

Rules and Realities: Meeting the Challenges Ahead

Introduction

Congratulations to the CAB and its members on your 80th anniversary. The Association is an octogenarian with much to be proud of. Your history first in radio and then in TV is intertwined with the history of broadcasting in Canada.

The reference to “realities” in the title of this convention strikes a personal chord as I am now entering a new phase. I want to thank you for inviting me to share a few parting reflections with you. After five years in this job, I’ve come to understand what Albert Einstein meant when he said that “although reality is merely an illusion, it is a very persistent one”.

You have much to celebrate: many strong, profitable companies in both radio and television, despite certain disparities, particularly in small markets.

You have nearly 50 analogue and 100 digital specialties in operation (over 20% of them ethnic services). You have a healthy

Pay sector and a developing on-demand sector. In radio you serve and reflect your communities with distinction.

Canadians depend upon your industry for information and entertainment.

Despite an increasingly fragmented environment, the share of viewing and listening to foreign TV and radio services is small and is declining.

You provide critical support to the Canadian creative community in the music and film sectors, and you provide a range of services that reflect the needs and interests of all Canadians dans les deux langues and to aboriginal Canadians and ethno-cultural groups

This success has been achieved under a fully regulated – and relatively protected - environment.

This is not to say that broadcasters don't compete vigorously against each other both locally and nationally. However the regulatory bargain has, in return for broadcasters meeting Canadian content and other obligations, limited entry in each market to fewer competitors, adopted simulcast and predominance

rules, and kept a number of potentially popular foreign services out of Canada entirely.

For the past 80 years, however, the regulatory bargain, has been underpinned by a number of technological factors, particularly the ability to more or less control the contours of transmitters (and the boundaries of cable systems); and by a set of values, that are reflected in the *Broadcasting Act*.

The changing world

Change is now the ever-present fact of life for this industry.

There has been staggering technological progress in every aspect of communications, to the point where we might well agree with Ogden Nash's quip that "Progress might have been all right once, but it has gone on far too long."

We are in the digital world amid multiple digital platforms. Look at today's newspapers. Ten minutes ago YouTube was born in a garage. Five minutes ago it was bought by google for 1.65 billion dollars, and now it will be accessible on Verizon cellphones.

The digital world is characterized by increasing borderlessness and market permeability. Small market broadcasters in particular know this all too well. We are witnessing a collapse of orderly release and exhibition windows. Consumers are taking power.

To be sure, Canadians have met the challenges of technological change in the past by leveraging them in Canada's interest.

An example of this is cable TV – perceived in the 60's as a vehicle for foreign programming; accepted reluctantly; not originally allowed to expand beyond border areas; then transformed into a vehicle for achieving the objectives of the *Act* as a result of regulations governing priority carriage, distribution and linkage, predominance of Canadian services; simultaneous substitution.

Another example is satellite; from a technological threat to an instrument of blanketing and binding our country together.

New Media may be different, however, for two major reasons: the borderlessness and on-demand nature of the new digital media - a technological issue, and; a change in values: a growing demand for freer choice and less regulation; abetted and spurred on by the openness and accessibility of the new media, and by the marked

shift in the way younger people consume - and think about – media.

From your point of view – these differences portent both danger and opportunity. From the regulator’s and policy-makers’s point of view they raise the fundamental question of whether we are committed to extending into the new media realm the core value of the *Act*, that says: “the Canadian broadcasting system ... provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty.”

Do we still want to give pride of place in our electronic media to Canadian values and attitudes and perspectives, Canadian stories and creators and performers? Do we want to ensure, in the increasingly crowded market for content, that a distinctively Canadian voice will still be heard?

Or, alternatively, do we want to say that in today’s world, with the state of technology being what it is, that this is a hopelessly anachronistic view? Do we let the chips fall where they may,

knowing as we do how the economic realities of the global content marketplace are likely to affect the fortunes of Canadian product?

My personal belief is that the former view will prevail. It is a matter of national self-respect. It's too important for Canadians.

The question of course is how to do this most effectively and with due regard for the nature of the medium, when it is clear that power will continue to shift into the hands of the consumer – or at least into his/her PVR or ipod or computer – and broadcasters have to assume this will mean – and already means – more competition and less protection for the broadcaster.

Canadian content: has its time arrived?

The underlying premise of Canadian content regulation is that without regulation the amount of Canadian content on Canadian radios and TV screens – particularly in genres that are the most popular and the most expensive to produce, such as television drama – would be a lot less than it is with regulation; that market forces left to themselves would lead to far fewer hours on the air of (and dollars expended on) Canadian programming.

To be sure, TV broadcasters have been saying for decades that for economic reasons also, particularly the steadily increasing costs of foreign programs, broadcasters could no longer see Canadian content as a cost of doing business, but would have to invest in, promote and air Canadian programs.

However, despite that steady increase in foreign programming costs over the years, expenses on Canadian programming have not kept pace (particularly not in drama). In the last five years, the increase in foreign programming expenses, as a percentage of total programming expenses by conventional broadcasters, is up 5 times more than Canadian – 28.5% v. 5.3%.

The reason of course is that the issue is not solely one of costs, but also of revenues, and the value proposition in regard to foreign drama, particularly the most popular programs, continues to “dramatically” favour current practices, and support the regulatory premise.

So, does the multiple platform digital world change this?

Is the economic equation shifting somewhat?

My own view is that it will have to shift, as technology and values combine to provide more and more consumer choice, and regulation becomes both less desirable and more difficult.

Will this happen in the short term? Probably not; the numbers related to high cost, mass appeal prime time programming remain the powerful business driver of the entire system.

The mid to long term, however, is a different story.

To this end, the messages both of the Commission's New Media order of 1999 and our recent decision on mobile TV are:

- that Canadians should prepare themselves for competing in a more consumer-driven environment;
- that early evidence suggests that they are doing so,
- that Canadian content is being featured on these new platforms;
- and that we are confident that Canadians – and particularly Canadian broadcasters - can be

prominent in the creation and exhibition of new media content; in occupying the new space

To be sure, the Commission is monitoring and will continue to monitor the impact of new media on traditional broadcasting.

However if and when there is a material adverse impact on conventional broadcasting, what is the regulatory/government response likely to be?

I believe it unlikely that this Commission or any Government of Canada will give up on our historical quest to tell our stories and to provide outlets for our creators and performers of music and of television.

But will regulation – or for that matter subsidies – be able to keep pace with the demands and the constraints of the digital world?
Can you as broadcasters rely on it?

Even if Canadian content levels were at some future point lowered for conventional media (still a big “if”), will rights to the foreign programs that will have to replace those Canadian programs be available, at least on a cost-beneficial basis? Will the digital

environment, where enforcing any content regime will prove considerably more challenging, not substantially compound the problem?

There is another thing. In addition to the economic component, the regulatory premise appears also grounded in a view of consumer preference or “taste”, that sees Canadians invariably preferring US to Canadian programming. To be sure, ratings data support this view. But does this end the matter? Have we ourselves not to some extent made this a self-fulfilling prophecy? Have we adequately promoted our own creative product? Do we schedule it to win? Do we not sometimes air derivative or cloned American shows, with lower production values and of lower quality? When we air original programs (*Corner Gas*, *Rick Mercer*, *Trailer Park Boys*, not to mention children’s, documentaries and public affairs programs) do we not begin to get the ratings?

Have we been astute enough to tap into the richness of our growing multicultural and multiracial strength? Who did not think *Bollywood Hollywood* was not a great flick?

Why, given our immense creative and production resources, should programs that speak to unique Canadian values and realities not

find success in the on-demand environment of the Internet, where good material can get good responses and take advantage of the “long tail” phenomenon.

Du cote francophone, la popularité des émissions canadiennes de langue française auprès de leur public demeure inébranlable et la contribution des radiodiffuseurs francophones à une culture francophone canadienne riche et diversifiée n'est plus à démontrer.

Mais, comme les radiodiffuseurs anglophones, les radiodiffuseurs francophones font également face à certains défis.

En télévision, il y a quelques années seulement, les émissions phares les plus populaires étaient majoritairement des dramatiques. En novembre 2001, 9 des 10 émissions les plus populaires étaient des dramatiques alors qu'en octobre 2005, ce nombre passait à 4 sur 10.

Les télédifuseurs francophones auront à s'adapter à la fragmentation et au nouvel environnement créé par la multiplication des plateformes de diffusion. Étant donné la petitesse du marché francophone autant national, qu'international, les investissements nécessaires pour s'adapter à ce nouvel

environnement seront proportionnellement plus importants que dans le marché anglophone. D'autre part, les retombées justifiant ces investissements ne sont nullement garanties (ou pourront s'avérer limitées).

But is there really much choice, either for anglophone or francophone broadcasters? Is there any other option but to continue to experiment and to innovate; to take new risks; to explore partnerships with other broadcasters, producers, content creators; to visit a lot of dorm rooms and basements and garages where young innovators are hard at work pushing all the boundaries?

Canadian broadcasters have a lot going for them as they chart a course into the future: you have strong brands and audience loyalty; superb linkages to your communities; the ability to move quickly into new platforms; access to skilled producers and great creative talent; strong companies with real critical mass; and, for a considerable while yet, the traditional broadcasting programming sectors will remain strong and regulated. In fact if I am correct that the vision of the *Broadcasting Act* will hold for some time to come, you will be looked to to be its vanguard in the digital world.

So, make the most of your strengths, invest for the long term and prepare to offer Canadians irresistible digital services and programs that they can't find elsewhere!

The future of the CAB

Your Association has played a very important role throughout its 80-year history in representing the interests of the broadcasting industry to government, and over the last 38 years to the Commission as well. And it continues to do so under Glenn O'Farrell's agile leadership. Outgoing Chair Rob Braid has been very active and effective, and we warmly welcome incoming Chair Charlotte Bell, who will I'm sure continue the good work.

The CAB has also played an enormously important self-regulatory role, notably through the CBSC, under Ron Cohen's very able and diligent leadership; through the recent Task Force for Cultural Diversity on Television, co-Chaired by Bev Oda, now of course, the Honourable Beverley Oda and Madelaine Ziniak. Both of these initiatives have enhanced Canada's international reputation as a civilized country.

The Association's representational role has clearly become more challenging as the industry has expanded and spawned new sectors; as competitiveness among members and among media has increased; as convergence has resulted in fewer ownership groups competing in more broadcasting sectors and seeking to compete across multiple platforms

Common ground is at times elusive.

And yet there has never been a time when the changes we face have been so dramatic, and the collaboration of all sectors of the industry has been more important;

I would challenge you again to seek – and to find – ways in which you can find common ground, and to help public agencies such as ours to make better decisions than they can ever make without your participation

This may mean acknowledging differences within the industry, and even weaknesses in your case from time to time. In my experience the best advocacy does not duck weaknesses but demonstrates confidence in one's case by actually acknowledging them, even as one highlights one's strengths. The Commission will be facing a

very heavy agenda in the next few years. It will need to address some difficult and complex issues. It will make better decisions with your input than it could without it.

Personal closing thoughts

On that note let me add a personal message

This is my last appearance before you in my current role.

Dealing with members of your industry has always been “interesting”.

In my job, people always seem to want something from you: “licence me, but no over-licensing, please”; or “we love the Commission’s policy on X.....but if you could only change the following parts of it” . . . or; past financial success should not call for new obligations . . . but past financial difficulties should be grounds for regulatory relief.

And that’s understandable. The stakes for broadcasters are high and getting higher – we are in an uncertain world.

I have always believed that to achieve the objectives of the *Broadcasting Act* – to which I committed myself when I took this job - you need a strong and healthy private sector along with a vigorous sustainable public sector. I believe in competition, in incentives, in industry self-regulation. I believe the record of the term that I have been privileged to serve bears out these beliefs. When I took office, I believed our Canadian broadcasting system was the envy of the world. From my international travels, I know this remains the case.

This could not have been done without the private broadcasting industry and the Commission understanding each other, not always agreeing – far from always agreeing – but each continuing to do its best in the face of increasingly challenging realities.

I want to thank you for playing your important part, and for the courtesy and cooperation you've shown me throughout my term.

Thank you. Merci.

