



INSTITUT C.D. HOWE INSTITUTE

POLICY CONFERENCE REPORT

THE FUTURE OF CANADIAN
TELECOMMUNICATIONS AND
BROADCASTING

NOVEMBER 30, 2015



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STATEMENT OF MOTIVATION

The broadcasting and telecommunications world is living through sweeping technological changes, and Canadian laws and regulations governing these activities are struggling to keep up. The result is that Canadians lag behind the rest of world in having access to the latest telecommunications technology and often pay more for them. Canadian legislation requires that broadcasters fulfill government-imposed mandates at the same time as new foreign competitors, unfettered by such obligations, vie for market share.

The C.D. Howe Institute has in the past examined these issues through a number of influential publications. We felt it particularly important in 2015 to promote a fresh dialogue on the broadcasting and telecommunications policy questions raised by the changes in technology and competitive landscape. In a world of internet (wired and wireless) content, deciding on access provisions to a few competing network assets will be critical for regulatory and competition authorities. How should policymakers address issues ranging from net neutrality to wholesale access provisions? What is the right balance of competition while still creating the incentives to invest in infrastructure? What is the impact of new distribution channels and of the rights structure on the ability of policy-makers to promote Canadian content with Canadian audiences?

On November 30, 2015 the Institute hosted an invitation-only conference in Ottawa entitled *The Future of Canadian Telecommunications and Broadcasting*. The event brought together telecommunications and broadcasting leaders, senior policymakers, eminent academics and other experts. The goal was to provide a sufficiently deep and wide range of views and expertise to better inform participants about potential options to address the issues facing communications regulators. While speakers agreed to share their formal presentations in this report, the conversation was held under the Chatham House Rule to encourage frank discussions.

This report summarises the content of the discussions at the conference. It will also inform a forthcoming publication the Institute plans to distribute widely in 2016, informing policymakers on the options ahead. We hope you find the read enjoyable.

CONFERENCE AGENDA

THE FUTURE OF CANADIAN TELECOMMUNICATIONS AND BROADCASTING C.D. HOWE INSTITUTE SPECIAL POLICY CONFERENCE

Monday, November 30, 2015, 9:00 am – 4:00 pm
Fairmont Chateau Laurier, 1 Rideau St, Ottawa, ON K1N 8S7



CONFERENCE AGENDA

9:00 am – 9:30 am	RECEPTION AND REGISTRATION
9:30 am – 9:40 am	WELCOMING REMARKS Daniel Schwanen, Vice President, Research, C.D. Howe Institute
9:40 am – 10:40 am	Session I – From Over-The-Air to Internet TV: The Future of Broadcasting <ul style="list-style-type: none"> • <i>How do rules from the Let's Talk TV proceeding suit the modern internet television world, and how will they fit in a potential future lead by wireless television and communication and other technologies we cannot yet foresee?</i> Speakers: <ul style="list-style-type: none"> • Lawson Hunter, Counsel, Stikeman Elliott LLP & Senior Fellow, C.D. Howe Institute • Michael Hennessy, Former President and CEO, Canadian Media Production Association Moderator: Andrew Coyne, National Affairs Columnist, Postmedia
10:40 am – 10:55 am	BREAK
10:55 am – 11:55 am	Session II – Canadian Content in the Future <ul style="list-style-type: none"> • <i>How do Canada's policies of supporting made-in-Canada and local content work with current technology?</i> • <i>Should Canadian taxpayers support content producers?</i> • <i>What is the future of broadcasting quotas, government financial support for Canadian broadcasting, and a public broadcaster in a globally integrated world?</i> • <i>How are policies enforced in an increasingly global market?</i> Speakers: <ul style="list-style-type: none"> • Richard Stursberg, Former Vice President, CBC/Radio Canada • Michael MacMillan, President, Blue Ant Media • Irene Berkowitz, Instructor, Ted Rogers School of Management, Ryerson University Moderator: Kate Taylor, Cultural Columnist, Globe and Mail
11:55 am – 1:30 pm	Session III – Keynote Luncheon <p>Keynote Speaker:</p> <ul style="list-style-type: none"> • Michael Wolff, Television Is the New Television: The Unexpected Triumph of Old Media In the Digital Age Moderator: Daniel Schwanen, Vice President, Research, C.D. Howe Institute

CONFERENCE AGENDA

THE FUTURE OF CANADIAN
TELECOMMUNICATIONS AND BROADCASTING
C.D. HOWE INSTITUTE SPECIAL POLICY CONFERENCE



INSTITUT
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Monday, November 30, 2015, 9:00 am – 4:00 pm
Fairmont Chateau Laurier, 1 Rideau St, Ottawa, ON K1N 8S7

CONFERENCE AGENDA (continued)

1:30 pm – 2:30 pm	Session IV: What Does the Consumer See: Content in a Globally Integrated Sector
	<ul style="list-style-type: none"> • <i>Do the current regulations provide a level playing field for delivering content to consumers?</i> • <i>What are the tax and regulatory implications of non-Canadian internet content providers? Does a “Netflix Tax” make sense? Is one workable?</i> • <i>How do content rights fit in the broadcasting world? What are the implications of new bundling and pricing rules for Canadian-based broadcast distributors?</i> <p>Speakers:</p> <ul style="list-style-type: none"> • Carmel Smyth, National President, Canadian Media Guild • Peter Miller, Media Lawyer and Consultant • Elisa Kearney, Partner, Davies Ward Phillips & Vineberg LLP <p>Moderator: Daniel Schwanen, Vice President, Research, C.D. Howe Institute</p>
2:30 pm – 2:45 pm	BREAK
2:45 pm – 3:45 pm	Session V: The Future of Canadian Competition and Regulatory Policy in Telecommunications and Broadcasting
	<ul style="list-style-type: none"> • <i>What regulatory framework has been guiding the CRTC’s approach to wholesale and retail services since its 2006 directive to focus on market forces?</i> • <i>Has technologically-driven competition displaced the “natural monopoly” picture? Are the economic arguments for direct regulation still valid? How should capacity constraints be managed?</i> • <i>Should the CRTC ease the burden of regulation in the sector and defer to competition law to combat anti-competitive conduct?</i> <p>Speakers:</p> <ul style="list-style-type: none"> • Vicky Eatrides, Deputy Commissioner, Competition Promotion Branch, Competition Bureau • Bram Abramson, Chief Legal & Regulatory Officer, TekSavvy Solutions Inc. • Andy Baziliauskas, Principal, Charles River Associates <p>Moderator: Grant Bishop, Fellow-in-Residence, C.D. Howe Institute</p>
3:45 pm – 3:55 pm	Rapporteur’s Remarks
	<p>Rapporteur: Grant Bishop, Fellow-in-Residence, C.D. Howe Institute</p>
3:55 pm – 4:00 pm	<p>CLOSING REMARKS Daniel Schwanen, Vice President, Research, C.D. Howe Institute</p>

CONFERENCE POSTER



INSTITUT **C.D. HOWE** INSTITUTE
Essential Policy Intelligence | Conseils indispensables sur les politiques

SPECIAL POLICY CONFERENCE

THE FUTURE
OF CANADIAN
TELECOMMUNICATIONS
AND BROADCASTING



PARTICIPANT LIST

THE FUTURE OF CANADIAN
TELECOMMUNICATIONS AND BROADCASTING
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PARTICIPANT LIST

Bram Abramson
TekSavvy Solutions Inc.

Arnold Amber
Canadian Media Guild

John Anderson

Andy Baziliauskas
Charles River Associates

Paul Beaudry
Stikeman Elliott LLP

Irene Berkowitz
Ryerson University

Grant Bishop
C.D. Howe Institute

Julie Cafley
Public Policy Forum

Stephane Cardin
Canadian Media Fund

Corinne Charette
Industry Canada

Andrew Coyne
National Post

Jeanne d'Arc Umurungi
Canadian Media Guild

Ben Dachis
C.D. Howe Institute

Eric Dagenais
Industry Canada

Robert Dawson
Industry Canada

Jeremy Depow
Canada's Digital Policy Forum

DeNeige Dojack
Industry Canada

Vicky Eatrises
Competition Bureau

Kurt Eby
Canadian Wireless Telecom Association

David Elder
Stikeman Elliott LLP

Jonathan Erling
KPMG LLP

Farah Faisal
Rogers Communications Inc.

Sean Fitzpatrick
Canadian Media Guild

Jacob Glick
Rogers Communications Inc.

Susie Hendrie
Rogers Communications Inc.

Michael Hennessey

Russell Hiscock
CN

Lawson Hunter
Stikeman Elliott LLP

Stuart Jack
Nordicity Group Ltd.

Julia Johnson
McCarthy Tétrault LLP

Andy Kaplan-Myrth
TekSavvy Solutions Inc.

Charit Katoch
Rogers Communications Inc.

Elisa Kearney
Davies Ward Phillips & Vineberg LLP

Cynthia Khoo
Public Interest Advocacy Centre

Ben Klass
Carleton University

Peter Kovacs
Rogers Communications Inc.

David Krause
Bell Canada

Greg Lang
Competition Bureau

Joe Latino
Carleton University

Janet Lo
TekSavvy Solutions Inc.

PARTICIPANT LIST

THE FUTURE OF CANADIAN
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PARTICIPANT LIST

Michael MacMillan

Blue Ant Media Inc.

Heather McConnell

C.D. Howe Institute

Kelsey McLaren

Rogers Communications Inc.

Peter Menzies

Canadian Radio-television and Telecommunica-
tions Commission

Peter Miller

Viet Nguyen

Ericsson Canada Inc.

Wendy Noss

Canadian Motion Picture Distributors Association

Daniel Pare

University of Ottawa

Scott Prescott

Fasken Martineau DuMoulin LLP

Natalie Riendeau

Department of Canadian Heritage

Ruth Schreier

Rogers Communications Inc.

Daniel Schwanen

C.D. Howe Institute

Raj Shoan

Canadian Radio-television and Telecommunica-
tions Commission

Helen Smiley

Department of Canadian Heritage

Paul G. Smith

Carmel Smyth

Canadian Media Guild

Kevin Spafford

Rogers Communications Inc.

Richard Stursberg

Pierre Tanguay

Canadian Media Fund

Kate Taylor

The Globe and Mail

Jim Thompson

Friends of Canadian Broadcasting

Jay Thomson

Canadian Media Production Association

Konrad von Finckenstein

Otch von Finckenstein

Gerry Wall

Wall Communications

Jennifer Wharram

Canadian Radio-television and Telecommunica-
tions Commission

Emma Whyte

Carleton University

Kenneth Whyte

Rogers Communications Inc.

Dwayne Winseck

Carleton University

Michael Wolff

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Welcoming Remarks



DANIEL SCHWANEN

VICE PRESIDENT, RESEARCH, C.D. HOWE INSTITUTE

Daniel Schwanen is an award-winning economist with a passion for international economic policy. He is spearheading Institute programs focused on the link between Canada's international trade and investment policy and Canadians' standards of living.

Having earned degrees in economics from the Université de Montréal and Queen's University, Daniel began his career in the financial services industry, becoming International Economist at the CIBC in 1986. He first joined the C.D. Howe Institute in 1990, producing widely-cited research on international trade, Canada's economic union, climate change policy, and the economics of cultural policy. His work in the 1990s earned him foreign visitorships in the United States, Japan and Australia.

After joining the Institute for Research on Public Policy in 2001, Daniel earned the Policy Research Initiative's Outstanding Research Contribution Award for his paper "A Room of Our Own: Cultural Policies and Trade Agreements," and produced, with co-editors Thomas Courchene and Donald Savoie, a major series of papers on North America after NAFTA. In 2007, he co-wrote the independent review of Australia's Progress to Achieve APEC Goals, presenting the report at APEC's Senior Officials meeting as part of APEC's peer review process.

Daniel joined the Centre for International Governance Innovation (CIGI) in Waterloo, Ontario in 2005, serving in a number of senior research and executive positions. Most recently, his work there focused on the G20 and international economic policy coordination.

Daniel returned to the C.D. Howe Institute in March, 2011 as Associate Vice President, Trade and International Policy. He was promoted to Assistant Vice President, Research in January 2013, and currently holds the position of Vice President, Research, as of June 2014.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session I - From Over-The-Air to Internet TV: The Future of Broadcasting



LAWSON HUNTER

COUNSEL, STIKEMAN ELLIOTT LLP & SENIOR FELLOW, C.D. HOWE INSTITUTE

Mr. Hunter is Canada's former Assistant Deputy Minister of the Bureau of Competition Policy, and was primarily responsible for the drafting of the federal Competition Act. From 1993 to 2003, he was a partner of Stikeman Elliott and head of the firm's Competition and Foreign Investment Group. From 2003 to 2008, he served as executive vice-president and chief corporate officer of Bell Canada and BCE Inc.. In September 2008, he rejoined the Ottawa office of Stikeman Elliott as counsel. From April 2010 - May 2012, Mr. Hunter assumed the role of head of the Competition and Foreign Investment Group and recently returned to his role as counsel.

Mr. Hunter is also a Senior Fellow at the Institute and sits on its Competition Policy Council. He recently co-authored, "Let the Market Decide: The Case Against Mandatory Pick-and-Pay."

Mr. Hunter was educated at Harvard (LL.M. 1971), University of New Brunswick (LL.B. 1970, B.Sc. 1967). He is a graduate of the Institute of Corporate Directors and was recently granted an Honorary Doctorate of Laws Degree (L.L.D.) from the University of New Brunswick.



MICHAEL HENNESSY

FORMER PRESIDENT AND CEO, CANADIAN MEDIA PRODUCTION ASSOCIATION

Mr. Hennessy is the Principal of Limegrove Communications, a personal consultancy offering advice on public policy and regulatory issues in communications.

Over the past 25 years he has held a number of senior management positions in the telecommunications, wireless, cable, Internet and broadcasting sectors, including at the Canadian Radio-television Telecommunications Commission (CRTC), Bell Mobility and Mobility Canada, the Canadian Cable Telecommunications Association (CCTA), TELUS and most recently as the President and CEO of the Canadian Media Production Association (CMPA).

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session I - From Over-The-Air to Internet TV: The Future of Broadcasting - CONTINUED



MODERATED BY
ANDREW COYNE
NATIONAL AFFAIRS COLUMNIST, POSTMEDIA

Andrew Coyne is national affairs columnist for Postmedia. A graduate of the University of Toronto and of the London School of Economics, he has worked previously as a columnist for *Macleans* and *The Globe and Mail*, contributing as well to a number of other publications at home and abroad, including *The New York Times*, *The Wall Street Journal*, *The National Review*, and *The Walrus*. In addition, he is a frequent commentator on radio and television, notably on the CBC's popular "At Issue" panel. The winner of two National Newspaper Awards and the Hyman Solomon Award for Excellence in Public Policy Journalism, he is a fellow at the School of Public Policy and Governance at the University of Toronto.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session II - Canadian Content in the Future



RICHARD STURSBURG

FORMER VICE PRESIDENT, CBC/RADIO CANADA

Richard Stursberg has spent his entire career working in broadcasting, film, television and program production in both public and private capacities. He was Assistant Deputy Minister, Culture and Broadcasting at the federal department of Communications, President of the Canadian Cable Television Association, CEO of Starchoice and Cancom (now Shaw Direct), Chairman of the Canadian Television Fund, Executive Director of Telefilm Canada and head of English services at the CBC. He is currently the head of Aljess. His new book, *The Tower of Babble* was published by Douglas and MacIntyre in April, 2012.



MICHAEL MACMILLAN

PRESIDENT, BLUE ANT MEDIA

In 2011, Michael co-founded and is CEO of Blue Ant Media, a Canadian-based media company. Blue Ant is a digital and television producer and distributor. It owns digital media properties and magazines (including *Cottage Life*) as well as television channels in Canada (such as Smithsonian Channel Canada and Love Nature) and New Zealand (Choice TV).

From 1978 to 2007 Michael was the Chairman and CEO of Alliance Atlantis Communications and its predecessor company Atlantis Communications.

In 2007 Michael co-founded Samara Canada which is a charity that is dedicated to re-connecting citizens to politics. Samara conducts original research and ongoing education and engagement programming such as "Democracy Talks" and the "Everyday Political Citizen" projects.

Michael is co-founder and co-owner of Closson Chase Vineyards and winery in Prince Edward County, Ontario. It makes Pinot Noir and Chardonnay wines.

A member of the Order of Canada, Michael has volunteered with numerous community and industry organizations over many years, and is currently involved with Open Roof Films, Human Rights Watch, Civix, and the Community Food Centres Canada, amongst other organizations. He is a Senior Fellow at Massey College and co-author of the book *Tragedy in the Commons*.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session II - Canadian Content in the Future - CONTINUED



IRENE BERKOWITZ

INSTRUCTOR, TED ROGERS SCHOOL OF MANAGEMENT, RYERSON UNIVERSITY

Irene S Berkowitz is an Instructor in Ryerson University’s Ted Rogers School of Management MBA program and in Ryerson’s School of Creative Industries. She presented her PhD research, which argues that Canadian English-language TV drama could be future-proofed by developing content for the world stage, at Let’s Talk TV, the 2014 CRTC hearing on Canadian TV; her suggestions are reflected in Decision 2015-86, The Way Forward. Berkowitz’s perspectives have appeared in print, online, TV and radio, including The Globe and Mail, Playback, BNN-TV and CBC radio. She also holds an MA from University of Chicago and a BA from Cornell University.



MODERATED BY

KATE TAYLOR

CULTURAL COLUMNIST, GLOBE AND MAIL

Kate Taylor is a cultural critic and novelist who writes about the arts for the Globe and Mail where she was recently appointed lead film critic. In 2009-2010, she was awarded the Atkinson Fellowship to study Canadian cultural sovereignty in the digital age, publishing the results in the Toronto Star.

Her 2003 novel, Mme Proust and the Kosher Kitchen, won the Commonwealth Writers’ Prize for best first book (Canada/Caribbean region) and the Toronto Book Award. Her second novel, A Man in Uniform, was published in 2010; she’s currently at work on a third to be published by Doubleday Canada in 2016.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session III - Keynote Luncheon



MICHAEL WOLFF

TELEVISION IS THE NEW TELEVISION: THE UNEXPECTED TRIUMPH OF OLD MEDIA IN THE DIGITAL AGE

Michael Wolff has chronicled the diverging paths of old and new media over the past twenty years in his regular columns in *Vanity Fair*, *New York Magazine*, *USA Today*, *The Hollywood Reporter*, *The Guardian*, and *British GQ*. He is the author of the recently published *Television Is The New Television*, as well as five previous books, including the bestseller *Burn Rate*, the story of the rise and fall of the early search engine company he founded—often singled out as the best book of the dotcom age—and *The Man Who Owns the News*, the definitive biography of Rupert Murdoch, based on nine months of conversation with the mogul. He has received many citations for his work in both the U.S. and U.K., including two National Magazine's Award and four nominations. He is the son of an ad man and, in 2011, edited and revamped the trade magazine, *Adweek*. He is one of the founders of *Newser*, the seven-year-old (profitable) news site. He has four children and lives in New York City.

MODERATED BY

DANIEL SCHWANEN

VICE PRESIDENT, RESEARCH, C.D. HOWE INSTITUTE



Please see biography on Page 1.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session IV - What Does the Consumer See: Content in a Globally Integrated Sector



CARMEL SMYTH
NATIONAL PRESIDENT, CANADIAN MEDIA GUILD

Carmel Smyth is an award-winning journalist with a career in radio and television, including producing Talk Radio at CKNW Vancouver, reporting news for CBC Television in Toronto, Saskatchewan, and Newfoundland and Labrador, and producing documentaries for CBC's flagship national investigative program Marketplace.

Since 2010, Carmel has served as the National President of Canada's largest media union representing six thousand journalists and media workers at ten media organizations across Canada, including the CBC. She is a five-time IronWomen and marathon runner.



PETER MILLER
MEDIA LAWYER AND CONSULTANT

Peter Miller is a lawyer and engineer with 25 years of broadcast and telecommunications industry experience, in both private practice and senior executive positions. Since 2006, he has acted as an independent advisor to select clients in both the public and private sectors, specializing in business and policy analysis, as well as regulatory counsel.

Peter's legal and consulting practice is focused on broadcasting, telecommunications, digital media and other creative industries, but is wide ranging in terms of the types of clients and nature of assignments. Assignments vary from legal, regulatory and public policy advice, to strategic planning and economic impact exercises. Over the past decade, Peter has researched and authored numerous public and private reports relating to creative industries, including digital media trends, convergence and the future production and media landscape.

Peter's professional background includes telecommunications network design, acting as a Parliamentary Assistant to Members of Parliament, private practice in communications law, and broadcast executive positions. His experience includes senior positions with the Vision TV group of companies, CHUM Limited, and the Canadian Association of Broadcasters.

Peter is a frequent industry commentator who has been actively involved in numerous industry boards and committees. Peter is the current Chair of Interactive Ontario, past chair of the CAB Specialty & Pay Services Board, past treasurer of Canadian Digital Television and a current constituency member of the Centre for Addiction and Mental Health.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session IV - What Does the Consumer See: Content in a Globally Integrated Sector - CONTINUED



ELISA KEARNEY
PARTNER, DAVIES WARD PHILLIPS & VINEBERG LLP

Elisa Kearney is a partner in the Competition & Foreign Investment Review, Investigations & White Collar Defence, Technology, Communications & Media and Retail practices. Elisa has developed a practice in all areas of competition law including, competition litigation, mergers, cartels and reviewable conduct.

Most recently, Elisa is representing Google before the Competition Bureau. Elisa also represented Just Energy Group, Inc. with respect to competition matters in connection with its proposed sale of National Energy Corporation to Reliance Comfort Limited Partnership as well as National Energy Corporation, an intervenor in abuse of dominance proceedings brought before the Competition Tribunal by the Commissioner of Competition against Reliance Home Comfort and Direct Energy. Elisa previously acted for the Commissioner of Competition in one of the most significant proceedings before the Competition Tribunal in recent years, the challenge brought by the Commissioner of Competition under the price maintenance provisions of the Competition Act against Visa and MasterCard's merchant rules.

In addition to these public matters, Elisa has represented a number of domestic and international companies in alleged cartel investigations by the Competition Bureau and has particular experience responding to searches and "dawn raids", conducting interviews and negotiating and securing leniency or immunity agreements. She also routinely counsels clients on contests, misleading advertising and promotional practices as well as pricing and distribution laws in Canada. She has also acted as external counsel to the CRTC. Elisa is a member of the firm's Student Committee and Knowledge Management Committee.

MODERATED BY
DANIEL SCHWANEN
VICE PRESIDENT, RESEARCH, C.D. HOWE INSTITUTE



Please see biography on Page 1.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session V - The Future of Canadian Competition and Regulatory Policy in Telecommunications and Broadcasting



VICKY EATRIDES

DEPUTY COMMISSIONER, COMPETITION PROMOTION BRANCH,
COMPETITION BUREAU

Vicky Eatrides is the Deputy Commissioner of Competition Promotion at the Competition Bureau. Vicky leads a 60-person team to promote competition in Canada and internationally. She directs the Bureau's intergovernmental and international affairs; economic analysis and regulatory interventions; public affairs; strategic policy; and corporate compliance initiatives.

From 2013 to August 2015, Vicky was the Director General of Strategic Policy and Planning at the Government of Canada's Major Projects Management Office (Natural Resources Canada). In that role, Vicky worked collaboratively with numerous government departments to resolve regulatory issues for major natural resource projects and to develop approaches to enhance the federal regulatory system. From 2005 to 2013, Vicky held a variety of increasingly senior executive positions at the Bureau, including Assistant Deputy Commissioner of Mergers and Deputy Commissioner in the Commissioner's Office.

Prior to joining the Public Service, Vicky practised federal regulatory law at Stikeman Elliott LLP. Vicky is a member of the Ontario Bar and holds degrees in Economics and Common Law.



BRAM ABRAMSON

CHIEF LEGAL & REGULATORY OFFICER, TEKSAVVY SOLUTIONS INC.

Bram Abramson has, since April 2014, acted as Chief Legal and Regulatory Officer at TekSavvy Solutions Inc, a leading independent, consumer-focused telecommunications provider. His role includes responsibility for communications regulatory, privacy, copyright, and commercial and consumer law matters. Bram joined TekSavvy from a national law firm where, since his call to the Ontario Bar in 2008, he had provided regulatory, commercial, and transactional advice to a broad range of private- and public-sector clients. Before his legal career, Bram worked in senior industry research roles with the CRTC and, earlier, TeleGeography, in Washington, DC. Bram is based in Toronto and is a graduate of Concordia (BA, Communications) and McGill (BCL/LLB, Law) Universities.

BIOGRAPHIES OF SPEAKERS, HOST AND MODERATORS

BIOGRAPHIES OF THE SPEAKERS

Session V - The Future of Canadian Competition and Regulatory Policy in Telecommunications and Broadcasting - CONTINUED



ANDY BAZILIAUSKAS
PRINCIPAL, CHARLES RIVER ASSOCIATES

Andy Baziliauskas is a competition and industrial organization economist with Charles River Associates in Toronto who consults to private sector and government clients in a wide variety of industries, including the telecommunications, energy, and banking industries. He has prepared expert reports that have been submitted to courts, tribunals, and regulatory boards in competition and electricity market matters, and has authored several other reports for clients on market power, mergers, damages, price fixing, abuse of dominance, and public policy issues. Andy holds a Ph.D. in Economics from the University of Western Ontario. He has lectured in the economics departments of the University of Western Ontario, the University of Winnipeg, and Carleton University. He has also published several articles in the area of competition policy and energy markets, and has made numerous presentations on competition issues, including as an invited speaker at the Canadian Bar Association's Annual Competition Law Conference.



MODERATED BY
GRANT BISHOP
FELLOW-IN-RESIDENCE, C.D. HOWE INSTITUTE

Grant Bishop joins the Institute with a focus on competition policy and regulatory issues. He previously served as a judicial law clerk at the Federal Court of Appeal in Ottawa and articulated with Davies Ward Phillips & Vineberg LLP in Toronto.

Prior to studies in law, he served in research roles at the Bank of Canada, the World Bank and Toronto-Dominion Bank authoring economic studies, including on the implications of resource royalties for fiscal federalism, reform of Employment Insurance and old-age pensions, household debt and the long-run growth of the Canadian economy. He has written various publications on Canadian economic issues, financial regulation and competition policy.

CONFERENCE SUMMARY

The Future of Canadian Telecommunications and Broadcasting

OVERVIEW

The C.D. Howe Institute convened this conference on November 30, 2015 to discuss the future of regulation for Canadian broadcasting and telecommunications. Panellists and participants included representatives from regulators, academia, consumer groups, media, broadcasting and telecommunications. The conference sought both to examine the evolving technological context for competition in content provision and communications infrastructure and to identify key tensions in Canada's current framework for regulating broadcasting and telecommunications.

More specifically, the conference asked:

- How do rules from the Let's Talk TV proceeding suit the modern internet television world, and how will they fit in a potential future lead by wireless television and other technologies we cannot yet foresee?
- How do Canada's policies of supporting made-in-Canada and local content work with current technology? Should Canadian taxpayers support content producers? What is the future of broadcasting quotas, government financial support for Canadian broadcasting, and a public broadcaster in a globally integrated world? How are policies enforced in an increasingly global market?
- Do the current regulations provide a level playing field for delivering content to consumers? What are the tax and regulatory implications of non-Canadian internet content providers? Does a "Netflix Tax" make sense? Is one workable? How do content rights fit in the broadcasting world? What are the implications of new bundling and pricing rules for Canadian-based broadcast distributors?
- What regulatory framework has been guiding the CRTC's approach to wholesale and retail services since its 2006 directive to focus on market forces? Has technologically-driven competition

displaced the "natural monopoly" picture? Are the economic arguments for direct regulation still valid? How should capacity constraints be managed? Should the CRTC ease the burden of regulation in the sector and defer to competition law to combat anti-competitive conduct?

Key takeaways from the conference were:

- The new government should plan now for how it can generate in the middle of its mandate fresh ideas and policy solutions on Canadian programming, digital technology and distribution platforms to shape the future of Canadian broadcasting. To do so, it should mandate soon an expert panel to review the current regulatory framework for supporting Canadian content and recommend appropriate levels of support, funding sources and instruments.
- Support for Canadian content must encourage production of content that viewers want to watch with viewership being the critical measure of funding impact.
- The regulatory framework – currently divided between broadcasting and telecommunications – should be revised for the current technological context where the same infrastructure can carry content in different ways and consumers can access content through multiple different platforms.
- Canada should increasingly consider a market-based approach to regulation of Canadian content. Direct regulation of telecommunications facilities, such as through mandated access to telecommunications facilities by new competitors, can risk discouraging competition between facilities providers through investment and innovation. A demonstrable market failure and evidence that the intervention will enhance market efficiency should be a prerequisite for regulation. Regulators should defer to market forces and competition law principles where a market failure is not established.

SESSION ONE

From Over-the-Air to Internet TV: The Future of Broadcasting

The conference opened with a reflection on the historical rationale for the regulation of broadcasting: In an earlier era, technology constrained the availability of spectrum for channels, and broadcasters could not discriminate between the prices for particular programs based on what customers were willing to pay. With high fixed costs for producing content and a revenue model based on advertising to viewers (a so-called “two-sided market” connecting those two groups), the medium favoured broadcasters that attracted the largest viewership. In that setting, regulation addressed a market failure and served to expand diversity that a well-functioning market would have provided.

However, technological change has allowed content-providers to connect (and price) directly to particular consumers. Consumers increasingly expect a marketplace where they can choose the content they want when they want it.

With the collapse of the traditional channels for content, content producers can reach consumers directly, and this disintermediation provides greater bargaining power for producers in negotiations with distributors. As one participant noted, revenue will increasingly “follow the copyright.” As well, advertising revenue follows the eyeballs, further compressing distributors’ margins.

This technologically driven shift in market forces has thereby limited the growth of broadcaster revenues that were previously tapped to fund Canadian content. The ability of consumers to

choose their channels through pick-and-pay and go “over the top” to web-based content providers disrupts the quota model for Canadian content. A 2010 report published by the C.D. Howe Institute discussed this need for reformulating Canadian content promotion to transition from a “push” setting, where entertainment choices were limited to the content available at a given time, to a “pull” setting, where content is available on demand.¹

However, the nature of technological change underlying this shift also may undermine the “market failure” rationale for supporting Canadian content. That is, technological change has removed the obstacle to connecting with smaller audiences and charging them directly for content. If providers of Canadian programming can now connect with consumers directly (and advertisers likewise piggy-back on demand for that programming), those content providers can set a price and see if the market will pay.

Nonetheless, the present government appears committed to the promotion of Canadian content to strengthen domestic cultural industries and with the notion that Canadian culture represents a public good that is underprovided by the market. Certain participants emphasized that support should be aimed at creating a globally competitive domestic industry with programming that both “tells Canadian stories” and attracts global audiences. Some panellists pointed to Telefilm Canada as a model for channelling subsidies to producers through a public-private partnership approach.

Conference participants also highlighted the risk of being a “mile wide and inch deep” in funding Canadian cultural content. If government intends to increase subsidies for Canadian content, there must be a conversation about the levels, funding

1 Hunter, Lawson A.W., Edward Iacobucci, and Michael J. Trebilcock. 2010. *Scrambled Signals: Canadian Content Policies in a World of Technological Abundance*. Commentary 301. Toronto: C.D. Howe Institute. January; See: <https://www.cdhowe.org/scrambled-signals-canadian-content-policies-in-a-world-of-technological-abundance/4404>.

sources and instruments for efficiently directing the subsidy. Government must decide its objectives – particularly the value of content that may have a limited audience.

As well, some participants contended that vertical integration represented a risk for the provision of Canadian content, arguing that communications conglomerates were unlikely to deploy capital for risky content production given the opportunity costs of seeking higher returns in infrastructural investment. Those participants argued that some subsidy for Canadian content is required to improve returns on producing such content.

For support of Canadian cultural production, a key question remains that of Canadian ownership and control. Certain participants emphasized the barriers to foreign entry as inhibiting producers' access to capital and conduits to global markets.

Broadcasters may still provide a critical link for content producers to reach global audiences, as well as provide a nexus for pooling content rights and sharing the risks around production (since content producers do not have a magic formula for creating hit shows). However, participants also argued that the CRTC's "Terms of Trade Agreements" decision (which removed prescribed terms for content rights in favor of negotiated agreements between producers and broadcasters) entrusts broadcasters with globalizing content but may deprive independent producers of incentive to market their own content abroad.²

The role of the CBC will also be an important question in a review of Canadian cultural content. Participants noted the trend for vertically integrated

media conglomerates to publish across different media – online, print, video and audio. In a context where various news media are accessed online, how will the consumer experience differ between the CBC and the *National Post*? As one participant asked, why should the government subsidize Peter Mansbridge but not Andrew Coyne?

Additionally, the session called attention to the increasingly artificial statutory division between broadcasting and telecommunications. A related question is how ministerial responsibilities for content and carriage should be allocated when the different "pipes" can carry the same content and Canadians increasingly access content through conduits outside the ambit of regulated "broadcasting" (e.g., Netflix).

An earlier report from C.D. Howe's Competition Policy Council recommended an independent, expert panel to examine the regulatory framework for telecommunications and broadcasting.³ Panellists agreed that convening an expert panel within the next year with a mandate to recommend on legislative reform would enable the government to propose legislation in the latter half of its mandate.

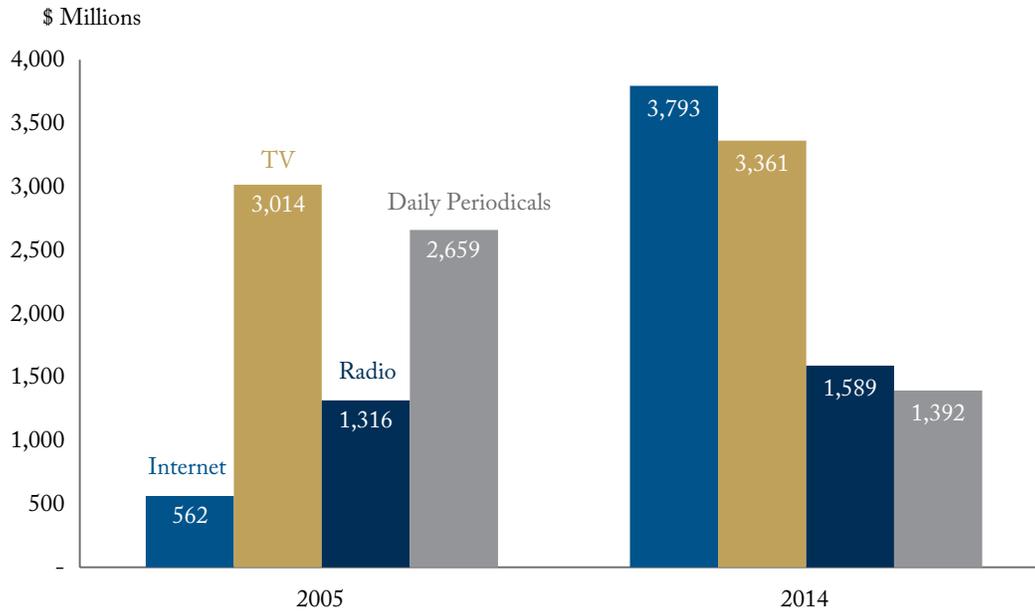
SESSION TWO

Canadian Content in the Future

This session delved into the mechanisms for supporting Canadian content, examining both funding sources and instruments for effectively allocating subsidies. First, the session highlighted the secular decline in revenues facing the traditional sources for Canadian content. In particular, internet

2 Broadcasting Regulatory Policy CRTC 2015-86 (12 March 2015) at paras. 132-141; See: <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

3 C.D. Howe Institute Competition Policy Council. 2014. *Reforming Telecommunications and Broadcast Policy for the New Technological Age*. Toronto: C.D. Howe Institute. November; See: <https://www.cdhowe.org/telecommunications-and-broadcast-policy-new-technological-age>.

Figure 1: Advertising Growth Trend – Internet, TV, Dailies, and Radio: 2005-14


Source: Interactive Advertising Bureau of Canada, “Annual Internet Advertising Revenue Reports” (29 June 2015), see: <http://iabcanada.com/annual-internet-advertising-revenue-reports/>.

advertising is displacing advertising on traditional broadcasting platforms (Figure 1), reducing the margins available to broadcasters to support Canadian content.

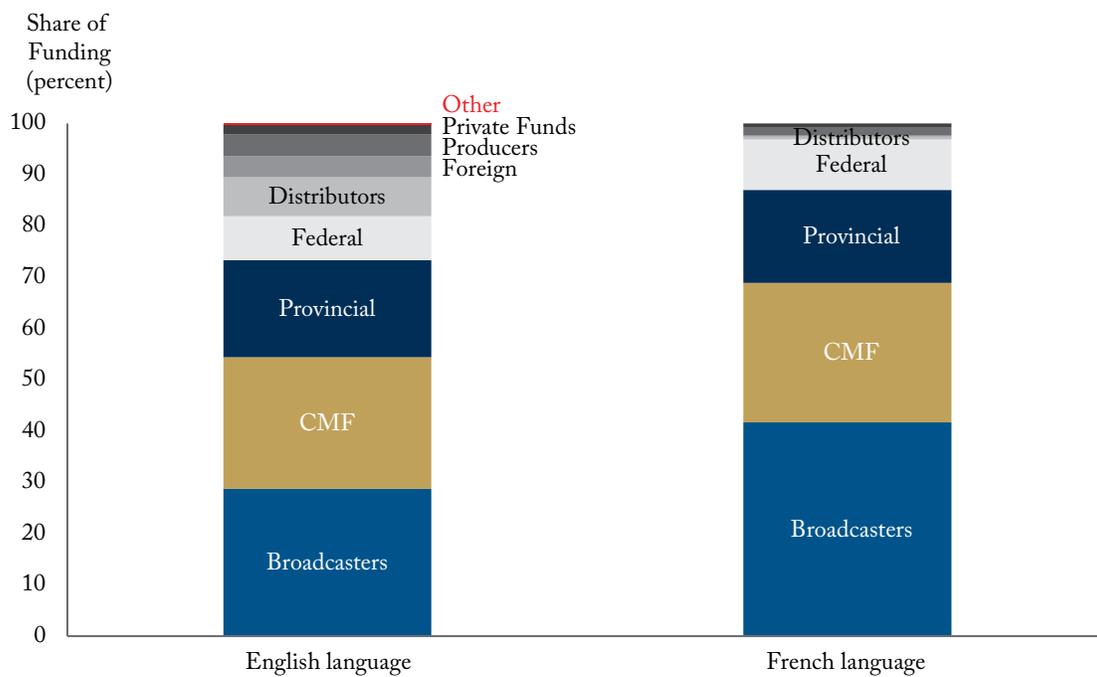
Funding for independently produced shows in Canada is comprised of contributions from the Canadian Media Fund (CMF), tax credits, broadcasters and producers. Financial support for Canadian-made programming totalled \$4.1 billion in 2012-2013. That support was made up of: (i) expenditures by Canadian television programming services on programs made by

Canadians (65.6%); (ii) federal and provincial tax credits (15.8%); (iii) the CMF (9%); (iv) additional financial contributions by broadcasters (4.8%); (v) the contributions of Broadcast Distribution Undertakings (BDUs) to community programming (3%); and (vi) various other CRTC-certified independent production funds (1.5%).⁴ For Canadian-made programming in aggregate, broadcasters contributed roughly \$2.8 billion while slightly less than \$1.3 billion derives from direct government subsidies.⁵ For that programming that is supported by the CMF, CMF funding comprises

4 Broadcasting Regulatory Policy CRTC 2015-86 (12 March 2015) at paras. 29; See: <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

5 Calculations by panelist based on CRTC’s Communications Monitoring Report 2014 and CMF 2013-14 Annual Report.

Figure 2: Proportional Contributions to Financing by Source for CMF-Funded English and French Language Television Programming



Source: Canadian Media Fund 2013-14 Annual Report; See: <http://ar-ra13-14.cmf-fmc.ca/funding/convergent/>.

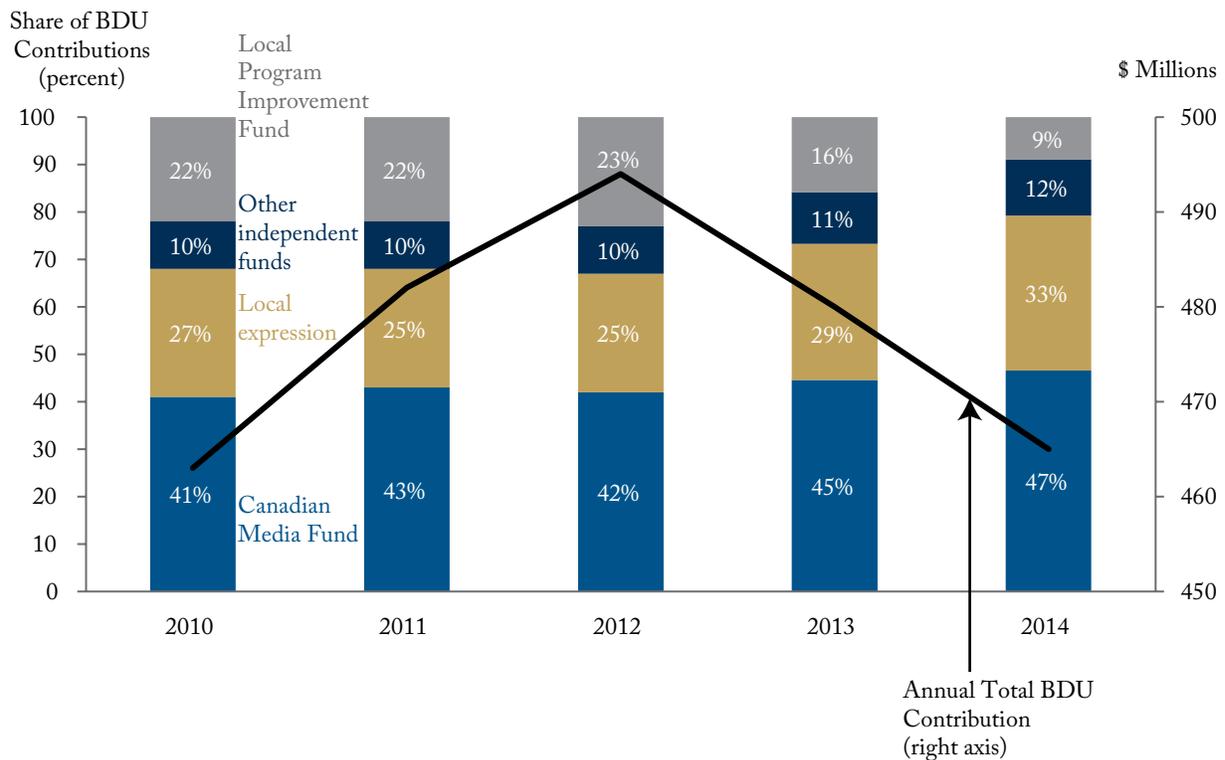
roughly a quarter of the production financing (Figure 2).

Cable or satellite service providers, known as Broadcast Distribution Undertakings (BDUs), make significant contributions to Canadian programming (Figure 3). BDUs with over 2,000 subscribers must contribute 5% of their gross revenues from broadcasting-related activities to the creation of Canadian programming, and the CMF receives at least 80% of such contributions. BDUs with a community channel are permitted to direct

a portion of their contribution to “local expression” expenditures. Additional financial contributions (known as “tangible benefits”) to Canadian programming are required as a condition of changes in control of broadcasters, with the CRTC generally requiring that an acquirer contribute 80% of those tangible benefits to the CMF or another CRTC-certified independent production fund.⁶ Over-the-Top programming like Netflix and “cord-cutting” by online viewers places these funding streams under pressure.

6 Broadcasting Regulatory Policy CRTC 2015-86 (12 March 2015) at paras. 25-26; See: <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

Figure 3: Various Recipients' Shares of BDU Contributions to the Creation and Production of Canadian Programming, and Total BDU Contributions



Source: Communications Monitoring Report 2015, Figure 4.3.10; See: <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr4.htm#f4310>.

In tapping revenue sources, the panel focused on the arguments for bringing Over-the-Top entities like Netflix into the regulatory fold and compelling contributions to Canadian content, and the broader regulatory ecosystem. For example, it should re-evaluate past exemption orders given to online services.

Several panellists also argued that there has been a conscious policy choice to limit the deductibility of advertising expenditures by Canadian businesses to Canadian-owned broadcasters and publishers. They noted that the same principle has not been

extended to Canadian businesses' spending on internet advertising.

The session exhibited the divide around a possible broadband tax to fund domestic cultural production. A broadband tax would presumably apply to all users and would crowd out internet connectivity at the margin. There were questions about whether such a tax that applied to all broadband uses would be unreasonably broad compared to the benefits from Canadian culture that accrue to particular users or groups. Such overbreadth could make the tax politically

unsustainable. If Canadian culture is a general public good, the preferable source for funding a subsidy may be general government revenues.

Panellists agreed that technological change had both disrupted the cross-subsidy model for Canadian content promotion and that content quotas are not tractable in the current consumer-driven setting. The focus must shift to promoting production of Canadian content that Canadians want to watch.

To this end, panellists echoed that subsidies should unapologetically reward producing “hit shows” rather than subsidizing content that does not draw an audience. The value from subsidies is in Canadians watching the programs.

SESSION THREE

Television Is the New Television: The Unexpected Triumph of Old Media in the Digital Age

The luncheon speaker was Michael Wolff, an author, expert and regular chronicler on new and old media in a number of prestigious periodicals. He spoke on the record on his thesis that “old media” will triumph in the digital age.

Michael’s thesis rests on two key observations: First, people, as they always have, want narratives that have a “begin, a middle and an end.” In the visual electronic space, television is the ideal medium for providing this type of content.

Second, television has managed to wean itself from a 100% based advertising-supported business model: people are now able and ready to pay directly for TV content they like, whether sports, entertainment, drama or comedy (and willingness to pay in turn drives high-quality content). Digital (web, mobile) content is now almost entirely reliant on increasingly low-margin advertising. The latter’s market penetration has never been higher, yet it has not been a financial success.

Much digital, web, and mobile media does not provide what the audience is most willing to pay for. When it does it migrates towards video as per the TV model. Services like Netflix are converging towards the television model, not the other way around.

Trying to sell content in a digital space is very difficult. Digital advertising is a very low margin business. Only the very large (Google, Facebook) can do it – they’re into the audience aggregation business, which is what TV used to be about in the time of broadcasting.

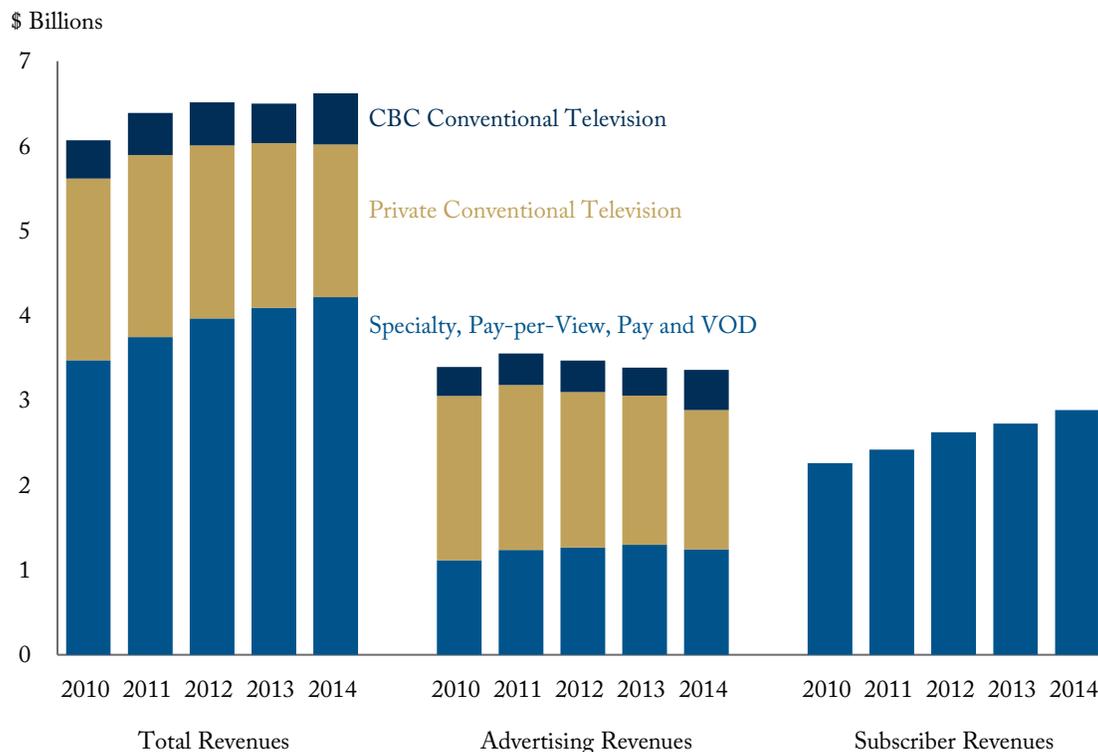
Meanwhile television is now a paid model, and still has robust advertising. Which of these two models has the greater future? Providers of content with “a beginning, a middle and an end” (e.g. the Simpsons) are now in control, as the pivotal conversion of YouTube from content pirating to a licensee shows. This shift is something TV executives are still grappling with.

SESSION FOUR

What Does the Consumer See: Content in a Globally Integrated Sector

This session considered the “playing field” for content provision, examining whether regulation created distortions between conduits for content and the possible consequences of vertical integration.

Panellists noted the stagnation of television broadcasters’ advertising revenues and the increasing share of subscriber revenues from specialty and video-on-demand services (Figure 4). Again, the trend highlights the disruption facing the traditional broadcasting revenue model; however, the trend also demonstrates the consumer willingness to pay for specific content. As one panellist noted, citing Marshall McLuhan, “The content of any new medium is some older medium.” Consumers are still seeking traditional programs, but the conduits

Figure 4: Revenues of Television Services, by Type of Service


Source: Communications Monitoring Report 2015, Figure 4.2.1; See: <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr4.htm#f421>.

for accessing content (and consumers' expectations for content pricing) are changing.

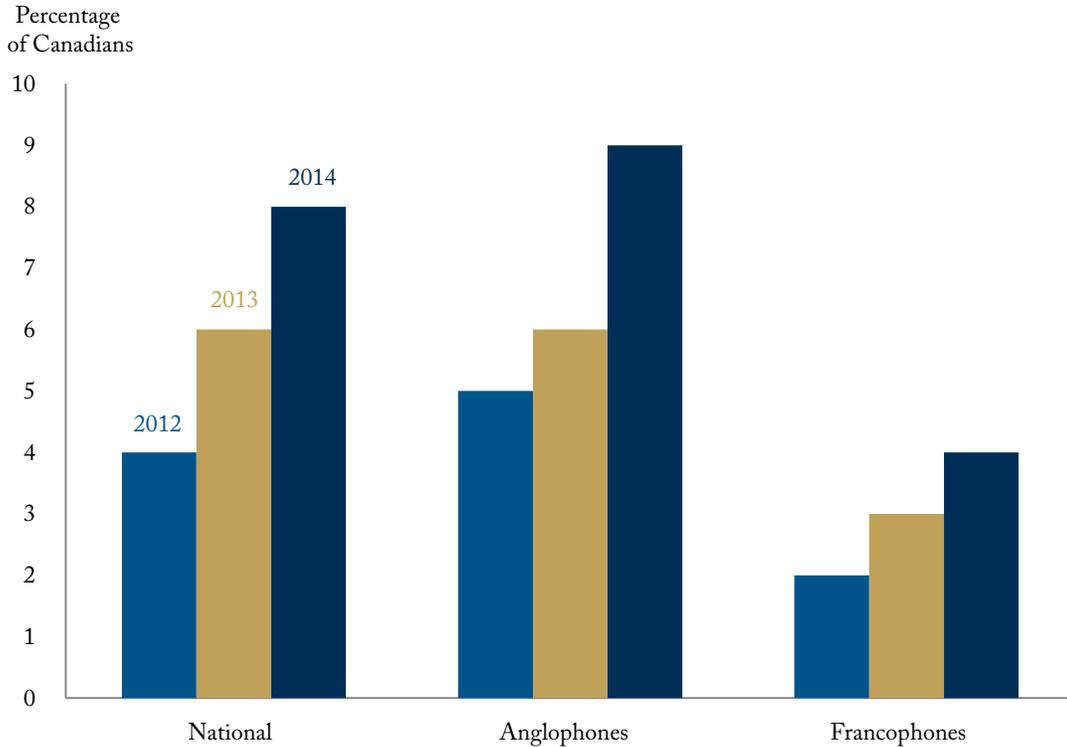
Additionally, while "cord cutting" (i.e., watching programming exclusively online) has increased (Figure 5) and a majority share of younger Canadians subscribe to Netflix (Figure 6), Over-the-Top programming has not displaced the nature of content (i.e., viewers continue to watch traditional stories online), nor have channels distributed by BDUs disappeared.

Similarly, panellists pointed to the fallacy of conceiving of sub-divided networks (i.e., between

broadcasting and telecommunications) since the same content can be accessed through competing infrastructure (e.g., wirelessly provided mobile TV or Netflix as a "channel" option through a cable provider) and the same "pipes" may be used to provide internet access or the distribution of broadcasting.

Vertical integration to support broadcasting and content production, but it has curtailed the ways in which media conglomerates may use the content they have acquired to compete for subscribers. The recent ruling concerning Mobile TV, limiting Bell

Figure 5: Percentage of Canadians Who Watch TV Exclusively Online, Nationally and by Language



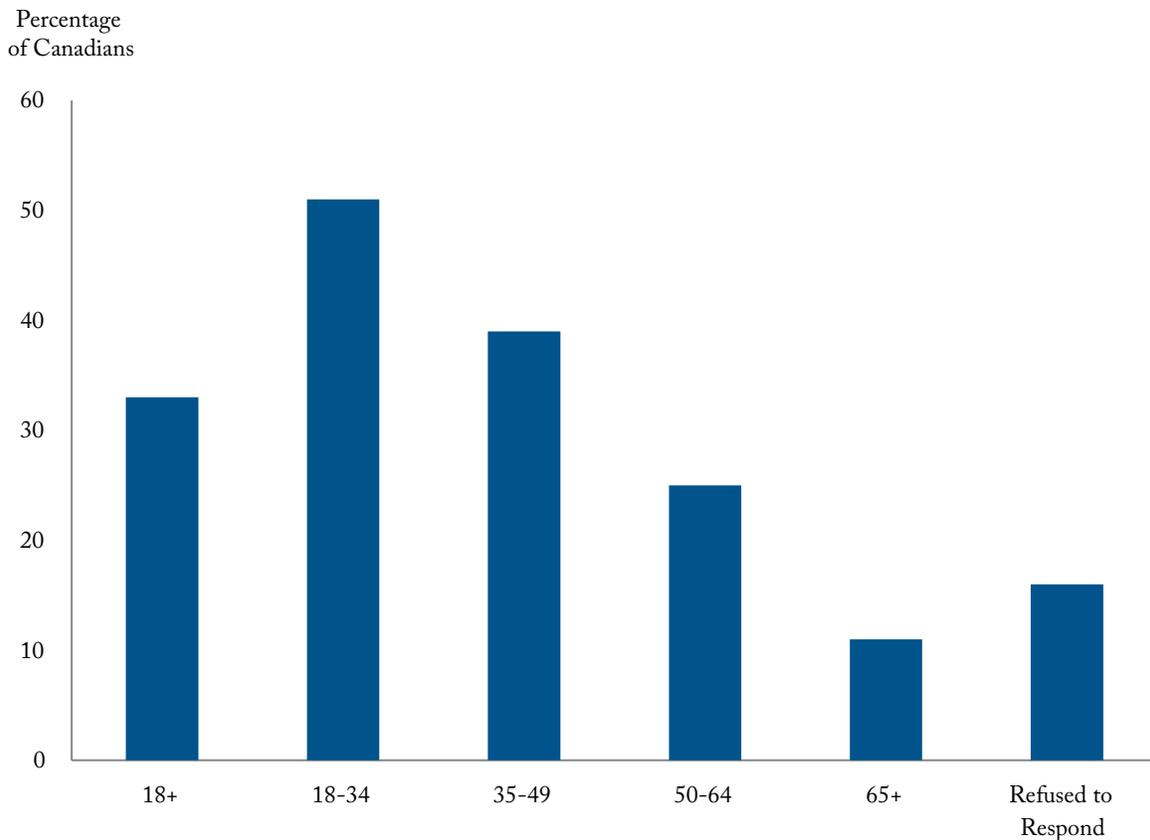
Source: Communications Monitoring Report 2015, Figure 4.3.5; See: <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr4.htm#f435>.

and Videotron from providing subscribers with free TV content, may reflect this tension.⁷ The session flagged concerns regarding market foreclosure to competitors through vertical integration and discriminatory content pricing; however, certain participants also observed that remedies in competition law may be more appropriate

than *ex ante* rules that may inhibit potential pro-competitive benefits from vertical integration.

Similarly, according to some participants, there is lack of clarity around the CRTC’s deference to market forces to yield desirable outcomes in the relationships between content producers, broadcasters and BDUs. For example, in the

7 Broadcasting and Telecom Decision CRTC 2015-26 (29 January 2015). See: <http://www.crtc.gc.ca/eng/archive/2015/2015-26.htm>.

Figure 6: Percentage of Canadians Who Subscribe to Netflix, by Age Group


Source: Communications Monitoring Report 2015, Figure 4.3.7; See: <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr4.htm#f437>.

CRTC’s “Terms of Trade Agreements” decision,⁸ the CRTC removed prescribed content rights between producers and broadcasters, in deference to bargaining between parties. Some participants thought there needed to be changes; others had a wait and see attitude. On the other hand, the

CRTC’s “Pick-and-Pay” decision mandated unbundling of channel offerings without addressing BDUs’ arguably efficient rationales for bundling channels or considering whether competition would have ultimately produced this result.⁹ A 2015 report published by the C.D. Howe Institute

8 Broadcasting Regulatory Policy CRTC 2015-86 (12 March 2015) at paras. 132-141; See: <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

9 Broadcasting Regulatory Policy CRTC 2015-96 (19 March 2015) at paras. 150-152; See: <http://www.crtc.gc.ca/eng/archive/2015/2015-96.htm>.

criticized mandatory pick-and-pay as failing to defer to market forces when bundling channels by BDUs could be explained as efficient behaviour that maximized overall consumer welfare.¹⁰

For Canadian content, certain panellists stressed the principle that, if Over-the-Top providers benefit from the Canadian system, they should likewise contribute to the production funds for Canadian content. Other panellists noted that there may be innovative ways to promote and prioritize Canadian content, such as zero-rating (i.e., forgoing data charges or limits on designated content). Notably, such prioritization would be in tension with a commitment to net neutrality.

SESSION FIVE

The Future of Canadian Competition and Regulatory Policy in Telecommunications and Broadcasting

This session examined whether the CRTC's regulatory approach suitably incorporated competition principles and deference to market forces. The session also focused on the interface between the Competition Bureau and CRTC.

There was broad support for the principle that direct regulation by the CRTC should require demonstration of a market failure (i.e., the failure of competition between market participants to achieve a socially optimal outcome). *Ex ante* regulation may be appropriate where a market participant possesses market power and particular conduct will necessarily impair competition or

injure other market participants. Where economic theory demonstrates that particular conduct could be economically efficient or where market power is not clearly present, prohibiting that conduct may be suboptimal for consumers.

Certain panellists noted that the more rigorous correctness standard applies to the Competition Tribunal's interpretation and application of the *Competition Act* (the appellate court scrutinizes whether the legal interpretation was "correct" rather than just "reasonable"). Those panellists argued that, for judicial reviews of CRTC decisions by the Federal Court of Appeal, the deference shown to the CRTC's interpretation of its home statute results in a less rigorous approach to determining market power and competitive effects than would be witnessed in the competition context.

Procedurally, certain participants noted that the CRTC might better leverage the Competition Bureau's perspective by adopting a model in which, on a challenge to conduct within the CRTC's jurisdiction, the Bureau would conduct a separate review and provide its analysis ahead of the CRTC proceedings. As one participant noted, the Bureau can help sharpen the CRTC's economic toolkit. The relationship between the Bureau and CRTC may benefit from the foreign experience in jurisdictional arrangements between antitrust agencies and communications regulators – for example, the recent cooperation memorandum between the U.S. Federal Trade Commission and Federal Communications Commission in respect of consumer protection.¹¹

10 Hunter, Lawson A.W., Edward Iacobucci and Michael J. Trebilcock. 2014. *Let the Market Decide: The Case Against Mandatory Pick-and-Pay*. E-Brief. Toronto: C.D. Howe Institute. September; See: <https://www.cdhowe.org/let-market-decide-case-against-mandatory-pick-and-pay>.

11 "FTC and FCC Sign Memorandum of Understanding For Continued Cooperation on Consumer Protection Issues" (16 November 2015); See: <https://www.ftc.gov/news-events/press-releases/2015/11/ftc-fcc-sign-memorandum-understanding-continued-cooperation>.

With respect to the CRTC's mandated access to telecommunications infrastructure by new competitors, panellists were divided over the costs and benefits of such interventions. Certain panellists noted that roll-out of next-generation infrastructure involves risky investments with uncertain returns. Mandating an owner of telecommunications facilities to grant access to a competitor at prescribed rates may then discourage investments in such new infrastructure. Perversely, facilitating static competition by mandating access for new competitors may hinder dynamic competition between incumbents through innovative new networks.

The counterargument is that the duplication of certain infrastructure would be inefficient and the high fixed costs for building networks provides incumbents with market power to overcharge

consumers or essential facilities from which to exclude competitors. Nonetheless, with multiple competing technologies for accessing digital content (e.g., cable, fiber-optic and wireless broadband), certain panellists questioned whether the CRTC was correctly assessing market power and adequately addressing the competitive consequences of mandating access.

Finally, the session underscored the risk of regulatory error when assessing market power or prescribing tariff rates for mandated access. That is, if the CRTC erroneously determines market power or sets a tariff for mandated access below an incumbent's risk-adjusted break-even return on the infrastructure, the consequence may be underinvestment in new infrastructure and reduced competition through network innovation between competing incumbents.

PRESENTATIONS

Michael Hennessy, President and CEO of the Canadian Media Production Association (CMPA)



LTTV Decision- Solution or Problem

Michael Hennessy
CD Howe

1

LTTV objectives

- Encourage creation of compelling content made by Canadians
- Foster choice and flexibility in choosing programming

2

PRESENTATIONS

Michael Hennessy, President and CEO of the Canadian Media Production Association (CMPA)

(Continued)

State of the industry pre-decision

- TV and film ecosystem from production to distribution a \$20b industry (GDP) creating 260,000 FTEs
- Film/TV production a \$5.8b segment generating 125,000 FTEs
- Regulatory intervention driven by concern that cable/satellite segment not sufficiently competitive resulting in excessive consumer pricing through bundled offers
- However emergence of competitive alternatives from telcos using IPTV and entry by unregulated alternatives via the Internet already reshaping the ecosystem
- Decline of revenues for ad supported local channels already undermining cornerstone of current system

3

Breakdown of core content production activity

- Domestic production (film and TV) \$2.7b driven by broadcaster demand/regulation =57k FTEs
- Broadcaster in-house production of \$1.4b (news,talk shows,sports)=29k FTEs
- Hollywood North and other work for foreign studios of \$1.8b =40k FTEs
- Increased focus of Canadian producers on international sales and co-ventures

4

PRESENTATIONS

Michael Hennessy, President and CEO of the Canadian Media Production Association (CMPA)

Linkage between production activity and broadcasting business

- Canadian broadcast/cable revenues expected to be negatively impacted by pick and pay and increase in unregulated entry
- Broadcaster expenditure requirements on Canadian content proportionate to revenues
- Cable/satellite contributions also based on percent of revenues
- Assume less spending on domestic production under LTTV due to increased uncertainty, fragmentation and unregulated entry by foreign broadcasters
- Foreign service work driven by quality/capacity of labor, subsidies and value of dollar not LTTV

5

Problems in creating better/compelling content for international markets

- Most broadcast activity occurring in vertically integrated companies where carriage is profitable and content is increasingly not
- Incentives/returns for integrated carriers to invest in more compelling content have been reduced by increased regulatory uncertainty and unregulated competition
- Vertically integrated carriers are not going to risk more capital pursuing risky content opportunities or set up international sales/distribution offices when they can achieve 40%ROI on wireless and broadband network investment in Canada
- And independent producers have lost control of and opportunity to exploit IP internationally due to LTTV decision intended to give broadcasters more control and thus incentive to create content for global markets

6

PRESENTATIONS

Michael Hennessy, President and CEO of the Canadian Media Production Association (CMPA)

(Continued)

Creating more compelling content in the face of declining licensing from domestic broadcasters

- More emphasis on policies to attract inward investment and job creation in Canada as part of new model around content made by Canadians
- Increase opportunities to create by sharing in exploitation of IP proportionate to risk
- Export supports for marketing and promotion of content overseas
- More flexibility in tax and regulatory rules defining what is Canadian content or control in order to enable more international partnerships
- Allow more access to Canadian funds for foreign players like Netflix subject to obligations re minimum Canadian creative inputs and share of IP
- Public broadcasting strategy to enable CBC to be the primary delivery vehicle for commissioning identifiably Canadian content and ensuring diversity

PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada



PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada

(Continued)

CMF

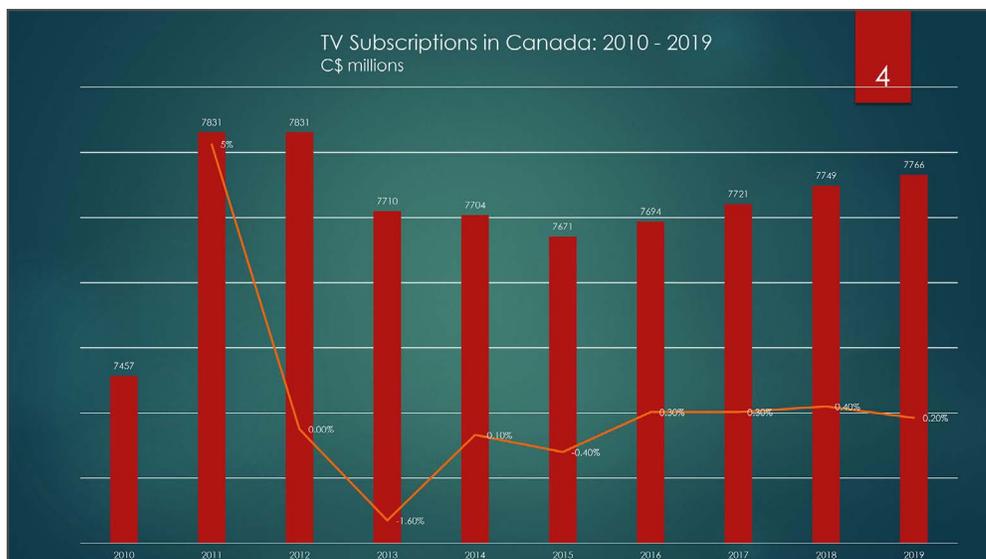
3

CMF: Financed by 5% levy on BDUs

Two sources of pressure:

- ▶ Netflix
- ▶ Unbundling

3

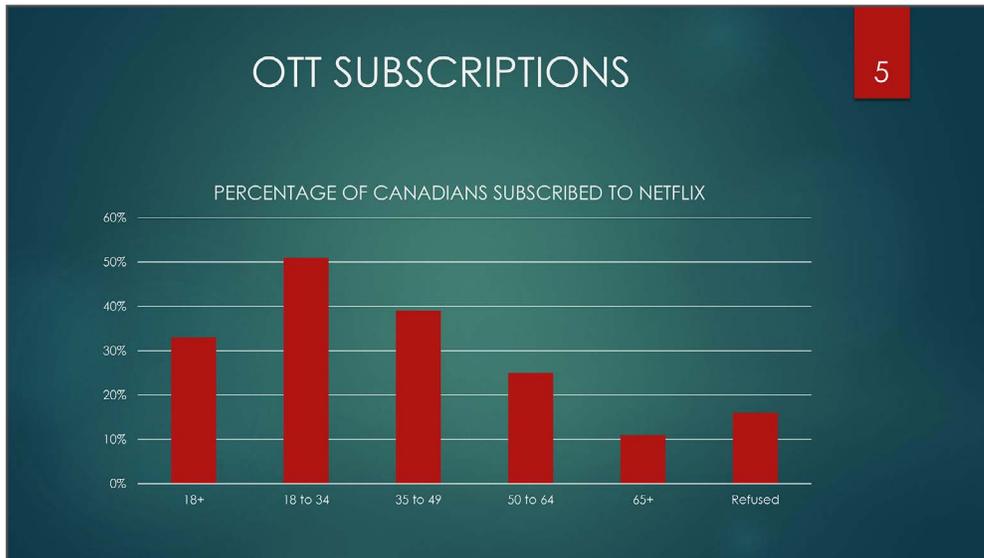


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PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada

(Continued)



5

Broadcasters

6

Broadcasters must spend based on % of gross revenues

Two sources of pressure

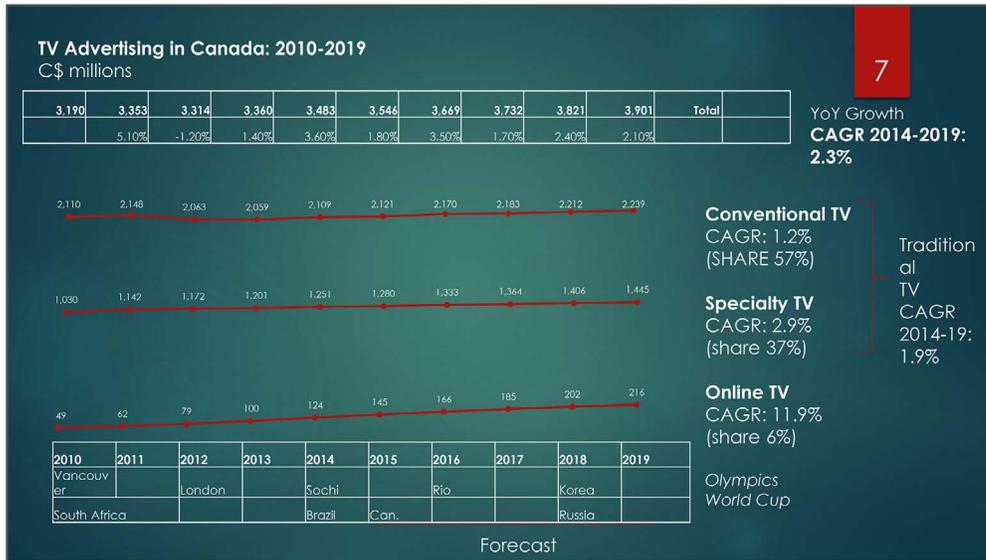
- ▶ Collapsing ad revenues
- ▶ Unbundling

6

PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada

(Continued)



7



8

PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada

(Continued)

OTT

9

Whether Netflix, Amazon, Hulu [soon?]

- ▶ No Canadian ownership rules
- ▶ Not subject to BDU regs
- ▶ No contribution to CMF

9

Ad Revenue: 2014-2019 Time Period

10

Advertising Across All E & M Segments in Canada

C\$ millions

Segment	2019 Revenue (C\$ millions)	2019 % of Total	CAGR 2014-2019
Total Advertising	\$17,091		4.3%
Internet Advertising	\$6,674	39.1%	10.7%
TV Advertising	\$3,901	22.8%	2.3%
Radio Advertising	\$1,757	10.3%	2.6%
Newspaper Adv.	\$1,382	8.1%	-6.3%
B2B Adv.	\$1,368	8.0%	2.2%
Consumer Mag Adv.	\$1,006	5.9%	1.8%
Out of Home Adv.	\$827	4.8%	5.8%
Video Games	\$176	1.0%	11.9%

10

PRESENTATIONS

Richard Stursberg, Former Vice President, CBC/Radio Canada

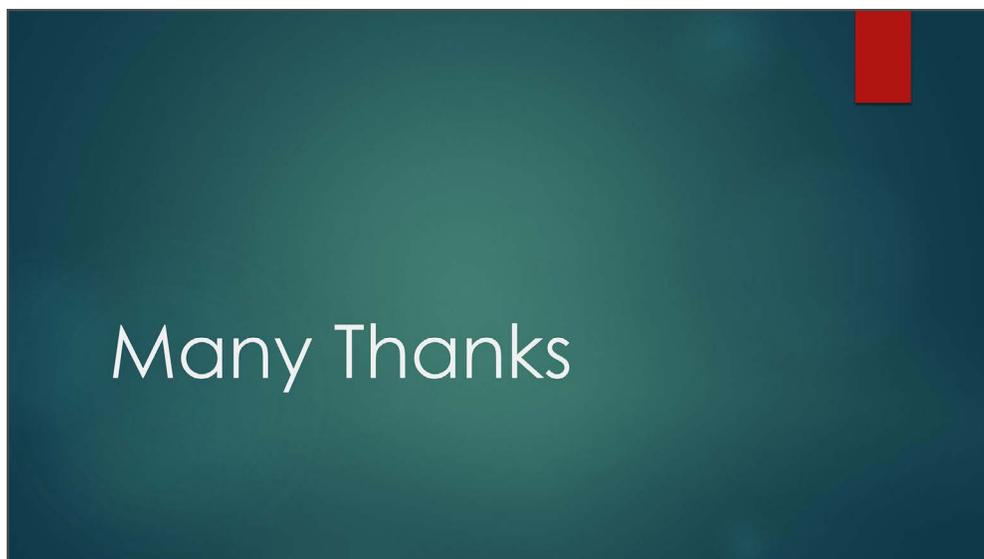
(Continued)



C-58 & Border Broadcasting

- ▶ 1976: C-58 in force
- ▶ US, retaliates
- ▶ Both Liberal and Tories hold fast
- ▶ 1988: War ends

11



Many Thanks

12

NOTES:

NOTES:

RECENT C.D. HOWE INSTITUTE PUBLICATIONS

- January 2016 Benjamin Dachis. “National Priorities 2016 – The Future of Canadian Energy Policy.” C.D. Howe Institute E-Brief.
- December 2015 Dachis, Benjamin, William B.P. Robson, and Aaron Jacobs. “A Crisis of Capital: Canadian Workers Need More Tools, Buildings and Equipment” C.D. Howe Institute E-Brief.
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