

94. The action of the Parliament of Canada was not directed against foreign periodicals. As the Task Force explained:

"As part of their heritage, Canadians are doubly fortunate to have unparalleled access to publications from around the world. It is the Task Force's desire to maintain this freedom of choice, and the measures it is proposing do nothing to deny Canadians the right to purchase the magazines of their choice. We cannot make our borders impenetrable even if we wanted to, which we decidedly do not.

The object of the Task Force recommendations is not to discourage readership of foreign magazines, but to maintain an environment in which Canadian magazines can grow and prosper in Canada alongside imported magazines."⁶⁸

95. As has been explained on numerous occasions, the immediate objective of Parliament was directed against the aggressive marketing of advertising services in Canada by publishers who were recycling in Canada editorial material whose production costs had already been covered in a larger market. The net result of this practice was to cut into the small share of the advertising market available to Canadian publishers, who were producing editorial content specific to Canadians. Part V.1 of the *Excise Tax Act* was drafted in such a way as to curtail this advertising practice and not so as to prevent the entry into Canada of foreign periodicals or in such a way as to disadvantage foreign periodicals in the Canadian market.

96. Canada never intended to decrease the level of competition between imported and domestic magazines. On the contrary, the members of the Task Force on the Canadian Magazine Industry wrote: "We are convinced that what is being proposed interferes as little as possible with freedom of expression or choice. Indeed, in the final analysis, we are seeking to expand choice by ensuring the continued availability of magazines with original content."⁶⁹ These measures did not prevent and were not intended to prevent foreign periodicals from competing in the Canadian market on an equal footing with Canadian periodicals.

97. The Panel should note that the United States has completely misrepresented the true trade position. There is an enormous penetration of American magazines in Canada, and nothing in the Canadian tax measure would change this or is designed to change this. Nor are there any significant trade effects to the measure. This tax concerns a very narrow segment of the total number of American periodicals streaming across the border daily. This very narrow segment was affected in the same way that a narrow segment of Canadian periodicals was affected. And this narrow segment of both the Canadian and the U.S. industry was affected because the Parliament of Canada believed that a certain practice, a services practice, had to be discouraged.

68. *Task Force Report, supra* note 4 at 63.

69. *Ibid.* at 64.