

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS
COMMISSION—PROPOSED ORDERS ON DIRECTIONS ON
DIRECT-TO-HOME SATELLITE DISTRIBUTION AND ON PAY-PER-VIEW
TELEVISION PROGRAMMING—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Transport and Communications (Direct-to-Home Satellite), tabled in the Senate on June 21, 1995.—(*Honourable Senator Oliver*).

Hon. Donald H. Oliver moved the adoption of the report.

He said: Honourable senators, this report was tabled some two weeks ago. Many items in the report have already been adopted by the government. However, it is the wish of the committee that a few words be put on the record concerning the process the committee went through.

I have the pleasure of reporting to you on behalf of your Standing Senate Committee on Transport and Communications regarding the proposed Governor in Council directives to the CRTC with respect to direct-to-home broadcast satellite services and pay-per-view television programming services. Your committee conducted an intensive one-month investigation into the events leading up to the proposed Governor in Council direction orders laid before the Senate on April 26 of this year and in accordance with the 40-day parliamentary review period. This inquiry also included the events surrounding the CRTC's decision to exempt from licensing Expressvu Inc. that precipitated the directives.

The conditions set out by the CRTC in its exemption order of direct-to-home distribution undertakings has enabled Expressvu to be the only entrant into the direct-to-home television programming services market in Canada. This is so even though there was at least one other direct-to-home satellite company willing to participate in the lucrative market and to compete with Expressvu, namely, Power DirecTV Inc. It, however, cannot meet one of the stringent conditions for exemption, namely, the requirement for the exclusive use of Canadian satellite facilities, and is unwilling to apply to the CRTC for a license which would put it on an unequal footing with Expressvu. The government's directives, therefore, would overturn the CRTC's exemption decision and would establish a competitive licensing system for the provision of direct-to-home and pay-per-view services in Canada. The directives would also have the CRTC repeal or revoke its exemption granted to Expressvu to enable Power DirecTV and others to enter the Canadian direct-to-home broadcasting satellite market on an equal basis with Expressvu. Both would like to begin service on September 1, 1995.

We heard from both relevant departments, Canadian Heritage and Industry Canada. We also heard from both relevant government agencies with specific mandates to address these concerns, the CRTC and the Bureau of Competition Policy. As well, we heard from the main direct-to-home combatants, Expressvu and Power DirecTV. We also heard from directly affected industry interests, such as Telesat Canada, Astral Communications Inc., Allarcom Pay Television Limited, and the Canadian Cable Television Association. We also heard from Television North Canada, the Federation of Francophone and Acadian Communities, the Television and Radio Artists, the Canadian Association of Broadcasters, Friends of Canadian Broadcasting, the Consumers Association of Canada, and many others.

In short, honourable senators, the committee obtained the widest perspective possible on the contentious issues entailed in assessing the impacts of this new radio and television programming distribution technology on the Canadian broadcasting sector and of the proposed Governor in Council directives to the CRTC. The committee has now completed its deliberations; has formed its opinions; and has filed its report with the government.

The committee has weighed the various actions of all the principals in this debate and found that no one was without fault. All share in the blame for what went wrong. For example, the CRTC in March of 1994, when it first proposed the exemption route for direct-to-home services, stated that a condition would be that "the undertaking makes use of Canadian satellite facilities to distribute programming services to viewers on a DTH basis." This condition is similar to that applied to cable television undertakings, so, naturally, no one gave it a second thought. However, in August 1994 when the order was finally issued, this condition had been altered somewhat to include "the exclusive use of Canadian satellite facilities." All of a sudden, the word "exclusive" made its way into the exemption order, which took many industry watchers by surprise.

Had it been the intention of the CRTC to deviate from regulatory convention established under cable television distribution by including this more constraining condition on direct-to-home satellite distributors, it should have indicated so in its March 1994 public notice. The CRTC's respondents to this call for public comment could have then focused their opinions and positions on this particular issue. Further, had the CRTC done so, senators would not, in all probability, be here today listening to these remarks.