

GERMANY'S SATELLITE POLICY DEBATE: ITS RELEVANCE TO EUROPE AND CANADA

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"New Media" debates in Germany are used to pinpoint the issues and identify the players involved in the power struggle.

L'auteur s'appuie sur les débats allemands sur les nouveaux médias afin de cerner les problèmes et de repérer luttes de pouvoir.

Americans tend to say that the market must be relied on because no government can presume to decide what is in the best interests of the variegated public. But Europeans rejoin that they have pinned their faith on the possibility of getting a better wisdom than that of the marketplace. (Homet, 1979:98)

Introduction

The coming of cable and satellite television in the climate of U.S. deregulation have accelerated the world-wide debate about media policy. Until recently, European countries enjoyed some form of communications sovereignty. In Canada, in contrast, communications sovereignty has by now been under U.S. pressure for more than sixty years, and might therefore offer European policy makers a "forward look" useful to their own future planning. Yet, the exact issues involved in new media regulation are difficult to pinpoint for Canadian policy makers (witness the DOC's 1987 discussion paper *Television for the 21. Century*) and for their European counterparts. If one assumes that technological changes alone triggered these debates, it seems reasonable to expect that there will be great similarities in the ways in which "new" media issues are defined on both sides of the Atlantic. If, instead social analysts are right, those who have argued that new media technologies are implemented in a *particular* socio-political context, then the issues selected for debate and solutions proposed in Europe might be radically different (Robinson, 1985). European interpretations of the technological future and the nature of "deregulation" might be assessed in a manner irrelevant to the Canadian context.

To explore this problem in greater detail the paper follows a three-part strategy. It begins by laying out a conceptual framework for the study of power in society and how this is related to media policy making. It then uses the German satellite policy debate as a case study for pinpointing how contending actors conceptualize the major issues in this debate. The third section places these issues into a wider European context and reflects on the relevance of European media policy interpretations for the Canadian situation.

The Actors in a Transnational Context

The introduction of cable and satellite technologies in Europe has intensified pressures and demands for both regulation and coordination of the flow of program content across national borders. Though there has always been some spillover from terrestrial broadcasting transmitters, the scale of the phenomenon was previously too small to cause concern. Consequently, up to the seventies it was assumed that each national state could operate its broadcasting system according to its own cultural mores and political goals. The "gates" of these national electronic systems were formerly controlled by a small number of institutionalized actors who dealt with problems of access, policy formation, and property rights of artists, writers and performers. The elimination of channel scarcity and the multiple actors wishing to exploit the new media technologies, have now drastically changed this policy environment. Powerful private groups are searching for access to profitable fields of electronic operation while governments have woken up to the national economic benefits which may be derived from international television and data flow.

The Euromedia Research Group views policy-making as a reaction to a challenge, a reaction that is intended to strike a reasonable balance between the 'forces of change' and the 'forces of preservation' (McQuail/Sinue, 1986:15). In the European situation with its varied national constituencies the question whether a *European* media policy is being forged thus becomes one of trying to determine whether policy initiatives can better be explained by reference to national traditions, or by reference to the goals of particular interest groups. To assess the viability of these alternative hypotheses Dennis McQuail and Karen Sinue *et al.* argue a political power framework is a useful analytic tool. It interlinks four parameters: actors, issues, interests and control and thus permits systematic analysis of issues and comparison of actors. In such a framework a guiding rationale for the actor is expected to be his or her ability to maximize power. Actors' interests in turn are said to consist of the consequences of different outcomes for the fulfillment of expressed wishes. Wishes, goals and the associated interests are thus elements in what can be termed the 'logic' of the actor (1986:16).

New electronic media transmission technologies have attracted a growing number of actors who were not previously involved with broadcasting issues. Several different groups can be distinguished on the transnational and national levels. On the transnational level they include the electronics industries, both hardware and software, which are in favor of technological development *per se*. In some European countries these industries economic arguments are supported by their governments. In others, government elites try to balance their special needs against those of society as a whole. Since the seventies they are joined by political organizations like the EEC and the Council of Europe involved with the development of technical know-how, European integration and cultural self-sufficiency. A third group of transnational players are cooperative public broadcasting associations like the European Broadcasting Union

(EBU) and regulatory associations concerned with aerospace technology and standardization.

Actors on the national political level include state and federal governments as well as parliaments, which might have initiated electronic developments for political purposes or are expected to take initiatives as new technologies become available. Their arguments for action are: the positive impact of new media on the balance of trade and employment and the possible development and acceptance of business communication. They are joined by various ministries such as post and telegraph (PTT), with responsibility for the technical side of network creation and maintenance, and those of culture and industry, which often follow goals contradictory to the PTT's. Finally there are the national public broadcasting services which are specifically charged with the production of electronic programming and have had a monopoly on its distribution. Various boards, labor and citizens groups and commercial program producers complete this group of national players. They are generally interested in decentralizing federal media policy and fight for the establishment of local and regional stations to provide more entertainment programming.

Dennis McQuail concludes that though the television "receiver" within the home opens up opportunities for large scale personal computer ownership, cinema-at-home opportunities (through VCR), as well as search and data base access, European policy makers and the general public on the continent continue to view television primarily as a ready source of entertainment and information for large audiences. All regulatory actors are therefore preoccupied with the "political" control dimensions of television expansion, while potentially revolutionary changes in relation to telematics are being made by administrative act without much public discussion (McQuail, 1986b: 125). The German satellite debates since the seventies reflect not only this bias, but provide a means for identifying the different actors in the policy making situation and the ways in which they define the "crucial issues" concerning the "new media". Their issue determination will then be compared with Canadian concerns, to determine whether European thinking provides relevant guidelines for our own situation.

New Media Policy Planning in the Federal Republic of Germany

European satellite policy has been difficult to foresee and plan because advances in transmission and reception technologies challenge a number of earlier actor agreements and will have profound effects on several media policy issues at once. In the Federal Republic of Germany the first set of debates involved three major groups of players: the military, the ministry of post and telegraph (PTT) and the electronics industry. They are still engaged in negotiating the parameters and making choices about which new technologies will be innovated and in what order. These decisions were of course not made in a vacuum, but were influenced as well by other transnational players.

Satellite policy planning in Germany commenced in the early seventies under Helmut Schmidt's Social Democrats. It was fueled by the European space agency's (ESA) L-SAT program (now Olympus) designed to create space exploration and rocket launching capacities competitive with those available in the United States. These new satellite capacities were initially planned for military purposes, not for the distribution of TV programs. In 1977 pan-European planning was however interrupted by the World Administrative Radio Conference (WARC) which approved the assignment of geodesic satellite positions on a national basis. The German government took this opportunity to unite with France and to create a bilateral direct broadcast satellite (DBS) plan. It was designed to control satellite programming from elsewhere and to create business opportunities for the two countries' electronics industries (Luyken, 1987:615).

Both the PTT and the electronics industry supported this plan. The PTT because it would obviate expensive cable network installation and Siemens, Standard Elektrik Lorenz (an ITT subsidiary) and Detewe Philips because they would develop the satellite and receiving antennas (Dewandre, 1986: 139). The system was initially to consist of 2-3 DBS satellites as well as leased telecommunication capacities. Orbiting of the German/French sponsored TV-Sat/TDF-1 was slated for 1985 (Roemer, 1984:47), while the hybrid Kopernikus, with its 34 ground stations was to become operative in 1988 (Mueller-Roemer, 1985:540). Such a setup, as Table 1 indicates, would provide German viewers with direct access to 9 DBS channels via TV-Sat/TDF-1, plus another 10 telecommunications channels on the Kopernikus system or by lease on the European communication satellite systems, Intelsat-V and Eutelsat.

The DBS portion of the project is however now in some confusion because commercial television interests can get transponder leases more cheaply on the ECS satellites, or on such planned and privately financed satellite ventures as Astra, set up by the Societe Europeenne des Satellites (SES) in Luxembourg. As a result the TV-Sat/TDF-1 satellites are at least two years in arrears and only partially launched. In the intervening period the costs for Kopernikus financed by the German PTT have also escalated so much that this launch is delayed as well. Two other factors are undermining the viability of the original decision in favor of direct broadcast satellite transmission over cable distribution. They are audience confusion over whether DBS will actually provide more program choice than presently available and resistance to costly receiver equipment investment for the reception of DBS carried signals. At present most urban cable viewers already receive two national public service programs (ARD and ZDF) plus SAT-1 and RTL-plus co-produced with commercial sponsors, as well as four European programs: Super Channel and Sky Channel (English), TV 5 (French), and KMP Music Box. All of these can presently be received without fancy additional equipment because the satellite distributed (Intelsat V) programs are beamed directly to large cable head antennas and re-distributed over terrestrial frequencies. Direct broadcast satellite (DBS) distributed programs, in contrast, will require

the purchase of a costly parabolic antenna with contacts for about \$2,400-3,000 or a new television receiver with a D2-MAC decoder for \$2,800 (Roeper, 1987a:35).

In the light of the need to amortize the heavy investment costs in DBS satellites, which amount to about \$1.1 to \$2.9 million per satellite, the PTT is now rethinking its original distribution decision favoring DBS satellite over cable distribution for TV programming. What seems to be emerging is a tripartite distribution system plan centered on cable, at least for the foreseeable future. This shift is heralded by a rapid projected increase in PTT cable laying activity between 1987-1990. In this period the number of cabled German TV households is to more than double from 8% to 18% (Luyken, 1987: 625-7). Increased numbers of cabled household, the PTT hopes will in turn attract commercial sponsors to invest money in new programs and thus guarantee that network investment and rental costs will be slowly amortized.

In this complex environment the survival and commercial future of DBS transmission systems, which are much more expensive to install will depend on a variety of factors. Among these are: their reliability once in orbit, which is now expected to be seven to nine years (see Table I). In addition there is the question whether German commercial programmers will beam their new program offerings over DBS channels which cover the national territory, or choose conventional satellites which can reach a European audience (Roeper, 1987a:39). The much higher program transmission costs, Luyken believes, may possibly be outweighed by the technical improvements offered through DBS transmission. These include D2-MAC standards which offer a new *quality* of reception, high definition television (HDTV) and cheaper digital radio transmission than is possible on conventional satellite systems (Luyken, 1987:620-1;628-9).

In the process of redefining satellite transmission policies German industrial actors have benefited from public funds and German viewers have received more program variety than initially available over the two public networks of ARD and ZDF. The new media debate has also offered private media producers a wedge for furthering their interests through viewer demand for more entertainment fare.

The Debate over Private Participation

Until recently the German broadcasting situation was similar to that of France. Programs were produced by nine independent and public organizations of the Laender and fed into two channels, ARD national and ARD regional, not unlike the British ITV model. To this was added a second national channel (ZDF) in 1959 to provide more program variety. Both public channels derive only a small portion of their operating budget from commercials: 20% in the case of the ARD and 40% for ZDF. Both also present not more than 20 minutes of "block" advertising per day (McQuail/Sinue, 1986:160).

TABLE 1
DEPLOYMENT PLANS FOR TV-TRANSMISSION SATELLITES IN EUROPE UNTIL 1990

| Satellite Country | No Transponders | Organizer | Year Launch | User Organizations | Status | Life in Years |
|-------------------------------------------|--------------------|-------------------------------------|----------------|-----------------------|----------|------------------|
| <u>FFS - Satellites</u> | | | | | | |
| Intelsat V (UK) (FRG) | 16 | Intelsat | 1964 | PTK/COM/ARD | operat. | 7 |
| Eutelsat F-1 (EU) | 10 | Eutelsat | 1983 | FR/FRG/GB/CH/I/BEL | operat. | 7 |
| Eutelsat F-2 (EU) | 16 | Eutelsat | 1989/90 | ? | contract | 7 |
| Telecom 1 B/C (FR) | 6 | DGT/France | 1985 | FR | operat. | 7 |
| <u>Direct Broadcast Satellites</u> | | | | | | |
| TV-SAT 1 (FRG) | 4 | PTT | Nov. 87 | ARD/ZDF/COM | operat.? | 7-9 |
| TV-SAT 2 (FRG) | 5 | PTT | Oct. 89 | ARD/ZDF/COM | contract | 7-9 |
| TDF-1 (F) | 4 | Teledif de France (TDF) | Apr. 88? | TDF/RTL | operat.? | |
| TDF-2 (F) | 5 | Teledif de France (TDF) | Jan. 90 | TDF/? | contract | 7-9 |
| TELEX-X (SVE) | 3 | NOTELSAT | Nov. 88 | SVT/YLE/NRK | in prod. | 7-9 |
| BSB (UK) | 4-5 (BSB) | Brit. Sat. Br. | Aug. 89 | IBA | contract | 10 |
| <u>Hybrid Satellites</u> | | | | | | |
| Astra (LUX) | 16 | Soc. Europ. des Satellites (SES) | Sept. 88 | private? | in prod. | 10 |
| Olympus (EU) | 4 | Eu Space. Ag. (ESA) | July 89 | RAI-Uno/EBU | in prod. | 7 |
| SARIT-1 (SP) | 3 | Telespacio | 1990/99 | Rai-Uno | planned | 10 |
| Kopernikus (FRG) | 10 | PTT (DBP) | Feb. 89 | FRG ? | in prod. | 10 |
| Atlantic (IRE) | 24/5 | Hughes/ SAT | 1990 | ? | contract | 10 |

Source: Luyken, *Media Perspektiven* 10/87, 616

"?" final user organization not yet determined.

The climate of opinion concerning commercial involvement in broadcasting was initially unfavorable in most European countries. Yet, after the election of more right leaning governments in some of the larger European countries, this has changed. In Germany the Christian Democratic "pragmatists" under Mr. Kohl believe a degree of commercialism is necessary if new media potential is to be fully exploited. This change in outlook is reflected as well in Eutelsat, a transnational organization made up of national PTT's. In a most important yet undebated policy decision this organization decided in 1982 to allow commercial television on to PTT-owned satellites in order to recoup some of the heavy investment costs incurred in all countries.

In Germany the changed climate accelerated the formation of multi-media conglomerates to provide scarce funds for programming in competition with the public broadcasters. Five major groups of print and film interests are presently trying to position themselves to benefit from Germany's electronic future. In private television production the two surviving front runners since 1986 are the SAT-1 and RTL-plus consortia which underwrite and produce the programming for the two new private channels of the same name. Their competition is fierce, though SAT-1 presently has only a small lead over its rival. In 1986 it reached 12% of cabled households as against RTL-plus' 10% (Roepfer, 1987:495). Four big cable and print groups hold 85% of SAT-1's shares. They are Programmges. Kabel & Satellitenrundfunk (PKS) (40%), Axel Springer Verlag (15%), Holtzbrinck Gruppe (15%) and Aktuell Presse-Fernsehen (15%) which is a group of 165 newspapers producing news, quizz and film programs (Roepfer, 1987:483). Leo Kirch, Europe's largest film mogul is represented through the PKS group.

RTL-plus in contrast is a conglomerate in which 46% of the stock is held by the Compagnie Luxembourgeoise de Telediffusion (CLT) and 39% by Ufa (a German film producer). Print interests take a back seat here with Westdeutsche Allgemeine (WAZ) holding 10% of shares, Burda 2% and the Frankfurter Allgemeine 1% (Roepfer, 1987:489). The shifting business interests which have shaped and reshaped these two conglomerates in the past three years, reflect the market uncertainties facing private programmers in Germany. In spite of this three other conglomerates are also deeply involved in both the television and radio program fields. Their sub-companies are bidding for the terrestrial frequencies which are now being awarded by the Laender governments for regional and local programming. They are the Bertelsman AG with huge holdings in book and magazine publishing, the Holtzbrinck group with press holdings and Burda composed of magazine interests. All of them are competing for possible local and regional program projects which will be offered over at least two new private channels in each Land (province). Cross-ownership issues raised by this development have up to the present remained unresolved or more frequently yielded to the political party political pressures emanating from the Landesgovernment (Roepfer, 1987a:38).

Competition has also heated up on the international scene where the public broadcasters had an advantage during the phase of satellite program experimentation between 1983-1986. During this time both ARD and ZDF tested the export capability of their programming to European audiences through their nightly "Window on the World" and "Europe Program." They also lightened their own schedule by developing such now popular series as "Schwarzwald Klinik" and "Lindenstrasse." Meanwhile the Bertelsman, Springer and Kirch conglomerates were also looking outside national borders and connected up with the Premier group of Britain which produces a pay-TV program "Teleclub". Other conglomerates sought other international partners to enter the European market. When the German high court declared private participation on the direct broadcast satellite TV-Sat legal in 1986, these concerns were well positioned to join forces with the public service organizations. Together public and private broadcast institutions are now co-producing two additional "mixed" channels, "3 SAT" (ZDF) and "Eins Plus", which are designed to offer more sport and entertainment programming.

This move has generated wide debate about the "doppel Monopol" developing in German broadcasting. What is at stake here is the division of audiences into regional blocs in which newspaper interests together with the public broadcasters will control program availability. These regional coalitions are already forming in the north where the public broadcasters of Niedersachsen, Schleswig-Holstein, Berlin and Hamburg have begun to prepare joint programs with newspaper and publishing conglomerates owning cable companies and in the south where Baden-Wuerttemberg, Bayern and Rheinland-Pfalz are interlinked with the Holtzbrinck group (Roepfer, 1987:493). Aside from the central matter of breaching the public broadcast monopoly, no public debate in Germany has considered lifting restrictions on commercial activities (deregulation) or raised the issue of the profitability of TV-receiver related services.

European Commercial Television Development

Recent research has shown that television alone is a growth industry in Europe, despite the availability of other new media. Since 1984 ten new programs have been created and at least a dozen more are on the way. They are presently distributed over Intelsat or Eutelsat channels, but some of German programs are ultimately to be shifted to DBS. Table 2 indicates that most of these operate in the evenings only and nine out of ten are heavily entertainment oriented. Among these is the pan-European OLYMPUS-TV program funded by five of Europe's public service broadcasters, including Germany's ARD. It was started in October 1985 and carries four hours of programming nightly to Western European cable TV operators. Selected German cities, especially in the south-west already receive most of these services by cable. However, the dream of European *network* television remains a long way off. Even Rupert Murdoch's Sky Channel which distributes music and entertainment shows via satellite to 10 million European households has lost about \$44 million in the five years since its inception (Luyken, 1987:624).

TABLE 2
AVAILABLE EUROPEAN SATELLITE PROGRAMS
(VIA INTELSAT OR EUTELSAT)

| Channel | Program | Schedule | PBS/COMM | Originator | Advertising | Program Type |
|---------|---------------|---------------------|---------------|-----------------------------|-------------|--------------|
| 1 | "RAI I" | 12 - 24 h | PBS | RAI | yes | Entertm. |
| 2 | "3 SAT" | 18 - 24 h | PBS | ZDF/ORF/SRG | no | Full Prog. |
| 3 | "Olympus" | 18 - 24 h | PBS | ARD/NOS/RAI/RTE/RTP | yes | Experm. |
| 4 | "TV V" | 19 - 23 h | PBS | TF1/A2/FR3/RTB/SSR | no | Entertm. |
| 5 | — | — | — | — | — | — |
| 6 | "Sky Channel" | 14.30 - 00.30 h | COMM | Satellite Television London | yes | Entertm. |
| 7 | "Teleclub" | 19 - 24 h PAY TV | COMM Zrich | Teleclub AG | no | Film |
| 8 | "RTL-Plus" | 17 - 24 h | COMM | CLT Luxemburg | yes | Entertm |
| 9 | "FilmNet" | 17 - 01 h | COMM Pay TV | FilmNet/Holland | no | Film |
| 10 | "SAT 1" | 13.30 - 24.00 h | COMM | SAT 1 Konsortium | yes | Entertm. |
| 11 | "Music-Box" | 08 - 02 h | COMM | Thorn EM1 | yes | Video-Clips |
| 12 | "Eins Plus" | 18 - 24 h | MIXED | ARD/Konsortium | yes | Entertm. |

Source: Mueller-Romer, 1985: 546
 Luykens, 1987: 623

European network television is stymied by three fundamental issues which remain unresolved. They include consumer willingness to pay for extra program choice; the number of new channels and programs sustainable by the national and the pan-European advertising markets; and the quality-ratings controversy, which turns on the maintenance of program variety. The consumer's willingness to pay for additional services is confounded by technical and economic factors. Germany's lack of frequencies in the 87-108 MHz bands restrict private radio networks to two per Land, in addition to the two public networks already in existence. Limited advertising markets, in turn will probably support no more than the two additional federation wide television services SAT-1 and RTL-plus, at an estimated programming cost of 200 mill DM/yr (Stammler, 1985:607). Whether their entertainment offerings will be worth the extra reception costs of \$800-\$1,000 a year is as yet unknown (Roepfer, 1987:495). A Europe-wide survey indicated that Europeans were willing to spend no more than five dollars monthly for satellite carried entertainment services, with Amsterdam residents unwilling to pay more than fifty cents per month for the Dutch ECS-1 channel (Mad-dox, 1983:13-14).

Since the costs and risks involved in providing more program choice are so high, Germany's attitude to private broadcast participation is both ambiguous and politically determined. The PTT, as previously demonstrated, welcomes greater private involvement in order to help offset its high DBS launch and channel rental investments, but is hampered by Laender jurisdiction over program content and the dearth of cable households. German advertiser interest in turn is depressed because of the small number of DBS cabled households and the high cost of channel rentals. Additional hurdles inhibiting European advertiser sponsored network TV are the paucity of European advertising funds and competing technologies.

In the German media market TV garners less than 20% of all advertising dollars, while it receives one third in America. According to the *Economist* only a rise of 1% of GNP in advertising spending and diversion of these monies to television, would increase these potential revenues (Economist, 1986:72). Yet competing technologies such as video recorders and converters are already reducing advertising effectiveness and thus make TV a less attractive medium for advertisers. Video recorders are now in 34% of German and U.S. TV households. In the latter they have reduced network audiences from 90% to 76% since 1980. The same goes for converters which have shrunk advertising effectiveness in some U.S. markets by up to 30% (Carey, 1980:23). All of these developments raise grave doubts about television's effectiveness as a *European* medium, and its "motor" potential in increasing European viewing time above the daily average of 3.5 hours. Unless television viewing as a leisure activity gains greater favor, the era of program plenty may be aborted before it even begins.

In spite of these dire financial considerations, commercialization of the electronic media sector in Germany will move apace as it has in Britain, where another conservative government is preoccupied with economic growth. Yet, these changes are likely

to come, as elsewhere, by way of *additions* to the existing system rather than as drastic changes. This means, as we have seen, that cabling paid for by the PTT will be pushed more strongly in the future and DBS expansion will probably be slowed in favor of hybrid satellite development, which can feed their signals to cable owned antenna heads. To succeed however, these plans will require negotiations with transnational players, such as the EEC, the Council of Europe, the European Broadcasting Union (EBU) and the International Telegraph Union (ITU), all of whom have a stake in Europe's telematic competitiveness and broadcast future.

The Public/Private Broadcast Debate: Germany's Response to the EEC's "Green Book"

A third issue emerging from the "new media" debate revolves around the role of public broadcasters in Europe's electronic future. It achieved prominence in June 1984 when the EEC Commission's Green Book entitled *Television Without Frontiers* was published. This proposed creation of a unified European broadcast market large enough to compete with outsiders by eliminating competition between its twelve units and by guaranteeing equality of access irrespective of country or institution size. All of this was to be achieved by turning broadcasting into a "service" flowing freely across national borders. To make this connection, the document argued that broadcasting is nothing but "information transfer" and as such does not differ from other types of "services" which are freely exchanged under the EEC's Treaty of Rome.

To achieve "freedom of movement" for television services across national borders, member states were asked to do three things: to encourage reception of national channels from all member states; to coordinate national broadcasting institutions into a mixed model which would accommodate both public and private programmers; and finally, to harmonize technical standards and legal provisions governing the media. According to the *Green Book*, the four types of legal provisions most in need of harmonization were: advertising rules; protection of young people; the right to reply; and copyright laws (European Parliament, Doc. A2-75/85:25-30).

The German federal and Laender governments as well as the public broadcasters ARD and ZDF rejected these proposals on political as well as public service grounds. The federal government questioned its constitutional base, Laender governments saw it as interfering with their program powers and "public service" broadcasters felt it overlooked existing multinational arrangements. The German debate thus mirrors the unresolved nature of the struggle between public and private broadcast philosophies in most European countries. It also indicates that the *Green Book's* assumption of a uniform European cultural market is mistaken. European countries and audiences are in fact characterized by variety in languages, interests, socio-political structures, histories and media program conceptions, which together have created a diversified mosaic. It is widely believed that the *Green Book* proposals far from "opening up

European broadcasting, could quickly make it more national-minded again" (Economist, 1986:71).

Germany's federal government argued that the EEC's commercial Treaty of Rome provisions were not applicable to broadcasting, because according to the 1981 Supreme Court decision, broadcasting in Germany is both a medium and a factor in opinion formation (FRAG Entscheidung, BVerfGE Bd. 57, 295 ff). Furthermore the treaty explicitly recognizes member state autonomy in the political and cultural realms. Under German broadcast law, consequently, programming must reflect opinion "variety" of Germany's major social groups, and express "balance" by presenting different points of view on public issues (Scharf, 1985a:149).

Laender governments in turn saw the EEC proposal as interfering with their programming powers by requiring "harmonization" in the areas of advertising and content quotas. The Laender governments noted that EEC states already support a set of similar rules concerning advertising restrictions on tobacco and alcoholic beverages, pornography, violent material and false advertising. Yet, standards on advertising limits, composition (block or spot) and program interruption as well as Sunday advertising were incapable of harmonization because they reflect differences in cultural, ethnic and religious outlooks.

The ministers were additionally opposed to the *Green Book's* suggestion of a uniform, binding copyright law for all cable delivered television programming on the grounds that it would abrogate bilateral agreements between broadcast organizations concerning rebroadcast procedures (1279-66/84 Stellungnahme der Laender zum Gruenbuch, 1985:5-6), and neglect distinctions between production classifications. Film, television, video and music productions are presently compensated differently, because they constitute different types of intellectual property. Other member states joined the forced licensing opposition and the European Parliament asked the EEC Commission to reconsider the matter (Hillig, 1985:593).

A third contentious issue was the *Green Book's* call for European content quotas, set at 50% for indigenous European TV programs and films. They were proposed to "strengthen Europe's television environment", in conjunction with the institution of a publicly programmed multilingual European satellite television channel and a Community Fund to assist television and film co-productions (Framework Regulation for a European Media Policy, Doc. A2-75/85, sect.3-6:25-27). Though the European content regulations would assure the sale and use of European programs, Germany's two public networks (ARD/ZDF) argued they were a politically dangerous precedent as well as superfluous, because no more European programming than presently available would be required to fill the newly proposed European channels. By treating member state programming as though it were home produced, the European quota would be automatically achieved (Gerth, 1985:604).

Germany's two public broadcasters (ARD & ZDF) also cautioned against the international program implications of the EEC proposal. They, like other EBU members (40 public broadcasters in 31 countries), argued that a common market in broadcasting, regulated by economic criteria alone, was neither a protection against outside (U.S.) competition, nor an adequate framework for working out the public/private programming issues facing contemporary Europe. Instead, European variety in cultural and broadcast heritages and the extensive voluntary arrangements already developed by public broadcasters in the EBU framework, should become the centerpiece for future planning.

Alfred Scharf, the EBU president, noted that many of the barriers which the *Green Book* proposals were supposed to remove had already been tackled by existing international regulatory agencies. Among these were the ITU's spectrum allocation, the Geneva Convention's copyright activities and the EBU's program exchanges. The 21 member ITU developed cooperative rules for the orbiting of DBS satellites which avoid spillover into adjacent territories. It also endorsed cross-national distribution of programming with prior consent from the receiving country and delegated rule-making in cultural production to the nation state (Thiele, 1984:734-35). The Geneva convention developed international rules of "proper" compensation for intellectual property. These agreements have avoided the threat of very high first show royalties, which would have priced European programming out of its own market. Belgium, Sweden, Norway and the Netherlands furthermore took the lead in devising Europe-wide flexible copyright solutions, so that only the issue of retransmission rights remains to be negotiated (Scharf, 1985a:70-1).

The EBU finally tackled "spillover" effects, by working out bi- and multilateral cooperative program agreements, based on linguistic and cultural similarities. Three of these, the German, French, and Scandinavian regional agreements have already led to substantial production savings. Subsidized program exchanges furthermore were designed to protect weaker members, as do the thrice daily news exchanges, in which each nation reports the world from its own point of view (Scharf, 1985a:159). Thirteen EBU rules codify advertising over satellite. These, according to Scharf, are considerably more detailed than those envisaged by the *Green Book* (Scharf, 1985a:160). It is argued that all of these structures of cooperation would be undermined, if economic competition were to reign unchecked. Public broadcasters also warned that a fight for viewer quotas would not only increase European TV production costs by pitting "exclusivity" over replay rights, but would also ruin presently existing news exchanges which are important components in Europe's publicly sponsored network television (Scharf, 1985b:67).

The Relevance of German Media Policy Issues for Canada

Our case study of Germany has suggested that while there are real challenges facing the existing electronic media order, the perceptions of the challenges and the

responses to them are generally clouded. McQuail and Sinue have noted that it is not so much that the different groups of actors do not know what they want, but that there is as yet no clear understanding of what is to be welcomed and what to be feared in the new media future (1986:197). A number of factors seem to add to this uncertainty. Among them are the sheer number of players involved on the local, national and pan European levels, all of whom seem to foresee a different plot. Added to this is the optimism of business actors who tend to identify technological novelty with social usefulness. This identification usually bears little resemblance to the actual cost/benefit ratios when a technology is innovated. There is finally a tendency among governments to seek economic salvation in private industrial initiatives in the light of the realization that license fees and taxation are no longer viable alternatives for financing new media.

In spite of these uncertainties the contours of the new media problematic have become clearer in the past fifteen years. One of the most important realizations is that there are two quite separate developmental paths for the extension of television programming and for the development of telematics. Our case study suggests that the demand for more television program distribution is still unmet not only in the Federal Republic of Germany but elsewhere in Europe. Yet, with the availability of video recorders for time shifting and film rentals it is not at all clear how much of a driving force for change consumer demand will be. Uncertainty reigns as to how *much* consumers will be willing to pay for how *many* satellite delivered alternative programs. In the United States it has already become clear that a potential choice of thirty plus channels in practice boils down to about seven to nine actual program options which are regularly sampled by a television household. These as we have seen are already available to many German viewers. It is further evident that subscriptions depend on what is offered in the basic cable service. The provision of entertainment alone is therefore not a very secure basis for communication modernization.

Much more long-term promise of change seems to lie in the telematics field and in the new broad-band cable and interactive data system development for business, banking and ultimately the home. Here DBS satellites may become the preferred transmission mode for individual countries (Taishoff, 1987). In Europe governments are the major active players involved in these developments. The German government has for instance subsidized private research and development expenses since the fifties in the telecommunications field. The K and K Telecommunications Report (1976) furthermore supported the continued extension of the telephone network and was probably also responsible for the shift from DBS to cable expansion in the eighties. Since then the German PTT, which claims to be the largest nonmilitary investor in videotex and other forms of telematics has also pushed for more rapid development of fibre optics and is involved with high-resolution TV experiments on DBS channels.

A third shift which is evident in Germany and elsewhere is a transition from cultural to industry policy goals. But this does not imply a rush to "deregulation" in the

U.S. sense of privatization. The German response to the EEC's proposal *Television without Frontiers* has shown that broadcast regulation in Europe is viewed as a prerogative of national governments and that these are loath to give up their powers. In Germany regulation is practiced by the broadcast media themselves based on constitutional and Laender guidelines. While there is some extension of commercialization in relation to local radio and cable systems, these commercial players will have to live up to the same set of guidelines as the public service broadcasters concerning the provision of a balanced program of information and entertainment. Consequently the development of new media regulation, while it paves the way for a mixed public/private electronic system, will do so by *extending* the existing regulatory framework, rather than by innovating a whole set of new rules. In Germany this means a continued separation of control over hardware (technological standards of the network) in the hands of the PTT and content control located in the eleven Laender governments. As yet these governments with conservative and social democratic party affiliations have not agreed on a common (federation wide) media policy concerning private suppliers, advertising standards, and other contentious issues. Only six of the eleven Laender have at present worked out broadcast regulations concerning private participation (Roeper, 1987a:35).

Challenges to the Public Service Ethic

Another shift which is becoming visible concerns the role of public broadcasters in Germany and in Europe's electronic future (Ferguson, 1986). Where they enjoyed an uncontested monopoly in the production and supply of broadcast content on the traditional network, their capacities today are insufficient to fill the extra numbers of channels now available through satellite and cable technologies. The creation of new European TV programming, the EBU demonstrated, is constrained not by *national* but by *linguistic* borders. Network television production in Europe's five top languages must therefore be combined with increased regional cooperative agreements in order to achieve savings in scale. These savings will however accrue primarily to English language material, because it has a larger world market and is the *lingua franca* of science, trade and communications (Wedell, 1985:60). The fear of "Americanization" is therefore real not only on the side of European production needs, but also on that of distribution. In the three most populous countries broadcasters are trying to export their programming to linguistically similar neighbors (Austria, Switzerland) the German example has shown.

In the light of these findings, the EBU argues that program "variety" and the solution to the public-private dilemma, in the European situation requires that public service criteria be applied to all programmers *equally*. Only if every channel has defined and complementary program goals will the inevitable erosion of national public service monopolies and networks be halted (Scharf, 1985b:70-71). This erosion will however be much slower than the private developers of cable and DBS satellites have expected. The German debate has shown that the high costs of European network trans-

d the low returns from national markets will produce no fundamental change in the structure of broadcasting until the year 2000. Private producers, all the author suggests, will require at least twelve years to consolidate their status and to determine how many channels will be economically feasible in the long run.

German satellite debate furthermore suggests that the erosion of national broadcasting policies will not result from *outside* competition, but rather from competition within the system itself, generated by the cost/price squeeze. It is already known that the costs of producing a "balanced" program schedule are much higher than those for entertainment programming. The latter, German studies show, consist mainly of quizzes, and films, all of which can be bought for a fraction of their original production costs (Krueger, 1985:266-7). The combination of rising program expenses, with a decline in numbers of viewers because of private competition, will make it increasingly difficult to justify higher license fees for public service programming.

The *Green Book* proposes to halt the internal erosion through European coproductions, a common satellite channel and film subsidies. Although such measures, according to the Manchester Institute, will slow the decline of public broadcasting in Europe, they will not ultimately eliminate it (Wedell, 1985:61-2). Scholarly opinion in Canada and elsewhere suggests that without a fundamental reevaluation of its role, the balance between public service and private (entertainment) criteria will be tipped in favor of the latter.

The German discussion over the new mixed public/private broadcasting law has unfortunately focused on political and institutional, rather than on social issues and has failed to ask for input from the public. Both political parties agree that a secure financial base for a mixed public/private broadcast system requires continued judicial separation of print and broadcast regulation. Consensus also reigns on the necessity for a total ban on cross-ownership in local markets to protect the press from electronic incursion. Agreement furthermore exists in principle that the maintenance of program quality will require that private broadcasters be subject to the same criteria as the public broadcasters (Stammler, 1985:611-13). On the means of whereby this goal is to be achieved and on the thorny issue of advertising quotas, agreement between the parties is however lacking. The reigning CDU Laender are in favor of privatization and therefore support the liberalization of advertising statutes, while the SPD run Laender do not. The amount of income to be derived from advertising, as well as the total amount of advertising per hour (12 min.) and the quantity of total daily program time to be devoted to ads (10-20%), are still undecided.

The means for ensuring program quality also remain controversial. Experts like Hoffman-Riem argue that the requirement of "program variety" needs an expanded *legal* definition beyond the one presently in existence. Four types of pluralism, (genre, content, access and geographical) were proposed by him to assure content diversity and equalize the economic chances of different program genres in the international

market (Hoffman-Riem, 1985:182-5). Such criteria would serve to stem the tide of program homogenization already evident in Europe's private channels (Krueger, 1988:101). Others agitate for content quotas, which were however rejected by the Deutscher Kulturrat in 1984, on the grounds that they set a dangerous political precedent. Their recommendation cautions that quotas be applied only in *conjunction* with other regulatory measures. The eleven Laender ministers responded to this advice and did not include content quotas in their most recent (1986) media law proposals.

Germany's sketchy institutional proposals in support of a mixed public/private broadcasting system reflect a general European malaise: the lack of a public discussion of the "meaning" of public broadcasting in the satellite age. Instead of responding to legitimate public concerns for better access, government bureaucracies seem to be aiding the transfer of centralized control to industrial bureaucracies under the guise of economic necessity. Public "service" in the sense of independence from political and economic interests, remains an altogether vaguely expressed mission of European broadcasting systems. Although some references appear to "partnership in the public interest" (Sweden) or "leadership in the public interest" (BBC/United Kingdom), the fact remains that in most cases the involvement of the state in broadcasting either through its supervisory political position, or through its economic support, has increased since World War II.

Unfortunately the paternalistic models of public broadcasting are particularly prone to public revolt and criticism, because they do not provide more than a "formalistic" base for public participation and access. Deep-seated public dissatisfactions are consequently utilized by technocrats and private interests as entry points for change. In Germany, as we have seen, there have been deliberate and planned PTT infringements on Laender regulatory competencies, through cable network planning and equipment standard setting. There has also been ministerial resistance to license fee increases, in spite of rising production costs and a steady politization of the two public network's governing councils by party officials (Roeper, 1987a:35).

Taken together these trends add up to increased centralization of power in media bureaucracies or private media "multis" rather than genuine "public" control over media programming. Together this "doppel Monopol" will make the German broadcasting system less and less responsive to its audiences. Put another way, Germany's public broadcast services are increasingly organized *for* but not *in response to* the communicative needs of its citizens. Existing technocratically dominated patterns of organization in the information/communication sector make large-scale public involvement nearly impossible and thus frustrate the communicative competence of individuals and groups in the political communication process (Hardt, 1985:11-13).

How to remedy this situation and move toward a more democratic system of public communication is at the heart of the public broadcasting debate in Europe. Planning for such an alternative would require the creation of novel conditions for group

participation in the social communication process. Canada's 1974 "Challenge for Change" project was one such attempt. It set up interactive cable networks with which and through which individuals and groups could communicate with each other at different social levels (Gwyn, 1983). The local radio movement in France (now largely aborted) and Britain's Channel 4, with its programming from independent producers, are other attempts at making access to electronic communication available to different social groups. In spite of these initiatives, European and North American democracies have, however, generally failed to establish new conditions for public involvement in the social communication process.

Such conditions are not created by merely expanding the public's role as *consumers* of political or economic products, or by making media available to limited elites. They grow out of exchanges of experience, language and culture at all levels of society. To reconceptualize public broadcasting *by* and *for* the people, social communication must be viewed as a vital human activity, in which distribution technologies play only an instrumental role. Unfortunately the public debate about the human uses to which technologies are to be put has been sidestepped in the present European wrangle over commercialization. The drift towards profit-oriented media alternatives is, as we have seen, not inevitable. It is the result of specific political and economic decisions which respond to technological rather than to social needs. In the new conditions public service broadcasting systems will have to rethink their social mission, both to their home and their European audiences.

Lessons for Canadian Policy Makers?

The German case study in particular and European policy initiatives in general indicate that new media are innovated into a preexisting *national* socio-political context. In this context, industrial interests are only one among a group of players with power to define and determine new media policy. Even within the electronics industry, software and hardware interests are not necessarily in harmony. Technological changes consequently offer opportunities for the realignment of power between different actor groups rather than the automatic ascendancy of industrial interests. In this realignment of powers, public broadcasters in Germany and their transnational cooperative EBU organization have suffered a decrease of influence. Social and cultural elites who have fostered national production in film, theatre and broadcasting, have also had their power diminished in spite of receiving assistance from such newcomers as private multinational producers. The local PTTs in contrast and such international actors as the EEC seem to be playing a more active role in policy making than before. Their salience has increased either because they have become the instruments of national electronic policy or as independent actors in semi-commercial undertakings designed to overcome the EEC's lag in telecommunications (Dewandre, 1986:141).

Because of their national focus European interpretations of the technological future have not fostered a coherent policy for their own region. The national aims of countries like Germany are furthermore only in partial harmony with other national players like France or the European Community which is proposing to eliminate economic barriers by 1992. The national focus of Europe's new media policies makes it difficult for Canadian policy makers to utilize insights from "abroad" because they are predicated on a very different set of economic and political preconditions.

In spite of this our discussion has indicated that there is a common resonance to at least two issues: commercialization and democratization of access. The Canadian Conservative government like those of Germany and Great Britain seems to have hitched a portion of its electronic media distribution future to private initiative. Yet the *forms* that these initiatives can take, our discussion has shown, differ substantially here and abroad. Great Britain seems to have been most successful in creating a balance between private and public financing coupled with quality and variety in television production. Canada's administered regime operated through the CRTC has in contrast been considered a failure by the 1987 Caplan-Sauvageau report. It showed that here is clearly a limit beyond which a commitment to market allocations is incompatible with a distinctly Canadian broadcast system. But there is also a good deal of evidence that the *absence* of market pressures has not served the Canadian public well (Collins, 1986:159).

In spite of an extensive history of innovative proposals, "democratization of access" is moving forward only at a snail's pace both in Canada and abroad. Socially engaged interest groups like civic organizations, women's and native groups, peace organizations and associations for the elderly have demanded changes from Canadian state elites, broadcast bureaucrats and commercial broadcasters. Useful proposals have included program production decentralization through "bottom-up" program procedures, aimed at providing a more diversified national CBC schedule. In addition there have been initiatives to develop autonomous "community media" located between the public and private sectors to open up pathways for citizen expression and feedback on purely local issues. Quebec's 37 community TV channels and two dozen community radio stations, as well as the Inuit Broadcasting Corporation (1981) are living examples of citizen access and program production which are not state produced (Raboy, 1986:25). The allocation of cable licenses to viewer-owned cooperatives for redistribution of their own program mix, is yet another pathway to broadcast democratization (Raboy, 1986:29-30).

In the light of the European debate and Canadian evidence Marc Raboy's suggestion that the survival of public broadcasting in a "mixed system" is dependent here and abroad on the extent to which a space can be created for socially justified autonomous media, regardless of their economic viability and their political expediency. In order to increase the emancipatory potential of public broadcasting, bureaucratic structures need to be opened to direct citizen participation in every stage of policy formation,

regulation and program production. As consumers, people in the twentieth century need to receive a balanced program schedule into which they have had input on the local and national programming levels. As communicating citizens, they additionally require access to broadcast means, which will help to transform the "etatist" structures and program centralization which unfortunately characterize public broadcast structures all over the world (Raboy, 1986:39-40).

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