the CRTC interim decision of August, 1980 permitting interconnections. In his final reply argument in November, 1981 he stated:

> "It was initially the Director's position in these proceedings that diverstiture of Northern Telecom from Bell Canada was the most effective remedy to meet the monopolistic situation resulting from the Bell Canada foreclosure policies. That recommendation, however, was made in an environment where customer ownership of terminal equipment was not permitted by Bell Canada. Since that time the CRTC has ordered Bell Canada to permit customer ownership of terminal equipment on a liberal basis.
>
> "In this new environment the Director submits that the competitive bidding procedure outlined in the Director's argument, will thus serve as an effective remedy. The fact that the CRTC has already ordered the British Columbia Telephone Company to engage in competitive bidding supports the Director's position."

The Director also contends that Bell has extended its activities in telecommunications equipment and service markets beyond what is authorized by the Bell Canada Special Act, largely by the creation of subsidiaries of its subsidiary, Capital Telephone Limited. He contends that this has created regulatory problems and difficulties for competitors. As a remedy to control further extensions, he has proposed that the Bell Canada Special Act be amended to provide for CRTC approval of the direct or indirect acquisition by Bell of shares of any company. The proposal is modelled on a clause in the British Columbia Telephone Company Special Act.

The governments of Ontario and Quebec have both stated their support for the existing Bell-Northern relationship. Bell has contested the Director's allegations and his proposed remedies, and has called into question the jurisdiction of the RTPC to inquire into regulated activities and other aspects of the case.

COMBINES DIRECTOR MEETS STRONG OPPOSITION AS PETROLEUM INQUIRY HEARINGS COMMENCE

The first public hearings before the Restrictive Trade Practices Commission in the Petroleum Industry Inquiry, which were held in Ottawa on October 19-22, were marked by strong attacks by the oil companies on virtually at aspects of the Combines Director's seven-volume Green Book entitled The State of Competition in the Petroleum Industry.* The Director was alsocriticized by counsel for the Commission for a lack of precision in his opening statement as to the goals of the Inquiry. Spokesmen for the Consumers Association of Canada, service station operators and independent petroleum marketers were generally supportive of the Green Book.

*The full text of the 16 page official "Backgrounder" summarizing the Green Book was distributed to subscribers of the Record along with the March 1981 issue.

The oil companies, in addition to attacking the substance of the Green Book, criticized the manner and timing of its publication. The origin of the Green Book was an inquiry under s.7 of the Act which was commenced in 1973 upon application by members of the Consumer Association of Canada in connection with increased prices of gasoline and fuel oil. S.7 as it was at the time provided essentially for the commencement of an inquiry at the request of six citizens who are of the opinion that an offence under the Act is involved. On February 27, 1981 the Director notified the Commission that he had instituted a general inquiry under s.47 of the Act. That section provides for general inquiries into monopolistic situations or restraint of trade, and such an inquiry can be initiated by the Director without his having reason to believe an offence is involved or that grounds exist for the making of an order by the Commission. On the same day, the Director submitted the Green Book to the Commission as a Statement of Evidence and Material collected in the s.47 inquiry. The Commission decided that the inquiry would be conducted in public and authorized publication of the Green Book, which was released on March 4.

A spokesman for Texaco Canada said of the Director:

> "...he chose to announce the commencement of a general inquiry under Section 47 of the Act concurrently with his release of a series of Green Books which contained false and defamatory material about Texaco Canada. It is incredible that the Director would have chosen to attack Texaco Canada in the press without notice and in circumstances in which the company had no effective legal recourse."

A spokesman for Shell Canada contended that the federal government had tried "to distract the public's attention from the real problems." He continued:

> "It had done this by politicizing what are essentially legal and economic questions, and it has done this by perverting the processes of the Combines Investigation Act."

He recalled that the Committee to Study Combines Legislation (the MacQuarrie Committee) had been appointed in 1950 partly because of complaints that the then Commissioner under the Act was both prosecutor and judge, being charged both with investigation and public appraisal. The resultant amendments of 1952 assigned investigation and research to the Director and appraisal to the Commission. He contended it had never been intended that the Director should collect evidence in the context of an inquiry into suspected violations of the Act and then bring about publication of his findings as a s.47 Statement of Evidence. He said, "Surely the party from whom evidence is taken is entitled to know in advance what kind of an inquiry is being held."

While the Ottawa hearings were of an introductory kind, the oil companies made abundantly clear their total disagreement with the reasoning, findings and proposed remedies in the Green Book. Imperial Oil, for example, backed up its opening statement with a "First Submission" of some 165 pages* outlining its criticisms of the Green Book. A press statement issued by Imperial Oil at the same time is appended hereto. The oil companies have indicated that, unless the Green book is withdrawn from the material before the Commission, they will introduce massive amounts of material to refute the whole seven volumes line by line. This opens up the prospect of lengthy hearings on issues some of which may not be germane to the current situation.

A major problem for all parties is that the Green Book relates almost entirely to the period 1958-73 whereas the real concern is the present state of competition and what remedies, if any, are required. It is common ground that there have been extremely significant changes in the industry since 1973. The changes include the emergence of Petrocan as an integrated state owned oil company, as a new source of supply for independents and as an oil importer; a substantial rise in private Canadian ownership and control as one result of the National Energy Policy; and substantially more federal and provincial regulatory control over the industry.

Counsel for the Director, in his opening statement, recognized that some of the remedies proposed in the Green Book such as those relating to transfer pricing and pipeline regulation might no longer be appropriate. He proposed to call new evidence "much of which cannot be entirely predicted at this time", but which he said was "fundamental to an understanding of the industry".

Counsel for the Commission reacted sharply to a seeming lack of precision in the Director's statement as to what the goals of the inquiry should be. He stated in part.

> "...is it not about time that the oil companies were told of the case they have to meet? Apart from considerations of elementary fairness to the oil companies, my concern is that the processes of the Commission not be abused...This inquiry simply cannot be permitted to wander aimlessly...exploring topics simply for the sake of exploring them."

Counsel for the Commission also noted a need for clarification by the Director of his position as to the precise relevance of the Green Book to the inquiry which, as a general inquiry, was concerned largely with the future rather than the past. On November 2, in a Commission Memorandum dealing with a number of housekeeping matters, the commission stated:

*Anyone wanting a copy of the submission is advised to get in touch with Mr. Donald Penrose, Manager, Trade Practices Inquiry, Imperial Oil Limited, 111 St. Clair Avenue; W., Toronto, Ontario. M5W 1K3.

> "Some very serious questions were raised in the course of the opening submissions regarding the analysis and opinions contained in the Director's Green Book. The Commission encourages anyone who seeks to rely on those analyses or opinions to call witnesses to testify in support of them."

The statement appears to reflect a concern by the Commission that the issues before it be clarified as soon as possible. It also seems to place an onus upon the Director to call witnesses in support of the parts of the Green Book which he regards as relevant to current problems. Such witnesses would probably include persons who had been involved in the preparation of the Green Book and once called, they could be subjected to cross-examination by counsel for the oil companies.

Shell Canada introduced the summary volume of a seven-volume work entitled "The Canadian Oil Industry in Context", which is expected to be released before the end of 1981. The study, which was financially sponsored by Shell, is by independent researchers including Carl Beigie and Gail Cook. The seven volumes consist of:

The oil Industry in Canada; An overview, by G. Campbell Watkins, visiting professor, University of Calgary

World Crude Oil Markets, by Paul Bradley, University of British Columbia and Thomas Neff, Mass. Institute of Technology

Crude Oil Pricing in Canada, by Watkins and Bradley

The Pipeline Transportation Sector, by Watkins and Roger Lawrey, Datametrics Limited

Refining, by Allen Jacobs, University of Texas

Marketing, by Reuven Brenner, University of Montreal and Leon Courville, Ecole des Hautes Etudes Commerciales

Further hearings were scheduled as follows:

December 1-4	Edmonton
December 7-10	Vancouver
December 15-17	Ottawa
January 11-12/82	Halifax
January 14-15	Fredericton
January 18-21	Montreal
February 8-9	Regina
February 11-12	Winnipeg
February 15-16	London
February 17-19	Toronto

Summaries of briefs filed in advance of the western hearings indicate that the Commission will hear current evidence of price squeezes and other difficulties experienced by gasoline retailers in their dealings with oil companies.

Text of Press Release
By Imperial Oil Limited, October 19, 1981

"OTTAWA,--Imperial Oil said today that a statement of evidence made public last March alleging uncompetitive behaviour by Imperial and other Canadian petroleum companies contained 'errors and omissions' and in places showed either 'a complete ignorance' of oil industry realities or 'a limitless willingness to distort fact and logic'.

"In its opening submission to the inquiry into the state of competition in the Canadian petroleum industry by the Restrictive Trade Practices Commission (RTPC), the company stated categorically that there was no basis for the allegation that Canadian consumers were overcharged $12.1 billion in 1980 dollars by the petroleum industry between 1958 and 1973. The company stated that the alleged overcharge figure, supposedly based on 'overpricing' of Canadian crude oil in Ontario, 'too high' prices paid for imported crude oil in Eastern Canada, and 'inefficiencies' in the marketing of gasoline, is nothing more than 'a unique, theoretical measurement devised for a specific purpose -- and it is wrong'.

"The inquiry, which is expected to last up to two years, was called after a seven-volume statement of evidence and material on petroleum industry activities was completed last spring by Robert Bertrand, then director of investigation and research under the Combines Investigation Act.

"The statement, based on a 7 1/2 year investigation of the industry, accused major Canadian oil companies of monopolistic and uncompetitive practices and alleged that the $12.1 billion overcharge occurred during the 15-year period under review.

"In its submission, Imperial rejects the statement's picture of the Canadian petroleum industry as a 'shared' or 'joint' monopoly, allegedly led in many instances by Imperial. The, 'structure, conduct and performance of the Canadian petroleum industry are actively competitive. The industry is dynamically efficient.'

"Imperial says the authors of the statement of evidence and material 'misunderstood the economic forces determining the structure of petroleum markets in Canada, understated the competitive behaviour of the major firms in each sector of the industry, neglected appropriate yardsticks of competitive performance, and by the cumulation of these and other errors and omissions' produced a false picture of the Canadian industry.

"Imperial says that the statement of evidence 'reflects certain preconceptions about the ideal form of industries and markets' and that the 'selection of evidence and interpretation of facts are biased accordingly'. Because of this bias, says Imperial, recommendations proposing regulatory and legislative changes aimed at preventing allegedly unethical or uncompetitive oil company practices 'fail in many instances to protect the best interest of consumers'.

"Imperial also says that recommendations for behavioural and structural changes in the marketing sector are based on 'demonstrably inadequate analysus' and that it 'would be a serious error' if the analysis were used as the basis for legislation affecting all Canadian industry.

"The Imperial submission criticizes the statement of evidence in several places for failing to use, or for using only parts of the documents seized from the company that would -- if used in full -- undermine the case being made against Imperial.

"For example, Imperial notes that the statement, in discussing offshore crude purchases, alleges that inter-company communications took place for the purpose of 'harmonizing' crude prices.

"The statement of evidence, says Imperial, 'infers from an Imperial document that Imperial was involved in discussions with other oil companies to fix and stabilize prices. In fact, the document is a one-paragraph memorandum which details the refusal of Imperial to discuss current crude prices with a competitor'. Imperial points out that the statement of evidence omits the first three sentences of the memorandum, which 'clearly demonstrate an unequivocal rejection of the possibility that any such discussions might ever take place'.

"Imperial's case against the $12,1 billion overcharge allegation is supported by detailed analyses of developments in the three areas where the overcharge is claimed to have originated -- in the domestic and offshore crude-oil sectors and in the marketing of gasoline across Canada.

"$3.1 billion of the alleged overcharge is arrived at in the statement of evidence by comparing the price of western Canadian crude in Ontario to a notional or theoretical, international crude price in the years following Ottawa's 1961 announcement of its National Oil Policy. That policy, notes Imperial, represented the deliberate adoption by the Government of Canada of a policy aimed at encouraging development of the western Canadian petroleum producing industry by excluding offshore crude from markets west of the Ottawa valley.

"The statement, Imperial says, makes 'the inexplicable assumption that the major oil companies should have deliberately ignored the intent' of the National Oil Policy and supplied Ontario with cheaper, offshore crude. In any case, says Imperial, gasoline and other product prices in Ontario were kept down by the fact that imported petroleum products 'leaked' into Ontario, obliging refiners in the province to absorb the higher cost of Canadian crude, instead of passing it on to consumers.

"3.2 billion of the alleged overcharge is arrived at in the statement of evidence by comparing "artificially high transfer prices', supposedly paid by Canadian petroleum companies for offshore crude brought into eastern Canada under long-term contracts, and crude prices on the international spot market.

"Imperial's submission notes that while spot crude prices on the world market may be lower in periods of oversupply and declining prices, long-term contracts of the type favoured by Imperial carry greater flexibility of choice, speed of supply -- and a measure of security in periods of international disruption, as was the case most recently during the Iranian crisis of 1979-1980.

"The company points out that during that period under review Imperial twice demonstrated to federal tax authorities that the prices it paid for offshore crude represented fair market value. Its submission says that 'as far as Imperial is concerned, the allegation that artificially high transfer prices were paid is wholly erroneous'.

"The company also points out that even if the crude prices it paid had been high -- which it denies -- the excess could not have been passed on to consumers, since imports of lower-priced refined products were the key to produce prices in eastern Canada.

"$5.2 billion, the largest component of the alleged overcharge, is attributed to 'inefficiencies' in the marketing of gasoline in the period under review. This figure, says Imperial, is based on a calculation of the difference between the cost to the major oil companies of operating full-service gas station networks and the cost of running private brand stations that only sell gasoline-- and has nothing to do with the prices paid by consumers'.

"Imperial notes that the statement of evidence claims that the situation in the gasoline marketing sector has not changed since 1973, which ignores, says the company, extensive restructuring of the major brand service station network--including the introduction of popular self-serve gasoline outlets--in recent years.

"Imperial's submission also points out that, as a result of the improvements in the efficiency of refining and marketing of gasoline, the real price of gasoline in Toronto in 1980, excluding crude costs and federal and provincial taxes, was less than in 1961."

CRTC SATELLITE DECISION VARIED BY GOVERNMENT

The federal government, in a decision announced by Communications Minister Francis Fox on December 10, has confirmed much of CRTC Decision 81-13 of July 7, 1981, but has modified some of the provisions relating to the leasing of satellite services.

The issues relating to satellite services which are complex, have a bearing upon extent to which some competing users are to have unequal access to such services.

Telesat was created by the Telesat Canada Act of 1970 to establish satellite communications services on a commercial basis. Users of satellite services include members of the Trans Canada Telephone Systems, CN/CP Telecommunications, broadcasting companies including cable TV companies, and other suppliers of communications services to business. The federal government holds three million of Telesat's shares, the common carriers hold another three million and the mangement of Telesat holds two shares.

Telesat became a member of the Trans Canada Telephone System (TCTS) by virtue of a 1976 connecting agreement, one effect of which was to transfer much of the control over satellite channel services from Telesat to the board of Management of TCTS. In 1977 the CRTC turned down an application for approval of the agreement, partly on grounds of competition policy. That decision was reversed by the Cabinet, largely on the ground that Telesat should be a complement to rather than a competitor of other telecommunications carriers.

Decision 81-13 was the first occasion for the CRTC to review the conditions and rates under which satellite channels were being leased to users under the 1976 connecting agreement. The conditions were found to include the following:

- Telesat leases only whole and not partial channels, and only to common carriers including the telephone companies and CN/CP.

- Other users, including broadcasters and business users must