

8. Canadian readers have unrestricted access to imported magazines. At the same time, Canadian readers have demonstrated that they value magazines that address their distinct interests and perspectives. However, foreign magazines dominate the Canadian market. They account for 81.4 per cent of all newsstand circulation and slightly more than half (50.4 per cent) of the entire circulation of English-language magazines destined for the general public in Canada.<sup>4</sup>

9. The relationship between trade and cultural values has arisen in other contexts, though the issue remains unresolved. The audiovisual goods and services trade dispute between the European Union and the United States during the last stages of the Uruguay Round of multilateral trade negotiations provided evidence of the challenges that WTO Members face when they try to strike a balance between a more globalized economy and the preservation of cultural identity. W. Ming Shao, in an attempt to propose a conceptual framework for resolving this trade dispute, presents the dilemma as follows:

"The heart of the dispute appeared, on one level, to involve different answers to three questions seemingly unique to [audiovisual goods and services]: First, what are [audiovisual goods and services], and how are they different from other goods and services? Second, do these differences merit the exclusion of [audiovisual goods and services] from customary free trade rules? Finally, should trade in cultural goods and services be included in the GATT regime or any other multilateral trade agreement?

On another level, however, these questions can be seen as part of a set of basic policy issues that strike at the core of the GATT and its successor, the World Trade Organization. This set of questions asks whether free trade principles have any desirable limit. Although economic efficiency is important enough to serve as a standard against which many trade policies should be measured, other values, such as distributive and social justice, also rightly compete for our attention. Cultural integrity could be one such value. Thus, framed in the context of the [audiovisual goods and services] dispute, these more fundamental policy questions ask whether free trade in [audiovisual goods and services] might lead to excessive social and political uniformity or somehow unduly restrict the creative freedom of societies to pursue their own goals."<sup>5</sup>

10. Canada submits that each of these competing values is compelling, and that the measures at issue in these proceedings represent a creative accommodation whereby neither imperative is sacrificed to the other.

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4. *A Question of Balance: Report of the Task Force on the Canadian Magazine Industry* (Ottawa: Minister of Supply & Services Canada, 1994) at 40 (U.S. First Submission, Exhibit A) [hereinafter *Task Force Report*].

5. "Is There No Business Like Show Business? Free Trade and Cultural Protectionism," (1995) 20 Y.J.I.L. 105 at 107-108 (Exhibit B).