

Without Favour: The Concentration of Ownership in New Brunswick's Print Media Industry

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ABSTRACT *This article examines the history and current state of ownership concentration in New Brunswick's print media industry. At the time of writing, Brunswick News Inc. owns every English language daily, the majority of weeklies, and almost all French-language newspapers in the province. Moreover, the family-owned Irving group that owns Brunswick News Inc. also owns hundreds of other businesses operating in dozens of different sectors in the province, a fact that has raised concerns regarding media ownership concentration. Drawing on the Herfindahl-Hirschman Index, this article quantitatively evaluates the claim that there is excessive concentration in the province's print media industry. This analysis is supplemented by recent allegations of anti-competitive behaviour and editorial influence exerted by the Brunswick News papers, most notably that of the flagship Telegraph-Journal. The article concludes that the evidence broadly supports these allegations, and that there is therefore an increasingly strong case for Canada's Competition Bureau to take action.*

KEYWORDS *Media/Mass media; Competition law; Media concentration; Newspapers; Ownership*

RÉSUMÉ *Cet article examine l'histoire ainsi que l'état actuel de la concentration de propriété dans l'industrie journalière du Nouveau-Brunswick. Brunswick News Inc. appartient actuellement tous les quotidiens anglophones, la majorité des hebdomadaires, ainsi que presque toute la circulation francophone dans la province. De plus, le groupe Irving qui appartient Brunswick News Inc. appartient également de centaines d'autres entreprises dans de douzaines de différents secteurs de l'économie, un fait qui a suscité des inquiétudes vis-à-vis la concentration des médias dans la province. À l'aide l'Index Herfindahl-Hirschman, cet article évalue de façon quantitative la proposition que l'industrie journalière au Nouveau-Brunswick est excessivement concentrée. Cette analyse est ensuite complétée d'une investigation d'allégations récentes de comportement anti-concurrentiel, ainsi que d'influence éditoriale de la part des journaux de Brunswick News Inc., notamment celle du Telegraph-Journal. Il conclut qu'en vue de telles allégations, il y a un argument de plus en plus convainquant en faveur de la mise en application de la loi du Bureau de la concurrence.*

MOTS CLÉS *Médias; Concurrence; Concentration des Médias; Journaux*

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In its hearings in Ottawa and across the country the committee heard about numerous concerns that Canadians have about the state of their media. Certain markets—Vancouver, New Brunswick and Quebec (primarily the French-language media) —were cited repeatedly. Concentration and extensive cross-media ownership in these markets led many witnesses to argue that there had been a decrease in available viewpoints in these markets and a decrease in the services provided by the media there, especially in the provision of local and “hard” news. It is reasonable to ask: Why did our laws or regulators fail to prevent the extent of concentration that we see in these markets today? (Final report on the Canadian news media, 2006b, p. 60)

Thou think'st 'tis much that this contentious storm
Invades us to the skin: so 'tis to thee;
But where the greater malady is fix'd,
The lesser is scarce felt.

— William Shakespeare

The house that Irving built

The Irving conglomerate is legendary in New Brunswick. It has operations in a wide range of sectors in almost every corner of the province: it owns the province's largest forestry company, which manages and operates logging, pulp and paper, and saw milling operations, as well as the manufacturing of paper-based products; it owns and operates Canada's largest oil refinery, a facility that accounts for approximately 60% of the province's total exports; it has extensive long-haul trucking assets, as well as a host of rail lines throughout northeastern North America; it owns North America's fourth largest French fry producer; one of Canada's leading shipbuilding outfits; a host of translation services; a dozen cargo ships; a major towing company; an office supply wholesaler; a chain of home hardware stores; a builder of pre-fabricated and custom homes; a large crane company; a major construction outfit; local sports teams; and, countless other companies operating in virtually every sector of the economy (Walker, 2010; Jobb, 2008). While the family-owned company has increasingly been expanding in the United States and in other Canadian provinces, its headquarters remain in Saint John, New Brunswick.

K.C. Irving, the storied founder and paterfamilias of the business empire, entered the newspaper industry in the late 1930s with the founding of The Saint John Citizen (DeMont, 1991, p. 98). However, it was only with its 1944 acquisition of New Brunswick Publishing Co., which owned the Telegraph-Journal and the Saint John Evening Times-Globe, that the Irving group demonstrated its first serious interest in newspapers (Murray, 2010; DeMont, 1991). Since then, it has expanded by leaps and bounds, buying up both weeklies and dailies, and occasionally starting local newspapers in areas that previously did not have their own. The only remaining daily that is not Irving-owned is the French-language Acadie Nouvelle, which had a circulation of 20,178 in 2010

(Canadian Newspaper Association [CNA], 2010).¹ This circulation dropped to just over 16,000 in 2012 (CBC, August 3, 2012).

In 2006, the Canadian Senate's Final report on the Canadian news media, chaired by Lise Bacon (henceforth, the Bacon Report), noted:

The Irvings' corporate interests form an industrial-media complex that dominates the province ... it includes more than 300 companies, has an estimated net wealth of \$4 billion and employs 8 per cent of the New Brunswick labour force. And because the Irving interests are privately owned, they do not even have to provide the level of public reporting that publicly traded corporations are required to provide. This situation is, as far as the Committee could determine, unique in developed countries. (Final report on the Canadian news media, 2006b, p. 59)

In 2010, Canadian Business Magazine pegged the Irving family as Canada's third richest, with a net worth estimated at \$7.46 Billion (CAD), while Forbes lists them as the 205th wealthiest in the world (Forbes, 2012). While their standing is modest by international standards, their dominance within the Province of New Brunswick, including within its print media industry, is unparalleled.

As media markets in the U.S., the U.K., and Australia reel from the scandals at News International, interest in the issues that can arise from excessive media concentration and power has re-entered the public discourse. Over the last three or four decades, Canada has also acquired a reputation for its relaxed attitude toward media concentration, and indeed, market concentration more broadly (DeMont, 1991; Final report on the Canadian news media, 2006a, 2006b).

This analysis is an attempt to shed light on the situation that has been unfolding in New Brunswick's print media industry over the last fifty years, with its implications for media plurality, and the freedom and openness of the press. In order to better understand how this situation has emerged, this article explores some of the key legal and historical developments that have occurred in previous decades and provides an analysis of Canada's regulatory framework as it relates to issues of media concentration.

First, the article begins by providing a brief overview of the print media industry in New Brunswick, with data on current circulation numbers. Second, it examines the key regulatory bodies that oversee the media industry in Canada. Third, the article summarizes the three major federal inquiries that have examined the media in Canada, including the Davey Commission (1970), the Kent Commission (1981), and the more recent Bacon Commission (2006). This is followed by the application of the Herfindahl-Hirschman Index, a widely used measure of market concentration, drawing on data from New Brunswick's daily and weekly circulation. The article then turns to the struggles faced by upstart media outfits in the province, including the widely reported story of the Carleton Free Press.

Following this, the article examines a number of allegations made by recent media commentators (including previous columnists and a former editor at the Telegraph-Journal, the Irving group's leading broadsheet) in which the Irving papers have used their editorial clout, as well as their unique role as the dominant provider of print media in the province, to attempt to influence both provincial policy and public opin-

Table 1: Brunswick News Inc. Print Media Holdings and Circulation (2010-11)

Dailies*		
Publication Title	Location	Average Circulation
Telegraph Journal	Saint John	30,998
Daily Gleaner	Fredericton	19,347
Times & Transcript	Moncton	33,951
Weeklies		
Publication Title	Location	Approx. Circulation
L'Étoile (French): Comprises 8 local editions throughout the Acadian Regions of New Brunswick	Chaleur Region	16,380
	Restigouche Region	19,048
	Dieppe	15,444
	Kent Region	15,567
	Shédiac	7,369
	Le Cataracte (Grand Falls)	5,278
	La République (Edmunston)	16,926
	Péninsule Acadienne	17,988
	Total Circulation	114,000
[HERE]	Fredericton, Moncton, Saint John	21,839
Le Journal Madawaska (French)	Madawaska County	4,987
The Kings County Record (Semi-weekly)	Sussex	4,930
The Miramichi Leader (Bi-weekly)	Miramichi	9,700
The Miramichi Weekend	Miramichi	5,430
The Northern Light	Bathurst	4,183
The International Money Saver	Western New Brunswick and Northern Maine	Low '0,000s**
The Tribune	Campbellton	3,620
Wheels	Fredericton, Moncton, Saint John	30,000**
KV Style	Rothsay	Low '000s**
This Week	Moncton and Riverview	Low '000s**
The Post Gazette	Oromocto	15,500
Community Neighbours This Week	Greater Fredericton Area	N/A
Northside This Week	Fredericton Northside	N/A
Victoria Country Star	Grand Falls	2,504
Victoria Advertiser	Grand Falls	N/A
York County Connection (Bi-Weekly)	Woodstock	N/A

Notes: Source: CNA, 2011; *End-of-year 2011 for dailies; ** Estimate

ion on matters that stand to benefit the group as a whole. This includes the controversial proposed sale of NB Power to Hydro Québec, as well as issues relating to forestry policy, industrial power rates, and major industrial and energy projects in which the Irving group has had a direct stake (such as the mooted second oil refinery, the liquefied natural gas [LNG] terminal that was recently built on the outskirts of Saint John, and the Enbridge Gas debate). Next, the article assesses the apparent unwillingness of regulators, and the Competition Bureau in particular, to act despite allegations of anti-competitive behaviour, a series of undisclosed conflicts of interest in the coverage of major news items, as well as the clear trend of rising ownership concentration in the province as a whole.

Finally, the article draws on the traditional rationales for minimizing the concentration of media ownership, including democracy, plurality, and editorial independence in building a case for stronger media ownership regulations, and a more diligent enforcement of the existing provisions of the Competition Act. In the absence of greater distance between the print media and the province's dominant industrial player, it is difficult to envision how future governments in New Brunswick will be able to fairly and openly address the fiscal, economic, and democratic challenges that the province faces.

Understanding the print media industry in New Brunswick

A province of 751,000 residents, New Brunswick is home to a fairly modest print media market, with aggregate circulation numbers totalling two- to three-hundred-thousand (CNA, 2010). And yet over the years, New Brunswick's media market has developed a disproportionate level of concentration, garnering the attention of successive federal inquiries, and raising concerns from senators, politicians, past editors, university professors, concerned citizens, as well as local business owners and advertisers about the negative consequences of excessive concentration of media ownership. Table 1 outlines the media holdings of Brunswick News Inc. at end-of-year 2010, except the Acadia Nouvelle, whose contribution numbers are from 2012 (CBC, 2012). Table 2 outlines non-Brunswick News holdings, including circulation numbers, as of 2010.

As Tables 1 and 2 show, the majority of daily circulation (81%) and weekly circulation (71%) is held by Brunswick News Inc. (BNI).² What is unique, however, and what the most recent Senate Report (Final report on the Canadian news media, 2006a, 2006b) underscored, is that in addition to owning the overwhelming majority of the print media in the province, the family-owned company also runs by far the largest industrial conglomerate in the province. Given its extensive business holdings in New Brunswick, and the fact that it employs approximately 8% of the population, the Irving group benefits from a uniquely privileged relationship with the government of the day, as the overall economic prosperity of the province is intimately linked with its own success. As a result, the Irving group has achieved a highly advantageous position, being able to use its considerable editorial and advertising clout to lobby the government, and to advocate for particular policies and regulations that support both its short and long-term business interests. Examples of this include changes to regulations impacting energy markets (witnessed during the debate on the sale of NB Power, or more recently in the conflict between Enbridge Gas New Brunswick and the Irving group),

as well as rules impacting the forestry industry (such as increasing protected areas, curtailing the use of herbicides, or reforming the regime governing access to trees situated on public lands).

Table 2: Non-Brunswick News Inc. Print Media Holdings (2010)

Dailies*			
Publication Title	Location	Ownership	Circulation
L'Acadie Nouvelle	Moncton	Independent	16,000
Weeklies			
Publication Title	Location	Ownership	Circulation
The St. Croix Courier	St. Stephen	Advocate Media Inc.	3,324
Sackville Tribune Post	Sackville	G.T.C. Transcontinental Group Ltd.	2,606
River Valley News	Grand Bay/Westfield	Independent	10,000
Le Moniteur Acadien	Shédiac	Independent	5,100
Infosac	Bathurst	Independent	37,000
Sussex Herald (bi-weekly)	Sussex	Ossekeag Publishing Co. Ltd., Printed by Transcontinental Group Ltd.	10,750
Hampton Herald (bi-weekly)	Hampton		6,900
Valley Viewer (bi-weekly)	Southeastern NB		10,625
WesTides (bi-weekly)	West Saint John		11,475

Notes: * 2011-12 circulation numbers; Sources: CBC, 2012; CNA, 2011; Hickey, personal communication, July 19, 2011; InfoSac, 2011; Moniteur Acadien, 2011

More troublingly, the degree of control and influence exerted by the Irving papers makes it difficult to get to the bottom of many important and highly consequential stories, such as those surrounding industrial pollution, or the substantial public subsidies periodically awarded to Irving companies. In the rare instances that such stories do appear, they are rarely, if ever, the subject of serious investigative reporting or featured in a critical light (Steuter, 2001; Tunney, 2008; Walker, 2010). All of this makes it difficult for citizens within the province to gain valuable perspective and a deeper understanding of what is actually happening in the province. This is particularly troubling when one considers that such an understanding could be destabilizing to both the Irving group, and potentially, to the province's own economic prospects, so closely are the two intertwined.

Regulating the Fourth Estate in Canada

The first formal regulation dealing with the concentration of ownership in Canada is the Combines Investigation Act (Henry, 1970). Adopted in 1923 in the midst of growing concern over monopolies, it dealt specifically with issues of competition, market concentration, price fixing, bid rigging, and with the issue of monopolies and anti-competitive practices encompassing a wide range of sectors and industries. By extension, this included anti-competitive practices in the print media industry (Henry, 1970; Litvak & Maule, 1983). The Combines Investigation Act was subsequently revised in 1952, and further amended in 1969. Chief among its shortcomings was that

it required a criminal burden of proof be established “beyond a reasonable doubt” to obtain a conviction on competition cases (Competition Bureau, 2011a). This standard made it extremely difficult to prosecute successfully. This was clearly demonstrated in the case brought against K.C. Irving in the early 1970s (see *R. v. K.C. Irving Ltd., Moncton Publishing Co., New Brunswick Publishing Co., and University Press of New Brunswick Ltd.*)

In the spring of 1971, the federal government and the Combines Investigation Branch successfully obtained a number of search warrants for Irving premises on suspicion that the Irving companies were operating a newspaper monopoly. Based on the evidence obtained during these searches, the federal government subsequently charged K.C. Irving Ltd. of running a de facto monopoly and thereby of contravening the Combines Investigation Act (DeMont, 1991). It was the first time in Canadian history that a newspaper chain was found to have violated Canada’s competition laws. In 1974, each of Irving’s three media holdings were fined \$150,000 (CAD), and the government of the day ordered the Company to divest itself of Moncton Publishing, one of its three major print media holdings.

However, and to the surprise of many, the ruling was eventually appealed and overturned by both an Appeal Court judge and by the Supreme Court of Canada, on the grounds that the mere existence of a monopoly did not necessarily demonstrate a detriment “in law” (p. 116) under the Combines Investigation Act. As highlighted above, such a detriment to the public had to be demonstrated “beyond a reasonable doubt”; something that both the Appeal Court and the Supreme Court ruled had not been satisfactorily demonstrated. Reflecting on this earlier period of competition law, the Competition Bureau recently noted:

Most commentators concluded that the Supreme Court’s requirement that the Crown demonstrate public detriment under a criminal standard of proof (i.e., “beyond a reasonable doubt”) made Canada’s merger and monopoly law inoperable. In response, economic commentators argued for a wholesale revision of competition law. (Competition Bureau, 2011a)

Canada eventually passed a more comprehensive competition law in the form of the 1986 Competition Act.

Overview of key regulators

Despite numerous efforts and recommendations to establish newspaper regulation in Canada, there is no national regulator tasked specifically with overseeing or regulating the print media industry. The task of doing so is shared between four actors, with assistance from a few provincial press councils.

First, there is the Competition Bureau, established as part of the *Competition Act*. The function of the Competition Bureau is effectively to limit anti-competitive practices and ensure proper regulatory enforcement of competition matters. The Competition Bureau bills itself as an “independent law enforcement agency” (Competition Bureau, 2011b; Goldman, 1989). However, it is important to note that the Bureau is tasked strictly with economic issues, and has no jurisdiction over non-economic issues such as diversity and plurality. The role of the Bureau is specifically

to ensure adequate levels of competition in all of the country's industries. As a result, this makes it the most important actor in dealing with market concentration in Canada.

The second major media regulator in Canada is the Canadian Radio-television and Telecommunications Commission (CRTC), which has jurisdiction over radio and television broadcasting, and telecommunications. It was established by Parliament in 1968 under the *Broadcasting Act* to provide independent oversight and regulation of Canada's broadcasting industry (CRTC, 2011). It has jurisdiction over social, cultural, and other related goals, providing a valuable complement to the Competition Bureau's focus on economic goals, particularly during merger reviews. However, it is important to note that the CRTC does not regulate newspapers or the print media as such, rather its primary relevance to the print media industry is to advise on merger cases that have a cross-media ownership component (Bartley, 1988).

The third regulatory body is the Canadian Broadcasting Standards Council (CBSC), a voluntary, industry-led self-regulating body. Founded in 1990, it has established a set of voluntary codes that include elements of ethics, journalistic independence, conflicts of interest, and the like (CBSC, 2011). However, since the body is industry-led, voluntary, and has little-to-no sanctioning power over its members, its effectiveness as a regulator of the industry and a protector of the public interest is questionable.

Finally, both the Canadian Parliament and the Senate have at various points intervened either with investigations, committees, or legislation in order to ensure the continuing and proper functioning of the media industry in Canada. This gives both elected and unelected representatives (Members of Parliament and Senators, respectively) the ability to intervene on matters relating to media concentration. In particular, Parliament has the power to draft new legislation, and to direct the Competition Bureau to investigate certain matters considered to be of concern to the Canadian people, or of detriment to the public interest more generally.

The role of the Senate has been notable. Over the last 40 years, it has led no fewer than three separate federal investigations into the media industry in Canada. They are: the Report on the Special Senate Committee on the Mass Media (1970a, 1970b, 1970c), chaired by Keith Davey; the Royal Commission on Newspapers (1981), chaired by Tom Kent; and the Final Report on the Canadian News Media (2006a, 2006b), chaired by Lise Bacon. Throughout this article, the reports produced by these Senate investigations will be referred to as the Davey Report, the Kent Report, and the Bacon Report, respectively.

Despite the recurring interest of the Canadian Senate in matters of media concentration, it is widely acknowledged that none of the federal inquiries resulted in any significant changes to the industry (Walker, 2010; Bacon Report, 2006a, 2006b). Many markets remain highly concentrated, and while cross-media ownership has decreased in some areas, the level of print media ownership concentration in particular has experienced a significant increase in many others. The 2006 Bacon Report underscored recent developments in New Brunswick, pointing to the acquisition by Brunswick News Inc. of a host of community newspapers, as well as a number of French and English weeklies. As the Bacon Report (2006a) concludes, "rules to prevent high levels of concentration of ownership of media properties, either in particular regions or within the country as a whole, do not exist" (p. 63).

Given the importance of a diverse and competitive media industry in a well-functioning democracy (Cairns, 1981; Steuter, 2004; Walker, 2010), the evidence from successive federal inquiries highlights the problematic status quo that currently prevails in the Canadian print media industry. According to the most recent Senate investigation, the degree of concentration can have significant implications for the functioning of democracy as well as for plurality of opinion (Bacon Report, 2006a, 2006b). While the Internet and the rise of the new media sources undoubtedly mitigate some of the negative consequences of print media ownership concentration, it is far from clear that their rise obviates the need for tighter restrictions on excessive levels of ownership concentration. These themes will be revisited later in this article.

Understanding the three federal media investigations

This section briefly examines the three federal investigations into the media industry in Canada, occurring in 1969-70, 1980-81, and most recently in 2005-06. These investigations provide important context to understand the unique circumstances that have shaped Canada's media landscape.

Davey Commission

On December 9, 1969, in the midst of growing interest in the issue of the media, Senator Keith Davey inaugurated the hearings of the Special Senate Committee on the Mass Media, which was convened to examine the state of the media in Canada (Creery, 1984). During these hearings, the Davey Commission examined problems surrounding media concentration, particularly in print media ownership, with a clear eye on the Irving conglomerate (Litvak & Maule, 1983). Indeed, long-time Premier of the province, Richard Hatfield, went as far as to suggest that the only reason the Davey Commission was set up was to break-up the Irving newspaper monopoly, which had recently acquired Fredericton's Daily Gleaner in May of 1968 (DeMont, 1991).

Although most of the Davey Report's recommendations went unheeded, the details included in the report and the process that produced them helped raise awareness of the issue of media ownership concentration in Canada. Among its recommendations, the Commission proposed the creation of a "Press Ownership Review Board," a government agency that would investigate (and as a rule, oppose) transactions that would materially increase media concentration in Canada (Davey Report, 1970a). The underlying premise was that "all transactions that increase concentration of ownership in the mass media are undesirable and contrary to the public interest unless shown to be otherwise" (p. 70).

The Davey Commission's proposal for a Press Ownership Review Board was not adopted, and when the notion was put forward again in a slightly different form in the Kent Commission recommendations ten years later, it too went unheeded (Litvak & Maule, 1983; Walker, 2010). In the wake of the Davey Report, a few provinces did adopt "Press Councils," bodies tasked primarily with receiving complaints and processing adjudications, somewhat akin to the Press Complaints Commission in the U.K.

Among other recommendations of the Davey Report, was the creation of a loan fund to help small media start-ups achieve economic viability. This would have helped ensure that the loudest voices did not necessarily become the only voices in individual

media markets (Davey Report, 1970a). Once again, few of the Report's recommendations were ultimately adopted.

Kent Commission

In 1980-81, the Canadian Senate launched the Royal Commission on Newspapers, chaired by Tom Kent, which came to be known as the "Kent Commission" (Creery, 1984; Keshen & MacAskill, 2000; Walker, 2010). At the time of the Kent Commission, the Irving interests represented 90.6% of daily circulation in New Brunswick, a greater market share than either the Thomson or Southam holdings that reportedly triggered the Commission's launch in the first place (Litvak & Maule, 1983)³.

Indeed, in contrast to the Davey Commission, the Kent Commission's focus was primarily on central and western Canada. However, like the Davey Report, it too put forth a number of recommendations to deal with the growing problem of media ownership concentration. As the report highlights:

The recommendations include rules of ownership to deal with concentration of newspapers and with cross-media ownership, divestiture by certain newspapers of some of their interests, investment incentives for the purchasers of newspapers, contractual terms for appointing editors, the establishment of a Press Rights Panel to monitor newspaper performance, the use of tax credits and surtaxes to induce more editorial content, and incentives to promote the development of Canadian news services. (Litvak & Maule, 1983, pp. 468-469)

Taking the Davey Commission's recommendations a step further, the Kent Commission recommended prohibiting any further major increases in media concentration, akin to what would have been accomplished by the Press Ownership Review Board. More specifically, it suggested that a media company should only be allowed to acquire other newspapers if the following conditions are met: first, if the company held no more than five other dailies; second, if its total circulation represented no more than 5% of Canadian daily circulation; and third, if the location of the paper was more than 500 km away from previous holdings (Royal Commission on Newspapers, 1981). In the Commission's wake, Parliament drafted legislation and submitted it for debate in the House of Commons. Kent estimated that the legislation incorporated approximately 25% of the Commission's recommendations.

The Kent Commission also proposed legislation to mandate divestment. According to a government report published in 1999, this legislation would have required the "break-up of regional monopolies, such as that of the Irving family in New Brunswick, by prohibiting the ownership of two or more newspapers having 75% or more of the circulation, in one language, in a defined geographical area" (Jackson, 1999). The legislation would have provided a maximum of ten years for such divestiture to occur, after which point such ownership arrangements would be deemed illegal under Canadian law. This legislation would have been enforced by a Press Rights Panel, which would administer the ownership and divestiture rules (Jackson, 1999).

To complement these "bright-line" rules⁴, the Kent Commission (like the Davey Commission) recommended a host of tax breaks and investment incentives to encourage new investors to enter the newspaper industry, either by creating new papers or

by acquiring papers that had been orphaned by forced divestiture or bankruptcy (Royal Commission on Newspapers, 1981).

Naturally, many within the traditional media establishment in Canada at the time, including Brunswick News Inc. (BNI), opposed the recommendations, as well as the legislation that emerged from it.

The Kent recommendation that newspaper owners should not also be permitted to hold radio and TV broadcasting licenses in the same market ... was dropped by the Mulroney government [in the mid-1980s] ... The Kent recommendations to reduce the worst cases of concentration and to offset the effects of conglomeration by measures to provide for journalistic independence and public accountability were not accepted. They were strongly opposed by the proprietors as an alleged interference with press freedom. (Canadian Encyclopedia, 2011)

Highlighting the difficulty of getting effective legislation passed, the 2006 Bacon Report noted:

In 1982, in an action that was aimed, in large part, at the Irving's media holdings, the government issued an Order in Council Direction to prevent cross-media ownership in Canada. The Order in Council stipulated that the CRTC could not issue or renew licenses to applicants effectively controlled, directly or indirectly, by the owner of a daily newspaper whose newspaper circulation covered a major area served (or to be served) by the broadcaster. Following a change in government, however, the Order was rescinded in 1985. (2006b, p. 70)

As these few examples show, several attempts were made to strengthen Canadian laws and regulations on media ownership from a number of different angles over the course of several decades. However, most faltered, either because they failed to be passed into law or because they failed to be enforced. Indeed, had the full scope of either the Davey or the Kent Commission been implemented, it would have represented an unprecedented shift in the media landscape in Canada. By forcing divestiture and opposing further growth in ownership concentration, the measures would have created a legislative and regulatory environment that opposed (or at the very least, structurally de-incentivized) further increases in newspaper ownership concentration. As it turns out, a combination of regulatory inertia and a lack of political will helped ensure that such issues remained off the political radar for another two decades until the Bacon Commission eventually brought them back to the fore in 2005.

Bacon Commission

The Final Report on the Canadian News Media, chaired by Lise Bacon, renewed the focus on the problem of media ownership concentration in Canada. Its task was to "identify ways in which federal public policy could be rethought to foster healthy, independent news media for the 21st Century" (2006a, p. 5). It begins by referring to the rapidly changing environment of the news industry, with technological and social changes driving a rapid evolution in the media sector. It points to "a widespread struggle for economic viability among Canada's major media firms. Media mergers, sales,

re-mergers, and divestitures of broadcast and print media holdings have been the most striking coping strategies” (Bacon Report, 2006a, p. 3).

The Bacon Commission was well aware that the previous thirty-five years had failed to see effective media ownership regulation. Both the CRTC and the Competition Bureau in particular were accused of laxity, as both allegedly failed to act to protect the public interest by intervening in merger cases, or taking a firm stand against further increases in concentration. Adding further impetus, the Global Competition Review, an international comparison of media concentration published in 2005, pointed to Canada’s “relatively relaxed attitude toward concentration in media ownership” (as quoted in, Bacon Report, 2006b, p. 60).

Like the two Commissions before it, the Bacon Commission put forward a number of recommendations about media concentration, including the proposal that a new section be added to Canada’s Competition Act. This section would trigger an automatic review of mergers in the media industry if certain preestablished thresholds are passed, and it would allow government Ministers to order a discretionary review of proposed mergers (Bacon Report, 2006a, 2006b). Also included in the Bacon Report are recommendations requiring the periodic disclosure of ownership and of controlling shareholders of print media publications, and that stable funding be provided to the Publications Assistance Program, a tool designed to assist smaller media outfits. Surveying the recommendations of all three reports, it is remarkable how similar many of them are in terms of their intent; another rather striking similarity is how few of them have actually been implemented.

In order to put the issue of media concentration in a sharper perspective, and to provide insight into the current state of affairs in New Brunswick, the following section employs a quantitative index to assess the degree of market concentration.

Applying the Herfindahl-Hirschman Index

Drawing on the U.S. competition methodology of the Herfindahl-Hirschman Index (HHI), a widely used tool to evaluate the impact of mergers and acquisitions in particular media markets, it is possible to derive an index value for the level of media concentration in New Brunswick’s daily and weekly print media markets.

While the HHI applies only imperfectly to the media industry, since individual consumers can access news online, from new media sources such as Twitter, blogs, et cetera, as well as from traditional print media, it does provide a useful tool to evaluate market concentration within one aspect of the media industry for which data is available, in this case, the print media industry. The HHI is described by the U.S. Department of Justice as:

[A] commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). (HHI, 2011)

The HHI “takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of rel-

atively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases” (HHI, 2011).

Based on the application of the HHI in a host of U.S. markets, it is held that markets with an HHI value between 1000 and 1800 are “moderately concentrated” while those with HHI values in excess of 1800 are considered to be “concentrated.” In the U.S., any merger or acquisition that results in an increase greater than 100 points raises antitrust concerns under the Horizontal Merger Guidelines of the Department of Justice (HHI, 2011). With this brief overview of the index established, how do New Brunswick’s daily and weekly newspapers rank on the HHI?

Using circulation numbers as a proxy for market share, and drawing on data from Canadian Newspapers Association, the national industry group, based on year-end circulation reports from 2010 and 2011 (CNA, 2010, 2011), as well as individual publisher websites and media reports (Canadian Broadcasting Corporation [CBC], August 3, 2012), the following figures show HHI results for New Brunswick’s daily circulation in 2011-12, and for the province’s weekly circulation in 2010.

**Herfindahl-Hirschman Index
New Brunswick’s Daily Newspaper Circulation (2011-12)**

(Market Share of Brunswick News Inc.) ²	+	(Market Share of the Acadie Nouvelle) ²	= H-H Index
(84%) ²	+	(16%) ²	= 7,312*

* Based on year-end circulation numbers for 2010 (CNA, 2010), the HHI value was 6 985. The higher value in 2011-12 reflects declining circulation numbers at the *Acadie Nouvelle*.

**Herfindahl-Hirschman Index
New Brunswick’s Weekly Newspaper Circulation (2010)**

(Market Share of Firm 1) ²	+	(MS of Firm 2) ² + ...	= H-H Index
(Brunswick News Inc. 71%) ² + (Ossekeag Publishing: 11.8%) ² + (InfoSac: 11%) ² + (River Valley News: 3%) ² + (Moniteur Acadien: 1.5%) ² + (St. Croix Courier: 1%) ² + (Sackville Tribune Post: 0.8%) ²			= 5,313.9

While the HHI remains only an approximate measure of market concentration, the data suggest that New Brunswick’s print media market is indeed highly concentrated, to a degree that regulators in neighbouring jurisdictions (not to mention other sectors) would likely consider unhealthy, and worthy of further investigation.

What makes this level of concentration even more alarming is that beyond owning such a large share of the print media market, as highlighted earlier, the parent company also has a wide-ranging industrial presence, employs a large share of the provincial population, and is by far the province’s largest exporter. This makes media

concentration only a part of the problem. From a purely descriptive standpoint, what has emerged in New Brunswick over the last number of decades may be called a media-industrial complex, one in which the single largest industrial presence in the region owns and controls a commanding majority of the province's print media market.

As Charles McElman, one of the fifteen Senators serving on the Davey Commission, repeated several times during the hearings in 1970,

suppose there was a region where the one man who owned the only newspapers also owned... woods, pulp mills, oil refineries, shipping lines and bus lines. Perhaps he was even the biggest single employer in the area. In that situation... could the newspapers do a good job of reporting?" (DeMont, 1991, p. 106)

Incredibly, that question remains equally pertinent today, over forty years later.

Growing competition

Over the years, there have been citizens in the province who have made efforts to establish alternative sources of print media, founding and distributing their own newspapers, flyers, and advertising booklets to a citizenry keen for alternatives. While most are largely if not exclusively ad-based, they highlight the considerable lengths to which some citizens have gone to create an alternative voice, as well an alternative advertising platform, for local businesses and residents. This includes the now notorious story of the *Carleton Free Press*, widely reported on by the CBC, but also the less publicized ad-based upstarts such as *InfoSac* in Bathurst and *Ossekeag Publishing*, a small news and advertising company that serves residents in the province's southeast. The following section focuses on the case of the *Carleton Free Press*.

Carleton Free Press

In September 2007, Kenneth Langdon, who had worked for BNI at the *Bugle-Observer* in Woodstock for some 10 years, left to start an independent paper in the area, the *Carleton Free Press*. Before Langdon could publish his first edition in the fall of 2007, BNI challenged Langdon and received a court injunction to prevent him from doing so. Specifically, the injunction prevented him from soliciting BNI's advertising clients. The court dismissed the injunction, ruling that free competition was a right in advertising as in other industries.

In a second, more forceful tactic, BNI lawyers successfully obtained a rarely used search warrant known as an Anton Piller Order to pre-emptively search Langdon's home, offices, and vehicle (CBC, 2007, October 10). This search was based on the allegation that Langdon had appropriated BNI trade secrets, and was going to use these to compete against his former employer. While Langdon was eventually exonerated of all charges, the legal proceedings delayed the initial publication of the *Carleton Free Press* until late October.

After the paper was launched, BNI began cutting the price of advertising space in its papers, as well as the price of its papers, arguing that it was on account of the *Bugle-Observer's* centenary (CBC, 2008, October 28; Thomson, 2008). BNI cut the price of its papers to \$0.25 (CAD) via the use of coupons, and began offering steeply discounted advertising rates. These measures made it extremely difficult if not impossible for the *Carleton Free Press* to continue operating on a profitable basis. After a tense, year-long

battle with Brunswick News, the *Carleton Free Press* ceased publication on October 28, 2008 (CBC, October 28, 2008; Thomson, 2008). CBC, Canada's national public broadcaster, named Langdon its "Newsmaker of the Year" in 2007 while the Canadian Association of Journalists awarded the *Carleton Free Press* the "President's Award" at its annual convention in 2008 (Thomson, 2008).

When the *Carleton Free Press* closed in October 2008, Langdon cited three reasons for its failure: the financial crisis, which had led to decreased economic activity in the Woodstock area; the added cost of producing a second paper on Fridays; and finally, to aggressive cuts in advertising rates by the Irving-owned *Bugle-Observer* (Thomson, 2008). BNI published a short statement attributing the shuttering of the *Carleton Free Press* to production costs and the economic downturn (Jobb, 2008).

In the spring of 2008, the editors of the *Carleton Free Press* tried to get the Competition Bureau to look at the predatory pricing practices of Brunswick News (CBC, 2008, March 31). The Competition Bureau dismissed the complaint without investigating the allegation (*Kings Journalism Review*, 2008). In a rather remarkable statement it declared that, in order to "focus our investigative efforts where they can be most effective in contributing to the prosperity of Canadians, [we must] discontinue our investigation on this matter" (Kierans, 2008).

Commanding influence

In addition to the allegations of predatory pricing discussed above, there are further episodes that provide cause for concern, and potentially further grounds for regulatory action. These episodes relate to the use, and at times quite forthright, of Brunswick News' editorial clout to influence provincial policy and shape public opinion on matters that stand to benefit the Irving group as a whole. Walker (2010), a regular columnist for the *Telegraph-Journal* during the 1990s and early 2000s, states that "the 2004-2009 era saw a clear booster role for the Irving papers in favour of Irving projects and interests" (p. 8). A similar sentiment is echoed by Tunney, a former editor of the *Telegraph-Journal*, who points out that the Irving papers regularly take strong positions on issues in which they have clear a economic and financial stake; moreover, they typically do so without a disclaimer, that is, without acknowledging a potential conflict of interest (Tunney, 2008).

Foremost among these episodes is the debate over the sale of NB Power, the province's publicly owned electric utility. On October 29, 2009, New Brunswick's Liberal government suddenly announced that it had signed a Memorandum of Understanding with Quebec to sell the majority of the assets of NB Power to neighbouring Hydro Quebec in a landmark deal that would have had wide-ranging implications for the future of the New Brunswick's energy and industrial sectors. Among other provisions, the initial agreement would have reduced power rates for industrial customers by approximately 30%, bringing them in line with industrial power rates in Quebec, and would have frozen the electricity rates paid by residential and small business customers for a period of five years (Government of New Brunswick, October 29, 2009). In addition, the deal held the promise of reducing many of the long-term liabilities of NB Power, including paying off its \$4.75-billion debt.

The day after the announcement, the *Telegraph-Journal* (2009, p. A1) dusted-off its moon-landing font, and published a gripping front-page article with the headline

“The Deal Of The Century.” On its editorial page, it devoted a full column to touting the benefits of the deal, calling it transformational for the province while underscoring its potential benefits for electricity customers. That a pro-business newspaper should support lower electricity costs for industrial customers is hardly surprising, as it did repeatedly in a series of editorials over the following six months, and had done for several years prior. Conspicuously absent from its editorials however, was any mention that the Irving group was (and remains) overwhelmingly the largest private electricity consumer in the province, a fact that made it by far the single largest beneficiary of the deal. When hundreds marched in front of the provincial legislature against the deal in the winter of 2010, the protests failed to make the front page of any of the Irving papers (Pedneault, 2010). While the paper did publish a variety of dissenting views in the intervening months (see Reynolds, 2010), its own position remained unwavering, as it continued to use its significant editorial clout to attempt to sway both public and political opinion in favour of the deal (Walker, 2010).

A similar pattern can be seen in the debate over forestry policy. Brought to near fever pitch during the debate over the Jaakko Poyry Report between 2002 and 2004, Irving-owned papers published a series of editorials and business section articles on the benefits that implementing the report’s recommendations could bring to the province. Published by a prominent Finnish consulting firm, the report advocated the further intensification of tree planting activities as well as doubling the annual allowable cut in the province’s Crown forests (on public lands), two recommendations that would have substantially benefitted the Irving group’s forestry arm, J.D. Irving Ltd. (CBC, 2004). Predictably, perhaps, in a province with a long history in the forestry business, the Jaakko Poyry Report sparked a considerable amount of opposition from private woodlot owners and foresters, as well as from environmental and civil society groups. In spite of this opposition, however, the Irving papers published a series of supportive editorials throughout the debate, scarcely mentioning the parent company’s extensive forestry holdings, and once again without a clear acknowledgment of a potential conflict of interest.

Another hardy perennial of the editorial pages of the Brunswick News papers is the importance of maintaining low power rates for large industrial users (Tunney, 2008). Indeed, few issues have received more frequent mention in recent years: editorials in the *Telegraph-Journal* on January 26, 28, and February 11 of 2006 took an increasingly combative stance on the issue, even going as far as to threaten politicians with job losses in the forestry sector if power rates were not frozen, or lowered. More troublingly, none of these editorials carried any disclaimer about the fact that the owner of the papers was, as pointed out earlier, the single largest electricity user in the province and would therefore benefit disproportionately from any decision to further lower the power rates of large industrial users (Tunney, 2008).

Other instances that may raise eyebrows include the *Telegraph-Journal*’s enthusiastic support of Irving’s proposed second refinery, which at its height in 2008-09, occasionally received front page coverage in each of the first three sections of the paper (“Actualités,” “Business,” and “City”). Similar endorsement was offered to the construction of a liquefied natural gas (LNG) facility at Canaport, a partnership that was struck between Irving Oil and Repsol YPF in which the Irving group had a 25% stake. Controversially, the LNG

project in question received a generous 90% tax concession from the City of Saint John (CBC, 2005). Despite heated public opposition to the tax deal, it continued to receive steady support from the Irving-owned *Telegraph-Journal*.

Finally, after waging a highly public battle against Enbridge Gas New Brunswick (EGNB) in the pages of its papers, threatening job losses and mill closures due to rising natural gas distribution costs, the Irving group (along with two other industrial players) ultimately succeeded in persuading the government of the day to retroactively modify EGNB's contract, in effect re-writing the rules of the game for natural gas distribution in the province (CBC, 2012). If the previous skirmishes were insufficient, the message to businesses and investors from this episode was clear: investing within the province in any venture that might materially impact the business interests of the Irving group is risky business indeed. While impossible to calculate, the chilling effect on foreign investment in the province cannot be underestimated, as Enbridge itself warned in a public letter (EGNB, 2012).

These episodes go hand-in-hand with the near-complete absence in the Irving-owned papers of editorial positions opposed to the interests of its owners. As early as 1973, Hunt & Campbell (1973), prominent biographers of K.C. Irving, underscored “[the] way in which the papers have shied away from any meaningful investigation of industrial pollution in New Brunswick..., the long-standing conspiracy of silence about Irving’s business dealings [, and] the media’s secrecy about its own ownership [etc.]” (pp. 155–156). According to some, this situation persists almost forty years later (Tunney 2008; Walker 2010). And yet, as Alden Nowlan, one of New Brunswick’s most well-known poets and long-time writer at the *Telegraph-Journal* once pointed out, to expect that the Irvings would “[mount] an editorial campaign against themselves [is] a little unrealistic” (Tunney, 2008, p. 25).

Yet, this lack of scrutiny has substantive implications. As Tunney (2008) muses, [with] the paper drifting in the direction of advocacy journalism too often connected to the economic interests of the owner, has it tarnished what’s at the core of its brand, [namely] its authority? (p. 61)

The case for reform

The lack of appropriate regulation has led to the present situation. (Bacon Report, 2006a, p. 7)

Such repeated examples of alignment between the editorial positions of the Irving-owned papers and the industrial interests of the Irving group, combined with widespread allegations of predatory pricing and chronically high levels of market concentration (as evidenced by the Herfindahl-Hirschman Index), should arguably have spurred the Competition Bureau to undertake more detailed investigations (if not enforcement action) long ago, as even a sympathetic reading the *Competition Act* requires. Put plainly, the current situation of media ownership concentration in Canada, and in particular in smaller markets like New Brunswick, simply could not have emerged without the implicit or explicit assent of Canadian regulators.

The CRTC and the Competition Bureau continue to take a light-touch approach to media concentration in Canada (Bacon Report, 2006a, 2006b). Despite chronically

high levels of concentration in New Brunswick, a number of BNI acquisitions went unchallenged between 2002 and 2006. In 2002, BNI acquired two groups of community newspapers; in 2003, it bought *Northern Light* from Transcontinental; and, in 2004, Brunswick News acquired the alternative youth-oriented weekly [*here*]. In that time it also increased its holdings of print media in the French language market, with purchases of *La Voix du Restigouche* and a host of other French language papers.

The Competition Bureau examined several of the transactions but did not challenge them as being anti-competitive. Its reasoning focused on the local, not the regional, implications of the transactions. This is customary for the Bureau. (Bacon Report, 2006b, p. 53)

The Bacon Report attributes some of the difficulties to the “silo” approach adopted by the Competition Bureau, as it deals with cases in a fairly narrow, local basis, rather than considering the impacts of regional market concentration. Moreover, the Competition Bureau maintains that it is powerless to challenge existing levels of concentration—it must instead focus on reviewing new merger cases that increase local levels of concentration. Dealing with existing levels of concentration in both local and regional markets may therefore require extra-regulatory action, either in the form of new legislation, or the implementation of new bright-line ownership rules. For instance, this could involve the establishment of clear limits on the share of print media circulation that can be owned by one group in a particular market. A similar pattern has played out at the CRTC. According to the Bacon Report:

The history of CRTC decisions about media ownership in New Brunswick is equally sobering. In August 2000, the CRTC approved two new radio stations in Saint John and St. Stephen. The successful application for both stations was made by New Brunswick Broadcasting Co., which is owned by the Irving family... The CRTC decision did not mention ties to the Irving family and its dominance of print media in the province, although CRTC commissioners did raise the issue during hearings on the applications. The decision contained no condition that the print and broadcasting newsrooms (or the management of the newsrooms) be kept separate. (2006b, p. 58)

As such episodes highlight, it is difficult to understand the prevailing pattern of media ownership in New Brunswick (and indeed, in Canada) without examining the long-standing laxity of both the CRTC and the Competition Bureau with regards to the regulation of media ownership. In theory, a central component of the Competition Bureau’s founding mandate includes investigating, and as a rule, opposing mergers that result in a substantial lessening or prevention of competition:

Under Section 79 of the Act, the Competition Tribunal may make an order to remedy an abuse of dominance if it determines that one or more dominant firms have engaged in a practice of “anti-competitive acts” that have resulted in a substantial prevention or lessening of competition. “Anti-competitive acts” are defined in Section 78 of the Act by reference to a nonexhaustive list of examples, which includes practices such as squeezing margins of uninte-

grated competing customers and preemption of scarce resources. (Clifford, Prendergast, & Wakil, 2005, p. 1)

Given the reports concerning the *Carleton Free Press*, and similar comments having been made by other independent media outfits in the province (InfoSac, 2011; D. Hickey, personal communication, July 19, 2011; F. Sonier, personal communication, August 10, 2011; CBC, October 12, 2007), there is a compelling evidentiary basis to support the claim that BNI's position within New Brunswick's media market constitutes an abuse of dominance. Thus, on these grounds alone there is arguably a solid case for further Competition Bureau investigation. And yet, as noted above, when the Bureau became aware of the situation, it chose not to investigate the matter further.

Based on what has been presented here, the case for regulatory action rests on four central elements: First, allegations of predatory pricing, widely reported in the case of the *Carleton Free Press*, which, if proven in court, would constitute an abuse of market power and a clear violation of the *Competition Act*; second, recent acquisitions by BNI, which have materially decreased ownership diversity in what is already a highly concentrated market; third, repeated alignment between the editorial positions of Brunswick News' papers and the industrial interests of the owner, the Irving group, repeatedly without mention of a potential conflict of interest; and finally, the unparalleled industrial position of the Irving group within New Brunswick, which raises concerns about media power, diversity, plurality, and other aspects widely considered inimical to a free and open press, and indeed, to democracy.

It remains to be seen whether regulatory action will be taken. However, in keeping with tradition, the issue has all-but disappeared from Parliamentary debate since the publication of the Bacon Report in 2006.

Government of the people: The impact on democracy

Democracy is assumed to flourish where there are 'many and diverse' voices stating facts and expressing opinions. Consequently, concentration of media ownership, whether in government hands or in private enterprise, is viewed as being potentially harmful to the democratic process. (Litvak & Maule, 1983, p. 462)

Pointing to the pattern of growing media concentration, the Bacon Report stated in 2006, that "the Committee has seen evidence that there are news media organizations with excessively dominant positions within individual Canadian markets" (2006a, p. 7). The report went on to acknowledge, "[such] concentration of ownership could have negative consequences for the public interest" (2006a, p. 7). This echoes the concerns raised decades ago by the Restrictive Trade Practices Commission:

The conduct of our affairs in a democratic manner... is dependent upon the formation of public opinion. If the public ... is not enlightened by discussion that points out the possible consequences of alternative courses of action before the community, too many opinions will be ill-informed and muddled ... If well-informed public opinion is an essential of sound public policy then the channels through which information flows to the members of the public have an importance which cannot be over-emphasized. (Cairns, 1981, p. 170)

Thus, diversity in ownership and plurality in viewpoints have long been considered important aspects of a healthy and robust democracy, where a marketplace of ideas freely competes for the hearts and minds of citizens (Townsend, 1984; Walker, 2010). The greater the diversity of ownership a particular market exhibits, the more likely it is that a maverick editor will stick his or her neck out, and take a prominent stance on matters of public concern. The trend in New Brunswick in the last few decades however, has been in the opposite direction. The absence of strong print media alternatives to stimulate public debate deepens what many argue is already an unhealthy status quo.

Harkening back to an editorial style more characteristic of 19th Century broadsheets, BNI's publications have attempted in recent years to exert ever greater and more concerted influence on provincial policy (Steuter, 2001; Tunney, 2008; Walker, 2010). In light of how many sectors Irving's business interests cover, from forestry, to energy, to shipping and manufacturing, there are very few areas of provincial policy beyond the interests of the family.

As Steuter points out, "The homogeneity of the editorial position of the three papers means that people lose out on the ability to hear any other perspectives on many issues of importance" (Steuter, 2004). Investigative analysis of the parent company's business practices is virtually absent as is serious debate about issues that directly impact the parent company's interests (Steuter, 2004; Tunney, 2008; Walker, 2010). This includes stories pertaining to industrial pollution, intensive forestry practices such as clear-cutting and herbicide spraying, corporate subsidies routinely awarded out to Irving-owned mills and companies, among others. The dissemination of more information on such issues is clearly in the public interest, and yet, one can scarcely expect BNI to devote investigative resources to covering them in a critical way as an active and competitive press undoubtedly would. Indeed, stories that deal with the family and its business dealings are almost invariably positive in tone, leaving little room for criticism and open inquiry (Walker, 2010).

As Tunney suggests, the editorial influence that BNI exerts on its journalists is not necessarily direct; journalists generally know which angles are acceptable, and which are not (2008). It is impossible to point to all the stories over the years that have simply not been written, or that have not been published, on account of the high levels of ownership concentration.

And yet, it may be argued that concerns over ownership concentration are increasingly irrelevant in an age of new media, where citizens can access information online from a host of different individual sources (e.g., blogs, public forums, Twitter, et cetera), as well as from traditional media sources. This proliferation of alternatives to print media has reduced the centrality of the traditional broadsheet, and therefore arguably taken some of the sting out of concerns over concentration of ownership in this market segment. On these grounds alone, some are likely to remain unconvinced that there is a need for divestment, or even for ownership restrictions.

While these arguments may have some degree of validity, they fail to appreciate many important implications of excessive ownership concentration, as well as many dimensions of the issue that make the situation in New Brunswick particularly problematic: many decision-makers in the province, particularly those with a significant

influence on public and economic policy, continue to rely strongly upon the Irving papers for their information. Whether they access this information online or in print form is moot. The chief advantage of the Irving papers is that they provide local, “hard” news about economic and social issues in almost all areas of the province, from the North Shore to the Acadian Peninsula to the greater Saint John region. Since alternative sources of such hard news have all but disappeared, or been acquired, this provides the Irving papers with a disproportionate influence over citizens, local businesses, as well as political leaders.

Moreover, it is not clear how this situation can be remedied by the provision of news and opinion from a myriad of sources, each with a differing level of credibility, and local political relevance. Both citizens and decision-makers will always need credible sources of local news and information, and for that they will likely continue to turn to established providers. While the CBC undoubtedly provides a vital and important alternative, it simply cannot provide the breadth and depth of local coverage that a geographically dispersed team of competing journalists could.

Investigative journalism at the *Telegraph-Journal* has been exemplary at times, earning the paper numerous awards and nation-wide recognition as one of the country's great dailies. Unfortunately, such investigative journalism is barred from investigating many of the most interesting and media-worthy stories in the province. This includes what may well be one of the most fascinating and important stories in the province's history, namely the unprecedented media-industrial complex that has been allowed to emerge in this small, at times sleepy, east coast province.

Conclusion

In light of the extraordinarily high Herfindahl-Hirschman Index scores found in New Brunswick's print media industry and the fact that the Irving group presides over such an extensive industrial and economic base, the status quo is manifestly unhealthy, as much for the province's politicians as for its citizens, businesses, and advertisers. So long as the Irving group employs such a large percentage of the population, represents such a large share of its economic output, and simultaneously controls such a large share of the press, it is questionable whether New Brunswick's population will ever receive the breadth and depth of hard news coverage they deserve. Nor is this an inconsequential matter: as the case of Enbridge Gas demonstrates, investing in a province in which the largest industrial company operates in dozens of different sectors, owns several hundred different firms, and simultaneously controls the majority of the press, is not without its risks.

Ultimately, citizens and politicians alike must be able to distinguish the province's long-term interests from those of its most powerful family, and such a distinction hinges critically on being able to discuss and debate the two separately. In light of the current ownership structure, it is likely that this can only be achieved in conjunction with a partial break-up of the media landscape, either through forced divestment or through the imposition of stricter ownership restrictions.

As this article has argued, the chief responsibility to remedy this situation ultimately lies with Canada's Competition Bureau—no other regulatory body has the requisite authority or mandate to do so. If previous federal investigations into media

concentration are a reliable guide, it is likely that the Bacon Report will fade from view, and that its recommendations will fail to be implemented much like those of the Davey and Kent Reports before it. Unless such federal investigations are accompanied by concrete regulatory action, or by a clear legislative response, their proceedings are little more than archives, destined to merely gather dust in the libraries of the country. As the Canadian Competition Bureau stated, shortly after its founding in 1989:

Competition, properly protected, is highly desirable and effective ... It keeps Canadian industries sharp and efficient – characteristics which are of great importance in the increasingly global economy. It constrains the unilateral or collusive exercise of market power. It preserves a place for small businesses, provides opportunities for new ones, and rewards innovation. When competition is protected, a propelling mechanism of the Canadian economy is protected. (Competition Bureau, 1989)

If the Bureau were true to its own mandate, and if governments were truly concerned about the value and the virtues of competition, an essential mechanism propelling both New Brunswick's economy, and its democracy, would be protected—namely, a free, open, and dynamic press.

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Notes

1. It is worth noting that in early August 2011, the *Acadie Nouvelle* disclosed publicly that it was seeking financial assistance from the government, in order to stabilize its finances and make up for the poor performance of its trust fund (CBC, August 4, 2011). In August 2012, the CBC noted that the *Acadie Nouvelle* would sell its new printing press and begin outsourcing its printing services to the Irving-owned BNI operation in Moncton (CBC, August 3, 2012). Were the *Acadie Nouvelle* to founder, and be acquired by the Irving group, this would leave no daily print media publication not owned by BNI.
2. This number assumes a total weekly circulation of 240,000 for BNI. There remains uncertainty about the precise circulation numbers of some BNI weeklies.
3. When the Kent Commission was launched in 1980, Southam owned over 65% of daily circulation in both Alberta and British Columbia, while the Thomson holdings represented approximately 83% and 87% of the market in Newfoundland and Manitoba, respectively (Litvak & Maule, 1983, p. 467).
4. "Bright-line" provisions refer to rules or standards that are based on objective and verifiable criteria, and which therefore allow little or no room for varying interpretation. An example of this is the 75% ownership limit referred to in the text, and recommended by the Royal Commission on Newspapers (1981).

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