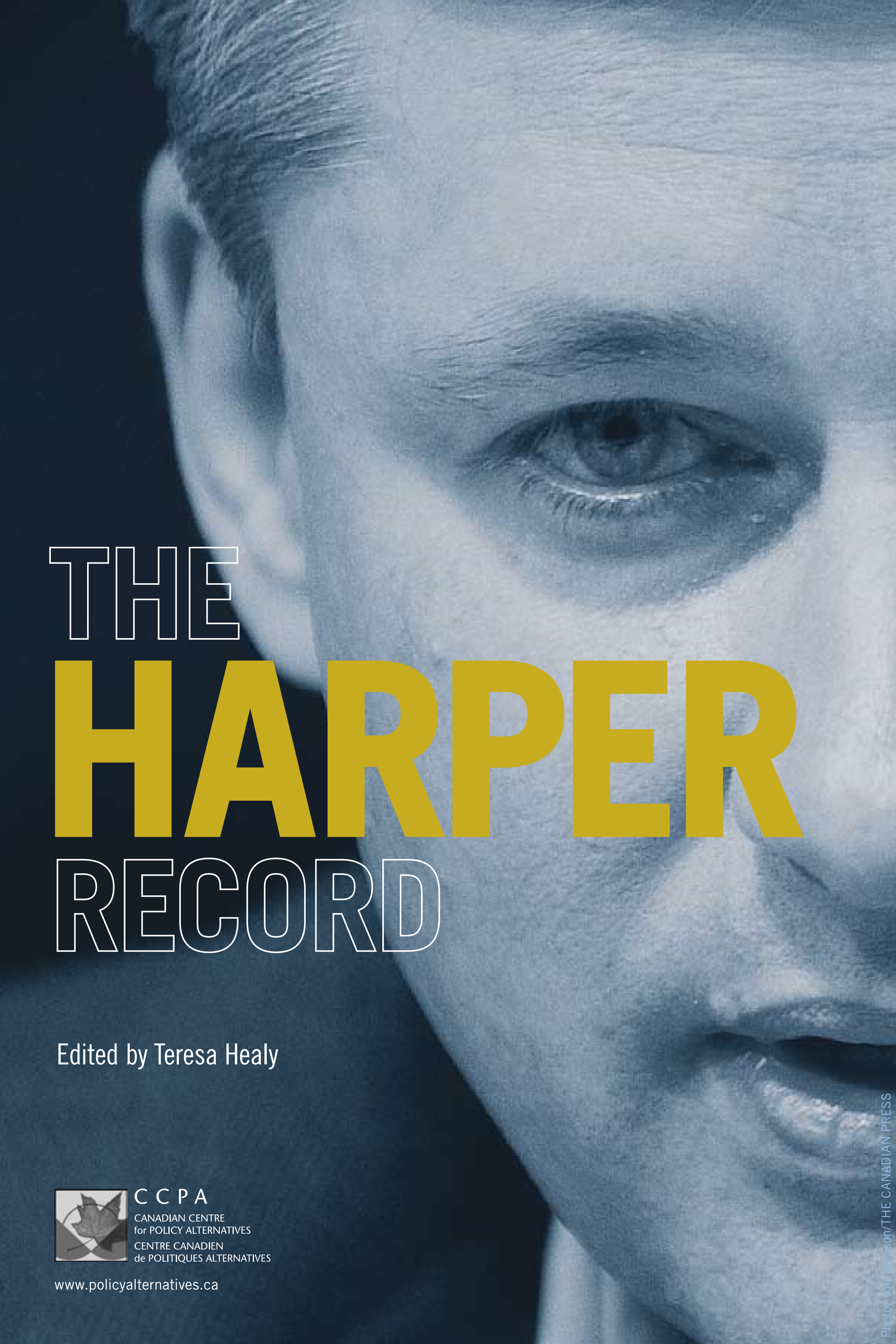

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Telecommunication Picks Up Speed On the Free(Market) Way

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OVER THE LAST two decades, telecommunications policy has been increasingly driven by an industrial strategy linked to technological innovation and competitiveness rather than national and public interests.

In April 2005, David Emerson, then the Liberal Minister of Industry, launched the most recent challenge, appointing a three-member Telecommunications Policy Review Panel (TPRP) to conduct the first major public review of Canada's telecommunications policy framework since 1993.[1] The Review Panel's final report was submitted in March 2006, conveniently gifting "Canada's New Government" with helpful recommendations that fit right into their policy framework.

In June 2006, then Industry Minister Maxime Bernier put a fence around the CRTC, instructing it to take a "hands-off" approach to regulating the telephone industry.[2] In a response to public concerns, the Minister said that the purpose of this was "not to reduce the role of the CRTC, but rather to act as a signal to the CRTC, the market, and the Canadian public concerning the government's intended course of action for telecommunications policy in Canada."[3] In effect, he said that "from now on, we make the rules here." And indeed, he did.

In November 2006, Bernier overruled a CRTC decision on the regulation of internet phone service (VoIP). In December 2006, he overruled a CRTC decision and gave the major telcos the power to set their own prices as long as there was a telephone company, a cable company, and one unaffiliated wireless provider in the area.[4] In April 2007, despite a specific recommendation to the contrary from the Commons Standing Committee on Science, Industry and Technology, the Minister tabled new regulations deregulating local telephone service.[5]

The delicate issue of foreign ownership restrictions in the telecom sector was handed to a panel of corporate leaders, led by Lynton Wilson, former Bell Canada chief executive and former Chairman of the Board of Nortel Networks, as part of a review of Canada's competition and investment policy. Policy laundering[6] — i.e., using "blue ribbon" panels to "independently" make useful recommendations — has been a favourite Harper tool. In June 2008, this panel recommended that foreign investment rules be eased to allow foreign takeovers of telecommunications companies with less than 10% of national market share.[7] (Currently, foreign investment is restricted to 46.7% in the telecom sector.)

Foreign takeovers of larger companies could be allowed in five years after a broader review of broadcasting and cultural policies. At the moment, Section 7 of the *Telecommunications Act (1993)* says that "telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty." Luckily, the TPRP had already recommended the deletion of that kind of language, deeming it outdated.

The largest corporate takeover in Canadian history, BCE's sale to an investor group led by the Ontario Teachers' Pension Plan and several U.S.-based private equity partners raises more issues of foreign investment and ownership in Canada's telecom sector. While Teachers' put up 51% of the equity in compliance with foreign ownership restrictions and the CRTC attached several conditions about governance before approval, questions remained about how "Canadian" this entity will be. With the recommendations on foreign ownership in hand, we can expect more foreign takeover activity in the near future, despite the fact that many other countries, including the U.S., U.K., France, Germany and Japan, consider telecommunications to be a national security area.

Opening the spectrum to new entrants also raises issues about foreign ownership. The Advanced Wireless Services radio spectrum auction, which ended in early July 2008, surpassed $4 billion. This auction included a set-aside of some spectrum exclusively for new entrants in the wireless market, ostensibly to stimulate greater competition and innovation for Canadian consumers. The $12.7-billion wireless industry, currently dominated by three firms — Bell, Telus and Rogers — will bring two or three new entrants into all provinces except Québec (where Quebecor reigns supreme). The biggest of these is Globalive Communications Corporation (seller of Yak long-distance services, with partners from Egypt and Iceland) which bought 30 licenses distributed across the country for $442 million.[8]

In May 2008, net neutrality became a political issue in Canada as hundreds of protesters demonstrated on Parliament Hill. Net neutrality seeks to ensure that the internet contains no centralized control mechanisms and that those who own the networks do not also control the content that runs over them. Net neutrality is a response to restrictions on free speech and access to information displayed by the actions of some internet service providers to control traffic flow on their services (known as throttling). The CRTC is currently considering a complaint against Bell Canada for slowing down heavy users of internet bandwidth. So far, the Harper government has been mute on the issue.

With respect to telecommunications, there is little to distinguish the Conservatives from their Liberal predecessors. Both have bypassed the public interest and pushed the pro-competitive edge. As a result, Canada has slipped from 5th to 9th place (2006) among OECD countries in per capita subscriber rates to broadband services, well behind Denmark, Sweden, Norway, and Finland,[9] who have pursued a more progressive course on telecom policy.

Industry commentators, members of the opposition, and public interest groups have asked for more money to be put into a national broadband strategy — notably the unexpected profits from the spectrum auction. At publication time, the government had announced that the money from the auction was to be used for debt reduction.

Stay tuned for the next chapter as telecom is a quickly moving target right now.