

Acceleration, intensification, expectation

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What are the biggest challenges facing regulators generally?

Without a doubt, the most pressing challenge is the convergence that has resulted from the rapid development of the Internet and other digital technologies. The distinctions between the telecommunications and broadcasting industries are being erased as products and services overlap.

Established service providers and new competitors are taking advantage of this fundamental shift to provide an array of communications services, which is making for a more dynamic marketplace. Although the competitive landscape is in the early stages of transformation, already we are finding it more difficult to apply a symmetrical and technology-neutral regulatory approach.

More integrated

In order to respond to the current environment, and anticipate its evolution, we must develop concepts that view telecommunications and broadcasting as being more integrated. Complicating matters is the fact that digital technologies bring together areas that used to be distinct from one another, such as copyright, privacy, taxation policy, spectrum management, cyber crime, culture and national identity, to name a few. These areas typically lie outside the mandate of any single agency or department.

Many countries have developed comprehensive national strategies to contend with the digital

era's many opportunities and challenges. The CRTC's challenge will be to contribute to a national digital strategy, which also defines our role in a converged environment, and sparks, where necessary, legislative reforms to our governing statutes.

Re-regulation?

Is re-regulation desirable?

Over the last few years, regulators around the world have shown a tendency toward deregulation. Generally speaking, competition between service providers is sufficient to ensure that communications products and services are made available to consumers at reasonable prices. For example, in the past three years the CRTC has deregulated 77% of residential telephone lines in Canada and we have no plans to re-regulate this sector.

However, there are limitations to the extent to which we can rely on market forces, particularly if we want the communications industry to achieve specific social or cultural policy objectives.

For these areas, we may well see the pendulum begin to swing in the opposite direction. However any attempt at re-regulation would have to use totally different and more flexible and innovative approaches than have been used in the past.

In my view, regulators should tread carefully to avoid re-regulating without strong evidence that the competitive landscape is failing consumers in some way and that technological advancements would not correct this failure in the near term.

Media ownership

But surely consolidation is challenging the idea of consumer choice?

Consumers have more say in deciding when and how to consume media content now that it is avail-

able on all sorts of traditional and digital platforms. Media companies have reacted to audience fragmentation by seeking out mergers and acquisitions to broaden their areas of business and access new revenue streams. The benefit of a converged company is that it can attract a critical mass and fund the type of culturally relevant programming that otherwise may not get made.

However, corporate consolidation can have negative consequences if it results in one player exercising too much market power. It can also have the effect of commoditizing the content and thus failing to display the cultural diversity viewers seek.

The CRTC has established policies surrounding media ownership, which are designed to ensure that Canadians benefit not only from a diversity of programming, but also from a range of perspectives in news and information. One of the CRTC's key challenges over the next few years will be to continue enforcing its policies while recognizing the trend toward convergence.

Holistic

What is the ideal structure for regulators? Is it some sort of unified one?

Since 1976, the CRTC has had oversight over broadcasting and telecommunications in Canada under the Broadcasting Act and the Telecommunications Act. The CRTC has established separate regulatory regimes for these industries, each designed to achieve the objectives set out in the two Acts. Increasingly, a holistic regulatory approach seems necessary for an environment where communications networks – and the entities that own those networks – are converged. This should also include the responsibility for spectrum management, which is split in Canada. The CRTC is taking steps within its power to better address issues that are common to both broadcasting and telecommunica-

tions in a streamlined and consistent manner.

And what about new media regulation?

In June 2009, the CRTC concluded an exhaustive study of broadcasting in new media. We found that, by and large, new media services are currently being used in a way that is complementary to the traditional broadcasting system. The market is providing incentives and opportunities for broadcasters to incorporate new media into their business plans. What's more, television networks and radio stations are meeting their regulatory obligations in an environment that includes new media services.

The CRTC therefore decided to maintain its hands-off approach. At this time, we prefer to let innovation continue to guide the evolution of media content on digital platforms. However, given that the environment continues to evolve rapidly, we

plan to review our approach within the next five years. We are also watching with interest the idea of broadcasting distribution companies opening their own portals on which their customers can watch broadcasting content online for free. The Web portal Rogers Communications is developing is an example. Is this a means to overcome the discontinuity you talk about? No one knows the answer.

What are your 5-year predictions for the regulatory landscape?

In the near term, regulators will have to adjust to the following three trends: a) the accelerating pace of innovation; b) the intensification of competition; and c) the growing expectations of consumers. Given this reality, regulators will need to move primarily to an ex post regime while ensuring they have the right enforcement tools at their disposal. Additionally, regulators will have a more significant role to play in the resolution of disputes. The commu-

nications industry needs to know it can rely on well-designed, predictable and timely dispute resolution mechanisms in the event of a disagreement. The CRTC has reinforced its existing procedures to resolve disputes through mediation, arbitration and expedited hearings.

What new approaches to regulation are required beyond these adjustments? The next five years will undoubtedly be interesting, and I expect we will see a variety of concepts emerge in North America as well as internationally.

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