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Discussion

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DISCUSSION AFTER THE SPEECHES OF JOHN RAGOSTA AND JENNIFER FONG

QUESTION, PROFESSOR KING: In terms of tightening, you said it would be nice to tighten. My question is, do you have a formula for tightening it? In other words, you said that rather than being amorphous and all over the lot you would tighten things up. You raised the question, now you should give us the answer.

ANSWER, MR. RAGOSTA: I cannot give you the answer because it is up to Canada.

QUESTION, PROFESSOR KING: What would you think is the answer?

ANSWER, MR. RAGOSTA: For me to define Canada's core national interest does strike me as being a quintessentially Canadian issue. What I am suggesting is that, as Canada does that, and they are in the process of evaluating that on an ongoing basis, that they would be very cognizant of these concerns. I suspect what they will find is that many of the areas have been protected. Investment is an example. Is investment really what is important, or is it content?

One area we suggested in Country Music Television is that there is nothing wrong with subsidies. Subsidies do not grade the same international trade concerns. If Canada wanted to subsidize Canadian country music stars, that is not objectionable, and that goes immediately to content. Even content restrictions are less objectionable than simply throwing people out of the country and saying you cannot participate even if you use Canadian content.

Subsidies, of course, bring about their own problems. We have the whole issue in the United States where some congressmen want to end the National Endowment for the Arts. Canada is facing similar issues with the CBC, but those are issues that tend to define your culture merely because of having to pay for it. You make a natural decision and ask, is this really important?

COMMENT, MS. FONG: Can I just jump in here? It may sound like I am parroting and even repeating what John said, but in so many ways I really agree with him. Earlier, he talked about the disquiet that happens to American interests or culture, but clearly we are talking money and shareholder interests and where the dividend is being sent.

And I think to explain the Canadian thinking, you have to start with the premise that, when you are in Canada and you are looking at the deluge of American products coming across the border, your first question is, where is my Canadian voice? Where would the vehicle be to have my Canadian voice expressed with this onslaught of American cultural products?

I think the traditional thinking has been that your smaller voice is going to be carried on in Canadian vehicles. And the end product of the trade, of course, is the hard cultural product. The traditional protections have focused on earlier links in that chain that lead to that hard product, and by focusing on that, you have been focusing on the economics of the entities that are able to produce it.

What appears to the Americans as basically promoting an economic interest, to the Canadians is really promoting the underpinning of hard cultural product at the end even occurred. What is interesting, though, in terms of tightening up that regime is this idea of delinking foreign ownership from the product. If the hard cultural product at the end of the chain is what is important here, who cares who makes it? There are Canadian people, Canadian themes, and the streets of Toronto are presented as the streets of Toronto instead of the streets of New York. Maybe that is going to do much more to embody and satisfy this hunger for culture. And by opening up to many creators, to give them the opportunity to satisfy this common goal, I think that might be the kind of tightening that actually ends up producing more reflections of what Canadian culture is.

COMMENT, MR. HERTZ: I have done a lot of thinking about the cultural industries exception, and I want to comment as an international lawyer on some technical issues.

First of all, I want to address the issue of discrimination in terms of the treaty, and I want to correct an inaccuracy. Annex 2106, the cultural industries exception, applies not only between Canada and the United States, but also between Canada and Mexico. Furthermore, in terms of the treaty provisions which Canada seeks in international agreements, if one looks at our model, Foreign Investment Protection Agreements (FIPAs) that we have concluded since NAFTA, without exception, they all include a cultural industries exception. So at the level of the type of terms that we are seeking in agreements, I do not think it can be substantiated that Canada is only seeking the cultural industries exception bilaterally with reference to the United States. That is my first point on discrimination.

I have a second point on discrimination related to the comment made by Mr. Ragosta, the implication that under customary international

law, absent treaty obligation, there is some sort of an obligation of MFN international treatment. When I studied law at Cambridge University, one of the things that I was taught by my teachers was that there is no obligation to trade, and that the non-obligation to trade is something that is conceded through treaty law where, since the 17th Century, there have been obligations of MFN and obligations of national treatment written into instruments.

Canada has obligations of MFN and national treatment. Under the WTO agreement and under other agreements such as NAFTA, we took on those obligations. The fact that, under U.S. domestic trade law, discrimination by a foreign party is punishable or actionable under 301 does not mean that that is the position of international law. One should not confuse domestic U.S. trade law with the rules of public international law. Finally, I want to address the question of balance, which I think is extremely important, and to address in particular the example that you used with regard to intellectual property.

You raised a surprising notion that, because of the cultural industries exception, a good part of the law with respect to intellectual property, specifically copyright, would not be actionable according to the Canadian interpretation of what triggers an inconsistency under NAFTA. That is true. We believe that is the correct interpretation, but furthermore, it is not irrational because the people who were negotiating the agreement knew full well that the Baron Convention already existed between Canada and the United States, and it was not subject to the cultural industries exception. And furthermore we knew that the trust agreement was in the pipeline. It has extensive copyright obligations, and, it, too, is not subject to the cultural industries exception.

So, in fact, when you look at this particular area or that particular area and you do an analysis of the treaty obligations that exist between Canada and the United States, one finds that the cultural industries exception is in fact read down, because in many cases particular measures of the Canadian government could be actionable under another treaty. So technically those are very significant adversaries, without even addressing whether the policy of cultural industries protection is one that is appropriate or inappropriate in the current context.

COMMENT, MR. RAGOSTA: First of all, I am speaking from notes, so I have to check the transcript. I do not believe I said that non-discrimination is a part of customary international law. I said it is at the very essence of the international trade regime which we have created in the post-war era, and that is certainly the case.

It is interesting to point out that Canada has taken a nondiscriminatory approach. I would suggest that was not the case in NAFTA. We

did argue about that, the language says, "as between Canada and the United States." But the key thing is that Canada has taken a nondiscriminatory approach as it has moved forward. That is appropriate, necessary, and it is something to be remembered. If we are going to be nondiscriminatory, it means these regulations have implications not just for the United States, but also for Canada's cultural history. In that regard, keep in mind that the MFN obligation of the GATS, the WTO, are in Chapter 1, not Chapter 2 of the GATS. In other words, they are a general obligation. Chapter 2, which deals with market access and national treatment, only applies when you have taken a specific commitment. The MFN obligations were viewed as being fundamental.

In terms of the intellectual property dispute, I am certainly not going to argue with you the intellectual property provisions of the NAFTA. Let me suggest the services provisions prove my point. The services provisions were very, very limited in the FTA, and they were dramatically expanded in the NAFTA. The Canadian position is that expansion of the services provisions does not affect cultural industries defined in the way that is under the Agreement. That cannot possibly be the case. Canada's specific derogations from the Agreement relate to cultural industries and services.

Why was Canada taking a derogation from a provision which supposedly did not exist? Because the U.S. view is that you have made commitments, and you can take specific derogations on cultural industries. Canada did this in a few specific sectors, relating, I believe, to radio and television broadcasts over the airwaves. You can take those derogations, but aside from those derogations, if you violate the services commitment, you are going to be subject to retaliation. What that really tells us is to hold the status quo.

QUESTION, MR. O'GRADY: I understand that we are a big exporter of cultural products, but that the traditional way of coming at this is getting less and less productive and we ought to get away from it and focus more on expanding our world market for these products. If we do not do something to get away from our protectionist attitude and foster the export environment, then the export environment will be taken away from us. Is that correct? Is the United States thinking of protecting its cultural industries at our expense? Is there something like that out there?

ANSWER, MR. RAGOSTA: I do not think there is anything immediate out there. Although again, FCC Chairman Hunt has made it very clear that he will apply reciprocity in terms of licensing. This came up in the case of the Canadian cable company, Teleglobe, and also with a submarine cable issue. It has also come up with satellite broadcasting.

What Hunt has made clear is that he is going to act basically on reciprocity.

On a broader scale, is there going to be some wave of anticultural export provisions in the United States or in Europe? I hope not. I think that if you lay down with dogs you are going to get fleas. I think there is a danger of that if Canada makes common cause with Europe to adopt an extraordinarily expansive view of a cultural protection, because I think these things do have a tendency to snowball as other countries then adopt similar things.

You will see more and more actions like you had in the United States, where Country Music Television cut off Canadian artists. This was a real problem for certain Canadian artists who were beginning to be very, very popular, especially in Europe. So there is a cost to these things. What is the proper balance? That is ultimately Canadian too.

COMMENT, MR. HUFBAUER: What John and Jennifer laid out in their remarks was how this cultural protection has been captured in our language by the normal interest of the shareholders. To me, that is just an exceedingly powerful statement to people who are concerned about policy in the broad public when they begin to appreciate what has really happened.

It would be extremely useful if these companies would get together or would sponsor some kind of study which would show content versus ownership. You had a lot of anecdotes about country music going Canadian, but in any event, how the ownership content link lines up, and how it has changed over the years is clearly what is at stake. As I look at it very much from the outside, it is clear to me that the Canadian newspaper publishers have the belief that if Rupert Murdoch bought out, say, Black, the Canadian chain owner, content would dramatically change. If you look at what Rupert Murdoch publishes around the world, I do not think that is true. In any event, I have never seen that studied and I think that would be very interesting, not only in the U.S. and Canada context, but more broadly, because there is so strongly in the public mind this ownership content linking, which, as you are saying, is false in this case.

COMMENT, MR. RAGOSTA: I would like to see the study too. It would be interesting. I have my doubts about the ownership content thing, and Jennifer expressed a lot of doubts about those specific instances. I do not think the industry is necessarily going to push for that. I do not think you will see the Motion Picture Association of America (MPAA) or others pushing for that.

Let me raise a caution in a very important and interesting story that goes the opposite direction of my remarks. I caution about the cultural

issues not only for Canada, but also for the United States. It may not be ownership content, it may be your economic interest versus content.

There was a study done a number of years back which I am surprised has not gotten more publicity. It suggested that, as the movie industry's share of income has been international, the share of income that Hollywood takes has increased, as has the amount that has come from international sources.

Hollywood has discovered that certain things do not translate. Subtlety does not translate; humor does not necessarily translate; and romance may not translate into other cultures. What translates is sex and violence. A car blowing up is pretty much the same in French as it is in English. Therefore, it is in your best interest economically that, as you internationalize, you go toward the lowest common denominator in terms of your content.

It is very difficult to find content. I will not suggest violence is particularly American, nor is sex, but the concern is a legitimate one. Again, I am just not sure. The real concern at Borders, the bookstore, had nothing to do with the United States and Canada; it had to do with a small local bookstore versus a megastore. It was another Wal-Mart-type battle. Those are some really important issues, but I would suggest they are not uniquely Canadian.

QUESTION, MR. ROSEGGER: My economist lens did not do me much good during this fascinating discussion, but I had my economist hearing aid on and the whole debate sounded to me like what we call rent seeking. You have some industries who want to use a reasonably cohesive argument to protect themselves, but I would ask, in what way is the cultural protection argument different from the national defense argument, or for that matter, the infant industry argument? One of the facts of an infant industry is that it cannot sustain itself against the onslaught of more powerful foreign competition. This is not a facetious question.

ANSWER, MS. FONG: I am not sure that there are a lot of big distinctions to be made. I agree, though, that there is an onslaught of foreign competition.

ANSWER, MR. RAGOSTA: I will make the economist upset. I heartily reject the Chicago School of Business concept that all things can be reduced to their economic equivalent. This is an issue of rent-seeking. The quintessential roles of a lawyer are judge, advocate, and wise counselor, not economist. Judge, advocate, and wise counselor. Our role as lawyers is to take diverse interests and to decide where you end up based on those diverse interests.

I do not think that culture is simply homogenizeable in the sense

that you can equate it as rent-seeking in other areas. I do think there is something quintessentially important about culture. I feel equally about people who want to be steelworkers, or people who are worried about the gunning of the heartland in Youngstown and Altuna, and people who are concerned about forest dislocations because of trade flows. These are all values that we as countries treasure, and we simply have to balance them.

I would not try to come up with an economic equivalent or to suggest that there is a lot of rent-seeking going on. I would not suggest that that is really the Canadian motivation, as that it is purely economic. I do think there is a very real, very heartfelt Canadian concern about the nature and origins of the country.

QUESTION, MR. ROSEGER: Many people would define one's indigenous technology as part of one's culture. Would you argue for protecting that against foreign technology?

ANSWER, MR. RAGOSTA: With larger automobiles in the United States, it could easily be said that big Buicks were part of the culture in the fifties and sixties and the United States should have blocked Japanese imports to protect their culture. The Mustang was part of the culture. You can make those arguments. Where I come from, you know, pick up a beer at a hog roast, and you are part of the culture. You can make those arguments. Again, I do not think that they are arguments that can be simply reduced to the economic equivalent. I think protecting aboriginal cultures has a real value separate and apart from anything that anyone can demonstrate as an economic basis.

QUESTION, MR. McILROY: Just wearing an economist's glasses and looking at the statistics of American market access, in three so-called cultural industries; if you look at film, it is over ninety percent, and if you look at books and magazines, it is around eighty percent. I think everyone in this room would agree with me that that is hardly the hallmark of a closed market when you can show market penetration rates in the eighty to ninety percent range. Are you saying that it is politically possible for a government to allow a one-hundred-percent foreign penetration rate in a market, not just a cultural market? Let us take steel. Would it be politically possible for the government of the United States to allow foreign steel to take a hundred percent of the market, or computer chips or wheat, for that matter?

ANSWER, MR. RAGOSTA: The government of the United States allowed Japanese consumer electronics to take one hundred percent of the U.S. consumer electronics market throughout the 1970s. I think it is a very difficult thing for a country to do, but if we put on a purely economic hat, our answer is absolutely. If wine is better made in Portugal

and wool is better made in Britain, then that is the trade we have. I think there are interests here other than in economics. There is a wonderful statistic about the magazine market penetration in Canada. Canadian government officials are fond of running around Washington saying, eighty percent of the magazines sold on Canadian newsstands are foreign, almost exclusively from the United States. Seventy-five percent of the magazines read in Canada are subscription magazines, of which ninety-four percent are Canadian in origin, for a grand total of 75.5% with Canadian content. This is an example of lies, damn lies and statistics. I think before we assume that in fact U.S. culture has completely undermined Canada, we want to be cautious about our statistics. Keep in mind that Country Music Television has made a lot of Canadian artists. Is Anne Murray a Canadian artist or a U.S. artist at this point? You have to be careful about the statistics.

COMMENT, MR. McILROY: I agree with the statistics, but I guess the perception in Canada is that, to carry on a metaphor that was made a little earlier today, every country has its dirty little secrets. Having a culture may be Canada's dirty little secret. But when people see what is going on with wheat, for example, in the United States, a lot of Canadian people will be saying, well, if the United States is going to protect its wheat market when we become a little too competitive, we should be doing the same.

I think culture is becoming one of these tit-for-tat issues, that is, there is a perception that every country will choose certain areas that they feel are strategically important and they just will not allow a certain level of foreign penetration.

The steel industry is an example in the United States, as is machinery tools. You are going to see in Canada that, politically, it is impossible for a government to move too far on this issue.

COMMENT, MR. RAGOSTA: I heard somebody mention sugar. I think sugar is a lot more like culture than steel or wheat. If you want to look at it as economic, if Canada wants to safeguard the action, let it, because it is not going to be able to demonstrate it.

I find the U.S. sugar restrictions to be as reprehensible as the Canadian cultural restrictions, from an economic and a trade perspective. With steel and wheat, you are talking more about safeguards, countervailing duties, and anti-dumping. Whether you like it or not, at least there is a judicial mechanism; there are rules to the game. Culture has really been taken outside of that process, much more like sugar, dairy, and poultry, and we try to minimize those. Are we completely successful? No.

COMMENT, MR. CUNNINGHAM: I am sitting here restraining

myself and, as usual, I got to the point where I can no longer do it. I think there is a lot of very fuzzy thinking introduced here by the idea that culture can mean something far more vulgar than what it means, and what Canada would think it should mean at this debate. The idea of saying that steel or large automobiles is something that is cultural in the sense of what we are talking about here means we are debating an issue that cannot possibly be debated, because we have defined it out of existence.

Culture has to do with ideas, with concepts, with art, literature, music, values, and things of that nature. And if you start thinking about it in a much broader way, what do we have, steel towns or family farms, or something like that? That is not the culture we are talking about here, and that distorts the entire debate.

It strikes me that cultural protections make logical sense, and you can debate whether it is a good idea or a bad idea. You can treat it as a regulatory issue rather than an ownership issue and regulate content like the French do on their television programming. We will regulate how many hours of French programming have to be on television, or set a maximum on how many hours of foreign programming can be carried over the television network. That is cultural regulation.

It seems to me, from a trade standpoint, it is not quite qualitatively different, but almost qualitatively different than a regulation on investment. Canada has gotten to the point of saying that the guys who own the satellites have to be Canadian. Not only do the program providers have to be Canadian, but the guys who own the satellites have to be Canadian, fifty percent or whatever it is. Because, if they do not own fifty percent, they will turn the switch on the satellite or something. It does not make sense.

At any rate, it seems to me that if you want to have a reasonable debate about cultural provision in Canada, you need to ask, what does Canada mean by culture? If it means something broader than Canadian arts, literature, and values, then you are getting in very dangerous water by imposing restrictions. And if you start imposing restrictions in a way that goes beyond regulating content to regulating investment, you are also going into areas where you are in particularly dangerous waters, not just in terms of people saying it is a bad idea, but that it is bad policy to do it. It is going into a dangerous type of infringement with the world trading system. Going beyond an analogy to the ruling by the United States that we have to have family time on television in the early evenings. I suggest to you that this is not qualitatively different from a country saying we have to have Canadian culture time on the television in the evening. Part of what Canada says goes a lot beyond

that, and I think that has been real trouble.

COMMENT, MR. RAGOSTA: I agree with you completely.

COMMENT, MR. CUNNINGHAM: This is a first, a first. I have fought more battles. . . .

COMMENT, MR. RAGOSTA: The point is that if you do not keep that definition very, very tight, it starts to expand in ways that make no sense. Then you open yourself up to arguments about Buicks and wheat and their being the same thing, and so too with distribution, and why does it matter if the satellite has Canadian components? These things just do not make any more sense to me than saying that Buicks are part of the U.S. culture. I am not advocating that. I am advocating the exact opposite, getting down to a very tight core concept.

COMMENT, MR. CUNNINGHAM: But I have a Buick.

COMMENT, MR. NADAL: I am not sure if the *Sports Illustrated* case has been quite well-explained by our speakers, and I challenge these two speakers to speak to the facts that are presented right now on the *Sports Illustrated* case. In fact, the fight on *Sports Illustrated* is not an ownership issue, but a content issue. Picking up on McIlroy's argument, there is indeed eighty percent access by foreign periodicals to newsstands in Canada, and these foreign periodicals are available. The statistics that you cite in terms of readership and subscriptions do not argue against the point of access for foreign periodicals needing readership, and so there is no import restriction on foreign periodicals or foreign magazines into Canada.

The issue in the *Sports Illustrated* case was that of the dumping of U.S. editorial content into a Canadian-published magazine, in effect taking editorial content that had been generated for U.S. audiences into a Canadian magazine, adding very little Canadian content, and selling those magazines at newsstands in Canada and scooping, in effect, Canadian advertising revenues from Canadian publishers. This is no different than the dumping case dealing with goods, because, to the extent that U.S. Steel or LTV Steel is carrying its fixed cost in its domestic market and is selling steel into Canada at dumped prices, what it is trying to do is raise revenue through very little incremental expense in making those sales.

Sports Illustrated, in fact, was doing just that by adding Canadian content of a marginal level. It was coming into Canada, picking up advertising services or advertising revenues, and at the expense of Canadian magazines, investing it for a profit.

The eighty-percent excise tax was a tax on services as compared to a tax on goods, and the GATT panel found that it could be both, but to the extent that there was a tax based on the per issue off of a distribut-

ed periodical, that it became a tax on goods. Therefore GATT covered the issue.

I would suggest to you that there is a different way of looking at the imposition of the tax. The magazine price or the subscription price was not what was at stake in the proceedings. Nobody was arguing against *Sports Illustrated* selling in Canada. The argument was in respect to the taking away of services and advertising revenues from the Canadian market at the expense of Canadian publishers. So we are really talking about a tax on services. The tax was proposed to provide the restriction akin to a dumping duty or a countervailing duty that is imposed on goods.

COMMENT, MS. FONG: The point of my comments was not to suggest that there is only one way to view the *Sports Illustrated* conflict. I suggest that in looking at the facts that exist today, we are forced in some ways to analyze in one view the parameters of the GATT '94 and what actually was presented to the WTO. That is not to say that the outcome would necessarily have been the same had the challenge been phrased or put in a different form as a service agreement in GATS or even under NAFTA.

I think it opens up an interesting issue, the dumping question has certainly come up many times in many years. Time Warner has been aware of it because it has come up since the *Sports Illustrated* case was contemplated at the beginning of this decade. But one interesting thing that comes out of that is the role for other mechanisms, not just other agreements, but anti-dumping mechanisms, competition on antitrust law within a framework going forward.

I think, because the outcomes could conceivably be different as you frame the question under these different regimes, part of our thinking should be very global, very wide that way, so that whatever we end up going towards, perhaps captures anti-dumping concepts or antitrust concepts. Maybe that is the better way to deal with what really is at issue, because I take your point, certainly that is how Canada views it.

COMMENT, MR. RAGOSTA: Another proof of the fact that Canadians are more polite than U.S. citizens. Let me say, I disagree with everything you just said. First of all, to characterize this as a dispute about a tax on services, we could be real cute. In fact, what the WTO panel realized is that Canada was being cute. We will have a tax on the sale of Japanese autos in the United States; not on the autos, oh no, on the sale of the autos. It was a sham, and that is what the panel recognized. This was a tax on a good magazine.

Secondly, on the dumping issue, it is not dumping. Dumping is very clearly defined in the agreement that Canada signed off on, and it takes

two forms. Canada could not prove that the magazine sold in one country at a price lower than the price paid in the other country. They could not prove that it was a sale that less than fully allocated the cost of production.

Yes, from a cultural perspective it does raise interesting questions about whether we want economies of scale, because that is really what is at issue, economies of scale to drive content. Are economies of scale really great things on content when you start to internationalize and get sex and violence? That is a real debate that has not been grappled with, but I do not think it has anything to do with the services issue or dumping.

COMMENT, MR. NADAL: It seems to me that if you look at this in a historical context, and GATT would recognize that there are instruments, whether for good or for bad, that the dumping of goods into another country in an infant industry is something that we want to prohibit. Speaking to the issue of content rather than ownership in the cultural industry sector of Canada, there is a need to preserve against nonstarts of efficiency and economic efficiency reviews, the arguments, that we can get into a debate of the economic efficiency. There is a concern that if you have U.S. editorial content spewed in, it would decimate, in effect, a very infant industry in Canada that is trying to generate Canadian content. It can be viewed in that perspective, if the GATS had been, in effect, a more developed system or regime. We may, in fact, have seen in the GATS an arrangement whereby you do protect infant industry.

COMMENT, MR. RAGOSTA: And that would have been absolutely legitimate. I think I agree with that point. But this raises a whole new issue. Let us keep in mind the consequences. Again, you are talking about Wal-Mart. What you are talking about is the economy is still driving the small operator out of business; the one who may have certain ties to the community and who may have certain values because of the community. I may be all in favor of that, but that is not the current regime.

COMMENT, MR. SCHWANEN: I do not think it is economies of scale. I am not sure it is infant industry. I do not think it is dumping. Is it simply false advertising to sell the magazine in Canada as the *Time* Canadian edition when it really has no Canadian content. Seeing that any Canadian can actually import *Time* from the United States, you can sell it in Iraq, and you can sell the U.S. edition without facing any tariff or tax or anything.

ANSWER, MS. FONG: I would only say that I am not sure there is absolutely no Canadian content; I mean, we were talking about a de

minimis test here. It was certainly a source of irritation for many people. I am not sure that this is exactly false advertising, but I still stick with the idea that there is room for the consideration of different approaches like competition.

COMMENT, MR. SCHWANEN: In other words, if there was a law in Canada, whatever, the Competition Act, and I am not a lawyer, so this is obviously my weak point, but if there was a law saying, look, our cultural policy is that whatever you sell here in Canada and advertise as Canadian, you know, like marketing rules or whatever those things are called, I mean whatever you sell in New York you are welcome to sell in Toronto for the same price, as long as it is not dumping. But as soon as you start calling something Canadian that is not Canadian, that is false advertising. In fact, for an economist it is misleading information, and that distorts the market.

COMMENT, MR. RAGOSTA: I do not think anyone was misled. There are certainly laws against false advertising. Could you use this in the competition policy, abuse of dominant market position? You can go back to earlier concepts, total antitrust policy. Eleanor Fox, who is a professor in antitrust, talks about international antitrust and talks about the wind of antitrust from the 1950s and 1960s, which was really closely aligned with the civil rights movement, because the idea pitted the small independent operator against the conglomerate dispersion of market power.

Are there concepts that could be used usefully? Yes, but I think you are trying fit a square peg in a round hole. The fact of the matter is, Canada wants to protect content.

COMMENT, PROFESSOR KING: We have had a great session, and I want to thank our panelists and also Dorinda for her chairmanship of this session. I think it has gone very well.

