hotly contested bill. Further, the final version of the bill was not immediately tabled in the House so details of the amendments have been sketchy.

Who won? Who lost? Who knows? Deciphering the spins of the many players involved is difficult at the best of times, and all the more challenging in this case.

What Happened

"The deal was exactly what the artists' lobby wanted, particularly from Quebec," says Abbott. Other sources, however, suggest that his view is clearly broadcaster-centered. "The broadcaster deal was so sweet that it didn't hold up, the pendulum began to swing in the producer/distributor favour," says one lobbyist close to the issue.

Key aspects of the amendment package include phasing in the neighboring rights agreement over three years instead of five. The Copyright Board will no longer be required to include consideration of airplay value when setting tariffs. Ephemeral exemptions have been modified to apply except where collectives exist, namely, Quebec.

How it Happened

One hundred and seventy nine amendments emerged in committee. *Sheila Copps* took them back to cabinet

for a second time as the amendments changed substantive aspects of the bill.

While the cabinet was considering the changes, we were negotiating with the Bloc," says committee chair *Clifford Lincoln*. "We forged an agreement that when the changes came back we would move very quickly.

Such a collaboration didn't sit well with Reform who ended up boycotting the meetings. "[Bloc MP] *Gaston Leroux*, to his credit, made a deal," says Abbott. "ADISQ and SOCAN has the ear of the minister and were far and away the most influential lobbyists."

Association Quebecoise de l'industrie du disque (ADISQ) advocates include *Marc-Andre Morin* of **Raymond, Chabot, Martin, Pare**. The association is part of a various record company coalitions including the **Music Copyright Action Group (MCAG)**, led by *Brian Robertson*. MCAG, in turn, is represented by *Herb Metcalfe*, *Nanci Woods*, *David Dyer* and *David Angus* of **Capital Hill Group**.

The **Society of Composers and Authors (SOCAN)** is represented by *James McIlroy* of **McIlroy & McIlroy limited**.

But why the unusual speed with which the committee endorsed the amendments? All sides on the issue say that the approach was unusual and unnecessary. "Opponents will have a procedural argument that could have been easily avoided," says one lobbyist. Despite the usual rush to pass legislation before the holiday break, the committee could have taken up to one and half more days to continue examining the amendments.

Lincoln says that Reform can be blamed. "When Reform walked out there was no counterpoint, so things moved

very quickly," says Lincoln. "Some members of the public were upset because they were losing track of the amendments. For people watching, it looked as if we were just rubber stamping everything. But there was a lot of preliminary work."

Other sources, however, suggest that the urge to rush the amendments through was based in the fact that they represented a collapse of the deal struck between the broadcasters, caucus, Industry and Canadian Heritage. The quicker the bill went through, the less chance of aggressive lobbying delaying the bill yet again.

What it Means

The aggressive campaign by the **Canadian Broadcasters' Association** is already staking out communications themes for report stage of C-32. The big record companies are portrayed as calling the shots and the French card is played by saying that the exemptions for Quebec collectives discriminate against French broadcasters.

Sources critical of the amendments suggest that there will be pressure from the southern Ontario caucus to push the legislation to the back of an already full legislative agenda.

As well, the creative community is not satisfied that the bill goes far enough and sources suggest that they will be pushing for amendments at report stage. "This was not supposed to be a bill for the broadcasters, it was supposed to be for Canadian copyright," says one advocate.

The situation is summed up by some observers as a classic case of the best defence being a good offence. "No one will be happy with this bill, the camps are too polarized. [CAB President *Michael*] *McCabe* got a great deal for the broadcasters but he is still pushing. That's what these people are paid for," says one consultant.

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Making Enemies

Remember all those meetings held last year by those involved with the gun control and the gay rights lobbies? You can bet that the message from all sides to MPs, staffers and even ministers were very much vote oriented: "Maybe we can't match the campaign funding of a **Bombardier** or the political pull of a **Power Corp.**, but just wait till voting day."

Such rhetoric is expected in the heat of the campaign, but is there anything to the threats? Do grassroots campaigns really generate long standing grudges?

A grassroots campaign is different than other lobbies. It's fueled by emotion instead of commerce. The major examples of the Chrétien government are worth revisiting to explore how they might impact on the Canadian political scene as we approach an election year.

Case Studies: Guns and Gays

"The question on gun control is: is the dog going to hunt," says **Darryl Bricker**, of **Angus Reid**. "The only political pressure is in Western Canada, Northern Ontario and to some extent, rural ridings."

A court challenge of the law, led by Alberta with the support of Ontario, Manitoba and Saskatchewan is likely to be heard this Spring but unlike the Supreme Court reference, few people see it as a difficult issue. "The court challenge isn't even in the calculation," says **Don Gracey**, of **C.G. Management & Communications**. "The government won't be called on the carpet, they'll simply say that they tried their best."

Gay rights is characterized by most observers as a horse of a different colour. "Whether or not the government honored its commitment on gay rights, it's imma-

terial to the lives of most people – even portions of the gay community," says a communications consultant. "These rights are established through the courts and there is a trend against violating them."

Indeed, formal entrenchment of gay rights is a concern more of the leaders of the gay equality movement than of the majority of Canadians that support the principles. "On gay rights, the vast majority of Canadians support equality, but always with certain limitations on issues such as adoption," says Bricker. "Interestingly, the lobby focuses on those out-of-reach issues and runs into problems because of it."

Gracey says that there is little chance that the federal Liberals will come anywhere close to running on the gay rights issue. "They are very cognizant of what can happen when single issue forces come through a party," says Gracey. "They watched what happened in Ontario with **Lynn McLeod** and how she backed off on gay rights and it hurt her."

Problems of the gay rights lobby are in some ways the problems of the gun control lobby, as the real question is: will people mobilize come election time?

Campaign Jitters

"There are shock troops sent into meetings," says one Liberal organizer. MPs recognize the media attention such demonstrators can garner, not to mention the dissent it can stir up among less committed constituents.

The Liberal Party is the most susceptible to a takeover at the riding level because of its rules as to who can vote and participate," says Gracey. "But when single issue activists show up in a campaign it's not necessarily a bad thing. There's usually a just as hostile response."

Single Issue Voters

"People don't vote on abortion," says Bricker somewhat impatiently.

Other sources agree. "Very few people are single issue voters. Gay rights won't generate that much support – what's the political alternative?" asks one lobbyist.

As Gracey points out: "With cabinet secrecy, solidarity and the power of the executive, I just don't think that as a rule, grassroots campaigns are successful."

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