

Ambush in Cyberspace

NGOs, the Internet and the MAI

MICHAEL WARBY

UNELECTED, unrepresentative bodies, presenting themselves as being motivated by altruism and concern for the public interest, yet willing to engage in the most egregious distortion and blatant propagandizing, are successfully using the Internet to mount scare campaigns in what is clearly a power-grab. A power-grab that has serious implications for how public policy is determined.

Powerful evidence of this was provided in the recent failure by OECD countries to conclude a Multilateral Agreement on Investment (MAI).

A BRIDGETOO FAR ...

The MAI story is a simple one, clearly set out in Professor David Henderson's recent essay, *The MAI Affair: A Story and Its Lessons*, published by the Melbourne Business School in its Pelham Papers series and by the New Zealand Business Roundtable. The MAI was an ambitious—it turned out an over-ambitious—attempt to take the long-term trend towards liberalizing investment flows a major step further by bringing together and extending the OECD investment codes into a formal international treaty. It was part of a general liberalizing trend in policy around the world in recent decades, a trend well described in David Henderson's recent book *The Changing Fortunes of Economic Liberalism: Yesterday, Today and Tomorrow*. The treaty was to be negotiated by OECD members, but be open to other countries to accede to. Several non-OECD countries—Argentina, Brazil, Chile, Hong Kong China, Estonia, Latvia, Lithuania and Slovakia—were granted observer status in the negotiations.

Despite quite false claims made later, there was no secrecy attached to the negotiations. The original decision of the 1995 OECD Ministerial Council to proceed was a public one and, from June 1996 onwards, the OECD

set up a page for the MAI on the OECD Website. The OECD also held conferences covering the subject matter and the progress of the negotiations, with most of the associated papers being published.

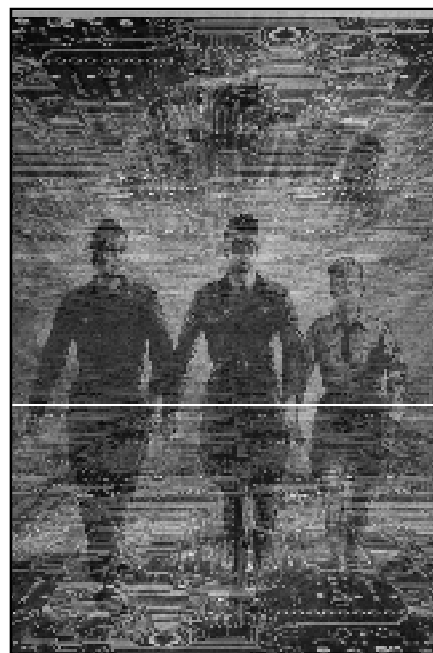
As it turned out, MAI negotiators found that too many difficult issues had been bundled together in a way which became quite unmanageable. It became increasingly obvious that, at best, a very limited treaty would be agreed to, with very limited liberalizing effects. As the scope of what was achievable shrank, willingness to proceed against significant hostile pressure also shrank. The MAI negotiations were officially abandoned in December 1998, a few months after the announcement by the French Government that France would no longer participate in the negotiations. There is no prospect of renewal.

These internal difficulties were not particularly unusual. The original proposals for an agreement on investment flows for APEC foundered for similar reasons, as did the attempts to require capital convertibility for all members of the IMF and attempts to have the Closer Economic Relations (CER) between Australia and New Zealand cover investment flows.

THE USES OF FEAR ...

What was unusual was the use of the Internet by non-government organizations (NGOs) to mobilize political opposition to the MAI.

The transformation of the European Community into the European Union, the US-Canada Free Trade Agreement and the subsequent North American Free Trade Agreement have all been deeply controversial. Otherwise, international economic liberalization had proceeded without organized opposition prior to the MAI. There certainly have been complaints and criticisms, but nothing resembling the mass campaign of opposition that



the MAI generated. When the Commonwealth Parliament's Joint Standing Committee on Treaties considered the MAI, over 900 submissions were received, the overwhelming majority of them expressing concern or being otherwise hostile.

What is even more striking is that many of the NGOs which took part in the campaign against the MAI have been very strong advocates of the use of international treaties to impose standards in other contexts—particularly environmental, human rights, labour relations and indigenous issues. The proposed MAI had far fewer implications for Australian sovereignty than, for example, the version of the Kyoto agreement on global warming that many of the environmental organizations would have liked to have seen. The main element of the MAI was to ensure that foreign investors are not less protected than domestic investors by local law—which is already the case in Australia. Indeed, the Constitution protects all property rights from expropriation by the Commonwealth, including those of foreigners ▶

(Section 51 [xxxii]). Australia would not have been imposing great extra burdens on itself—the main value for Australia was the protection of investments by Australians in other countries. So, why the sudden concern?

Many NGOs are strong advocates of *internationalization*—the increasing use of international treaties and standards which, in countries with genuinely legalistic polities, have import for domestic policies and politics. They tend, however, to be very hostile to *globalization*—the development and deepening of world markets in capital, in goods and in services by the increasing occurrence of commercial exchanges across international boundaries. The MAI may have been an international treaty seeking to set an international standard, but it was clearly a measure aimed at fostering (or at least removing barriers to) globalization.

This behaviour by NGOs is easy to explain in terms of institutional self-interest. NGOs are significant players in international bodies and forums. Indeed, there is a push to regard NGOs as representing—indeed manifesting—an international ‘civil society’ to which governments should pay heed. NGOs are already deeply involved in the operation of UN bodies—as participants, as convenient advocates and through individuals building careers by moving between NGOs and UN bodies. At major international forums there can easily be more accredited NGO delegates than those from sovereign governments—this was the case at the Rio ‘Earth Summit’ in 1992, for example. The increasing use of international treaties—treaties with whose negotiation NGOs are deeply involved—provides NGOs with powerful devices for influencing the public policy of countries throughout the world. In public debates, domestic critics can also be attacked as standing against an ‘international opinion’ which consists largely of NGOs and of UN bodies who are in symbiotic relationships with them.

It may have been significant that, before the MAI negotiations, the OECD had not involved NGOs (apart from its union and its business consultative committees) in its operations. OECD negotiations have been strictly government-to-government affairs. The campaign against the MAI may be seen, therefore, as the NGOs ‘punishing’ the OECD for not conforming to this new international norm. The

(quite false) allegations of ‘secrecy’ make particular sense in this context—‘secrecy’ apparently being defined as ‘failing to involve the NGOs’.

Even during the MAI negotiations, the OECD found it politic to depart from previous practice and attempt to consult directly with, and inform, NGOs about what was going on. The OECD firmly resisted actually involving the NGOs in the process of negotiation (directly or indirectly), an exclusion which the NGOs clearly found intolerable. Even so, the pressure from the NGOs clearly did influence the direction of MAI negotiations, with later drafts including provisions clearly aimed at concerns raised by the NGOs.

Antipathy by advocacy NGOs to globalization also makes sense in terms of institutional self-interest. Globalization is a commercial process, widening the ambit of market activity. Advocacy NGOs are political organizations, focused on political outcomes. Unless they have a serious, countervailing attachment to liberal values, they have a natural antipathy to the widening of markets.

Advocacy NGOs not committed to liberal values are very much in the fear-and-conflict, fear-and-control business. Raising fears generates donations

Advocacy NGOs not committed to liberal values are very much in the fear-and-conflict, fear-and-control business

and recruits, and mobilizes members. Conflict generates headlines useful for the same. Fearful people are also more willing to accept state control as a form of protection. More state control means a wider operation of politics, so a wider role for, and more capacities for control over social outcomes by, politically-focused organizations—such as advocacy NGOs. And the campaign

against the MAI was very much a scare campaign, a campaign of fear—fears that the ubiquitous multinationals would suddenly get power to override sovereign governments, that the MAI was a ‘multinationals’ bill of rights’, that it was globalization run amok, that democracy was being overwhelmed. One Canadian NGO (the Council of Canadians) said in a report on the MAI:

... this global investment treaty constitutes a power grab for transnational corporations that would end up hijacking the fundamental democratic rights and freedoms of peoples all over the world.

The MAI was described as ‘historic’ and ‘what might have been the most far-reaching agreement of the century’.

That the MAI was negotiated entirely between *governments* was a detail which apparently passed the Council of Canadians by (and, if, as they seem to imply, OECD governments were already pawns of the multinationals, why did they need a treaty?). Suggesting that the MAI was more important than, say, the Treaty of Versailles, the SALT and START agreements, the founding of the United Nations or of the European Common Market, etc., etc., etc. further indicates the ludicrous heights of overstatement to which the anti-MAI campaign resorted.

Some more of the flavour of such complaints can be gained from statements emanating out of the Sierra Club, a prominent US NGO, from a publication revealingly entitled *The Case against the Global Economy*:

... transnational corporations (TNCs) have consolidated their power and control over the world ... In effect, what has taken place is a massive shift of power, out of the hands of the nation-states and democratic government and into the hands of TNCs and banks. It is now the TNCs that effectively govern the world.

Enormous economic power is now being concentrated in the hands of a very few global corporations relieved of constraints to their own growth.

The farcical misunderstanding of the nature of markets involved in such writing is completely unable to explain, for example, the ebb and flow of corporate fortunes under intense competitive pressure—of the top 20 US corporations (defined by market

capitalization) in 1987, only eleven were still in the top 20 a mere ten years later. It does, however, make perfect sense if markets are seen as a competing form of (highly decentralized) social decision-making to that of the (far more centralized) political arena in which advocacy NGOs operate.

The words of the French Lalumière report—commissioned by the Jospin Government and which eventually led to France's exit from negotiations—that

The agreement has become a symbol. It crystallised the demands and frustrations of civil society with respect to globalisation.

was certainly not less than the truth.

FROM OUT OF CYBERSPACE ...

Raising fears, recruiting members and mobilizing activists were where the Internet came in. The real 'kick-off' to the anti-MAI campaign was when a copy of the negotiating draft of the agreement was leaked and posted on the Internet in August 1997. This gave rise to a wave of attacks which were likewise posted on the Internet. In the words of David Henderson,

the whole conception of the MAI became the subject of a hostile international campaign by NGOs in immediate communication with one another. Hence the agreement emerged as a live political issue, with the potential for losing votes and support. This cast further doubt on the practicability of the original concept.

By the time the MAI was abandoned, internationally-co-ordinated anti-MAI campaigns were known to be active in more than half of all OECD countries, and in numerous developing countries.

The OECD responded by developing a specific MAI Website, attempting to counter the claims being made. While clearly an appropriate action—indeed, the OECD could learn a lot from the World Bank in how to use its Website to contribute effectively to public debate—how effective such action can be against an orchestrated campaign is unclear. The power of the Internet in general, and the World Wide Web in particular, is that it is incredibly decentralized. While there are certainly chat sites, bulletin boards, newsgroups, etc, where debate—often very vibrant debate—takes place, much of the Web consists of a series of monologues of enormously varying in-

tellectual quality and integrity. NGOs could—and did—build up a series of sites spreading claims and views which people could pick up without encountering opposing arguments. The MAI

Soviet- and Nazi-style agitprop is alive and well in the advocacy NGO sector

campaign largely by-passed the mainstream media—apart from talkback radio. But a feature of the mainstream media is that claims can be identified and countered in a continuing debate. Furthermore, maintaining credibility with journalists and editors is itself a constraint. For much of the Internet, there is no editing function, no clear mechanism for maintaining credibility.

These features flow from the Internet's freedom—as one astute Internet commentator said to me recently, the 'Net is like the world'. The issue here is not how to control the Internet. The issue is what mechanisms exist, or can be developed, to ensure that it does not become a tool for the shameless to generate scare campaigns which overwhelm reasoned consideration and debate.

THEY DIDN'T SEE IT COMING ...

One of the rich ironies in the Australian MAI debate was that the MAI was subject to far *more* procedural scrutiny than had previously been Australian practice with draft treaties. The Minister responsible, Assistant Treasurer Senator Rod Kemp, had, during his years as Director of the IPA and as an Opposition Senator, built a very prominent profile on the problems of using international treaties—largely at the whim of the Executive—to affect, through the external affairs power, the Federal-State balance within Australia and to take on obligations without

public scrutiny. The referral of the MAI to the Joint Standing Parliamentary Committee—it being the second agreement referred to the Committee and the first by a House of the Parliament—was the result of reforms whose need he had argued for more strongly than any other legislator.

But part of the problem was that the Commonwealth Treasury had administrative carriage of the MAI negotiations. Treasury is not a particularly Internet-clever organization. Indeed, except for e-mail, Treasury prevents its staff from using the Internet during work hours—apparently due to concern that they will 'waste' time rather than perform their duties. Apart from displaying a fairly pathetic notion of management—any confectionery manufacturer could tell them how small a management problem such an indulgence is—it means that Treasury is isolated from the power of the Internet as a political tool and its uses for access to ideas, statistics and presentation of arguments. Treasury was certainly not the organization either to warn its political masters of what was coming, or to provide any useful ideas or action on how to counter the scare campaign.

The attempt to create the Multilateral Agreement on Investment had significance way beyond its being another, failed attempt to create a general agreement on investment. It was the first time that Australia had experienced an organized mass campaign against an international economic liberalization measure. It showed that NGOs were capable of exacting considerable political costs against attempts to negotiate an international treaty without their participation. It showed that many NGOs are not bound by accuracy, evidence or reasoned argument but, on the contrary, are willing to resort to systematic misrepresentation and the most blatant propagandizing in their political campaigns—Soviet- and Nazi-style agitprop is alive and well in the advocacy NGO sector. And it displayed the power of the Internet as a device for organizing international political campaigns and as a propaganda vehicle.

Interesting lessons upon which all those concerned about the direction of our society should ponder.

Michael Warby is Editor of the IPA Review.

IPA