

Internet, Politics, Policy 2010: An Impact Assessment

Policy track: Policy responses to Internet-driven social change including digital inclusion

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Abstract (revised)

Recent years have seen tumultuous change in media markets and technologies as well as audience types and demands, and a "re-convergence" of broadcast and telecommunications technologies and policies (Winseck, 1998). In the hopes that Canada would become a world-leading 'information society' (Industry Canada, 2005), the Canadian federal government applied a neo-liberal determinist approach to technological, economic, social and political policies and programs it designed, and the public-private partnerships it formed (Sarikakis, 2004) to enable that agenda. However, recent studies disagree over whether or not Canada is internationally competitive in broadband access, a necessary component for the growth of the information highway. While the Canadian Radio-television and Telecommunications Commission (CRTC) ranks Canada high among developed nations (June 2009), an external report places Canada in the low-middle range of G8 countries when it comes to accessible and affordable Internet coverage (Benkler et. al., 2010). Limited broadband access means that people country-wide are excluded from Internet-driven social change happening in all sectors of society, including their publicly-funded institutions.

Culture has featured prominently in the discussions about the potential for the Internet as a site of social change, not only as a content creator but also as a transmission mechanism for existing cultural institutions. There has been a solid economic basis for Canada's long tradition of activist cultural policies about traditional media, to ensure inclusiveness regardless of socioeconomic status or location, to provide the public good, and to help cultural industries be more efficient and profitable (Dayton-Johnson, 2002). However, a better critical analysis of the benefits of Internet-based culture for society is needed before policies to protect its development are given precedence over other public needs, such as health care and education (Dayton-Johnson, 2002).

The Canadian Broadcasting Corporation (CBC) is Canada's national public broadcaster, subject to regulations administered by CRTC. The CBC has never met its obligation to provide universal service, regardless of geographic barriers and population distribution, across this vast

country (Government of Canada, 1991); and it has struggled to meet the programming needs and demands of different demographic categories of the population. The broadcaster has been putting substantial resources into converging broadcast and new media services, and justified those expenditures by saying it reaches more Canadians (2009). Radio and television broadcasting has always been under regulation, but the CRTC decided first in 1999 and then again in 2009 to exempt New Media from regulation. To ascertain whether there is adequate policy support for the CBC's aspirations to reach all Canadians by expanding its New Media services, we need a critical analysis of how the CRTC conceptualizes New Media "inclusion" and whether that conception bears any resemblance to the "universality" pillar of public service for traditional broadcast media. If there is inadequate policy support in place as the Harvard study suggests, the goal of the CBC to finally fulfill its public service obligation for universal service will remain out of reach.

Introduction

Canadian broadcasting policy has been built on a public service framework to ensure that Canadians everywhere, regardless of personal demographic characteristics, location or socioeconomic status, receive high quality Canadian media content from their national public broadcaster, the Canadian Broadcasting Corporation (CBC). Recent years have seen tumultuous change in media markets and technologies as well as audience types and demands, and a "re-convergence" of broadcast and telecommunications technologies and policies (Winseck, 1998). A key characteristic of public broadcasting is universal service.

There are solid economic arguments for Canada's long tradition of activist cultural policies, to ensure inclusiveness regardless of socioeconomic status or location, to provide the public good, and to help cultural industries be more efficient and profitable (Dayton-Johnson, 2002). Culture has featured prominently in the discussions about the potential for the Internet as a site of social change, not only as a content creator but also as a transmission mechanism for existing cultural institutions.

Radio and television broadcasting has always been regulated as a public service, and the regulatory process has been characterized by exemplary levels of public involvement (Raboy, 1994). But, in a break with both cultural (Dayton-Johnson, 2002) and communications policy traditions, the public was excluded from the decision process that introduced the Internet to Canada (Barney, 2004). In 1999, after a public consultation, the CRTC issued the *Report on New Media* to answer the concerns of the growing multimedia industry that online content might be expected, at some point, to meet regulations outline in either or both of the *Acts* in such areas as ownership structures, production guidelines and Canadian content quotas (CRTC, 1999). The CRTC concluded that Canadian content online was ample and developing at an acceptable rate, and that new media was not having negative impact on existing broadcasting and telecommunications undertakings. It also concluded that technological limitations would provide a natural protection for television and radio consumption levels. The Internet was differentiated from the designation of a broadcast medium because most of the content was made up of alphanumeric text and the technology to deliver audio and video was

developing slowly. For the instances that content was not alphanumeric text and resembled broadcast content, the CRTC invoked the right to waive regulation.

Information society rhetoric makes bold claims about technology ending limitations and increasing the potential for positive social change. It does not address the limitations imposed by distribution mechanisms that are not available in some areas because the markets are small, are not affordable, or choke content streams.

The goal here is to ascertain if the possibility of universality is above or below the tarmac of the Canadian information highway. Under the themes of *Regulation* and *Inclusion* identified in the literature review, this paper examines old and new media policy as well as what the CBC has been doing with new media, within the context of the Canadian information society. The paper will explore the concept of inclusion as it relates to policy about new media and draw comparisons between it and the concept of universality as it has appeared in traditional public broadcasting, and finally examine how this might have an impact on the CBC's efforts to achieve universal service with new media. Regulation refers to the policy and regulatory framework for broadcasting and telecommunications, administered by the Canadian Radio-television and Telecommunications Commission (CRTC). Cultural policy receives some brief mention as well, but only as it shares the goals of communications policy. Inclusion explores the concept of universality as a principle of public broadcasting, and access with its roots in telecommunications for similarities and differences. To clarify, inclusiveness is a term used most often in CRTC publications when addressing issues around people with disabilities. For the purposes of this paper, I will be using the term 'inclusion' to mean all Canadians in all parts of Canada.

Regulation

Activist cultural and communications policy

As a former British colony and with the United States as a close ally and neighbour, Canadian cultural sovereignty has been a prime motivator for a tradition of activist cultural policies. These were designed to ensure access for the public good and to build support for domestic cultural industries (Dayton-Johnson, 2002). Partly to further the cultural agenda, Canada also has a well-established regulatory tradition for communication technologies. The *Broadcasting Act* (1991) and the *Telecommunications Act* (1993) are the legal statutes that lay out the general rules around communications infrastructure, ownership and content. There are additional laws to deal with specific aspects of the communications industry such as libel, freedom of information, rights, copyright etc. (Lorimer, and Gasher, 2004).

Initially, telecommunications was seen as a 'natural monopoly', so the first regulations were put in place in the 1800s to guard users from potentially exploitative practices by providers. Provincial governments got involved in the telephone business to compensate for market failure, especially in regions where populations were smaller and more rural. Later, recognizing the social value of telecommunications and broadcasting, regulation was seen as necessary to ensure that these technologies were available and affordable for everyone, whether or not they lived in urban centers. The *Telecommunications Act* (1993) provides the legal framework

to govern "... the emission, transmission or reception of intelligence by any wire, cable, radio, optical or other electromagnetic system, or by any similar technical system" (2[1]) for telephone, telegraph, telex, data networks; satellite links for data, telephone and broadcast; the Internet and wireless telecommunications including cellular phones and carriage. The current version of the *Act* provides technological and economic frameworks intended to facilitate the provision of reliable and affordable service, ensure efficiency, build national and international reach, and to protect user privacy. The *Act* states that telecommunications has roles in maintaining Canadian identity, political and economic sovereignty, and research and development. The *Act* also contains rules and specifications for Canadian ownership and control of infrastructure, technological compatibility and revenue sharing. Companies are either 'common carriers', providing transmission services for any and all types of content at reasonable and equitable cost to all senders, or 'contract carriers' who provide tailored transmission services to specific companies and individuals. In both cases, the carriers are not to tamper with or generate content.

The *Broadcasting Act* (1991) recognizes that broadcasting is a type of telecommunications, but treats radio, television, cable television, pay television, and specialty television individually, because broadcasters are legally responsible for content, even if it is purchased from a third party. According to the *Act*, the broadcasting system as a whole must be owned and operated by Canadians, provide service in both official languages to preserve and strengthen the "... cultural, political, social and economic fabric of Canada" (Government of Canada, 1991, p. 3). The system must be adaptable to scientific and technological change, promote Canadian programming, use Canadian resources, and make a high-quality product that is reflective of the Canadian population and experience. Part III of the *Act* is the mandate for the Canadian Broadcasting Corporation (CBC), the national public broadcaster that is a creator of Canadian culture that fulfills a range of public service criteria, and a purveyor of radio, television and online content to as many Canadians as possible. While universality is not specified in the mandate of the CBC, it is internationally recognized as one of the four distinguishing characteristics or "pillars" of a public broadcaster¹ (Rumphorst, 1999; World Radio and Television Council and CBC for UNESCO, 2000), and has been accepted by the organization itself as a central responsibility (Chalmers, 2007). The mandate implies universality, but stipulates that "... the programming provided by the Corporation should be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose" 3. (1) (m) (vii).

Universality in the context of public broadcasting has a dual meaning because the term implies both technical and societal coverage. Technically, the broadcaster's signal is expected to reach, ideally, every household of the entire population of the region or country. In this way, broadcasting resembles other public services such as water, gas, electricity, telephony and public transport. For the second meaning, the public broadcaster must be able to provide relevant content for all groups and sections of society--no matter what their economic status, demographic characteristics or interests--and at the same time reach society as a whole. This

¹ The other three pillars are independence, diversity and distinctiveness.

has been the rationalization for generalist programming schedules because while it is impossible to please everybody all the time, at least the public broadcaster had a chance of appealing to some of the people at certain times with a generalist schedule (Rumphorst, 1999).

Universality is not only a key feature of public broadcasting, it is a feature of public services in general. In a capitalist economy, public services are generally delivered, either wholly or with private partners, by public institutions and organizations. Implicitly, these institutions and practices are to operate with a mandate to perform a service that is beneficial and does not cause harm. They also should not interfere in the market economy, but instead fill the gaps that the market can or does not provide, to supply basic resources for individual development and participation in society. There are varying degrees of access to these services since they can be provided to everyone, everywhere, at the same cost, or administered based on measurement of individual need or achievement. Different types of public services fulfill different needs, from systems designed to ensure long-term stability to episodic interventions in response to particular situations.

Mosco treats universality as a more profound issue than simply ensuring that everyone has access to the most recent technological tool (in Winseck, 1998). He explains how issues of access need to be separated from social and economic inequalities that limit peoples' ability to engage with, and shape, both old and new forms of communication. Dayton-Thomas points out that access alone is not sufficient to ensure that all members of society will partake equally in domestic cultural activities because there are intervening factors (2002). In both cases, universal access is a necessary component of public policy to ensure that everyone has an opportunity for access to communications and culture-whether or not they take advantage of it. Universality is necessary for the health of a culture (Dayton-Johnson, 2002), and central to the public good for citizenship and democracy (Mosco in Winseck, 1998).

Lorimer and Gasher (2004) identify the biggest communications policy shift in recent years as a change to the meaning of *access*. Since the mid-1930's access has referred to signal coverage, and policy was used to ensure that the entire country was covered either by private or public radio and television. When universal coverage was almost achieved in the 1960's, access began to mean the inclusion of Canadians in content through representation, as well as in creation and production. Canadian content rules were introduced as well as funding mechanisms to support the production of Canadian stories (2004). Universal access is not a guarantee that the public will take advantage of the public broadcasters' services, but it does provide the opportunity for citizens to engage with and experience, critique, debate and create what it means to be Canadian.

The Canadian information society

In the 1970's, federal reform of broadcast and telecommunications legislation and a restructured economy created an environment that fostered the growth of new technologies (Rideout, 2003). Winseck (1998) identifies two distinct stages of telecom policy reform; the first ran from the 1970's to the 1990s and was led by large business groups looking for more

service at lower cost. It is usually referred to as a period of “deregulation” (erroneously as per Winseck) and “regulatory liberalization” during which telecommunication providers underwent extensive internal change. The second stage in the 1990’s was led by these transformed telecommunications providers, with the help of the computer industry and the Canadian government, to change regulations, institutional relationships and technologies across the spectrum of the communications industry.

These regulatory changes were in support of the Canadian government’s efforts to make Canada a world-leading ‘information society’ (Industry Canada, 2005). The federal government had committed to a competitive information and knowledge-based economy, and exerted considerable effort to reduce or remove regulatory controls or levies on private enterprise, as well as sell off crown services to private companies. External pressure came continental and intercontinental trade consortiums, which directly challenged national regulation that applied any controls on competition, foreign investment etc. In 1989, Canada’s Supreme Court ruled that all major telephone and telecommunications companies fell under federal jurisdiction because their networks did not stop at provincial borders, which set up the federal government nicely to usher in the Internet when it was time.

It is important to note that the promise of new information and communication technology to enhance democratic participation has not been realized either at the policy design phase or the user end. The creation of the Canadian information economy happened as an outcome of government and industry consultations. Barney (2004) describes the democratic deficit inherent in the process of introducing the Internet to Canada, and how the historical expectation for public input into policy and regulation was betrayed when the federal Department of Industry Canada took the lead on digital infrastructure in 1993. The Canadian Network for the Advancement of Research, Industry and Education (CANARIE) was established to build and administer the Internet backbone. The Information Highway Advisory Council (IHAC) was set up to provide advice to the federal government on a comprehensive policy strategy for a national digital communications infrastructure. The National Broadband Task Force (NBTF) focused on broadband-related issues. There was no public consultation in the formation of any of these organizations, all of which had majority representation from telecommunication stakeholders, and none held public hearings but instead met behind closed doors to develop their recommendations to government. Not surprisingly, they recommended that the private sector should lead development and operation of networks and services, that government should facilitate development and encourage public adoption, and any policies would be to support competition (Barney, 2004).

In 1994, the telecommunications market was opened up to competition because the infrastructure had more potential than was being offered to customers and there was collusion between the incumbents; bulk resellers on the market could offer better service and rates to the public (Telecom Decision 94-19, September 1994). Instead of competing for existing telephone markets, the telephone and cable companies focused their efforts on developing the Internet. By 1997, the federal Speech from the Throne was promising that Canada would become the most connected country in the world, and a leader in ICT development and use.

Social benefits such as cultural identity and sovereignty, lifelong education, employment, as well as e-government and the economy, would all benefit from information technology and innovation.

The government played a key role promoting and championing the information highway to encourage consumer interest and thereby build a mass consumer market for the private technology sector (Birdsall, 2000). Federal programs like the Community Learning Network (CLN), Community Access Program (CAP), SchoolNet, First Nation SchoolNet, Computers in Schools and VolNet were run by different federal departments. These programs were rolled out across the country to provide access to members of the public who were on the wrong side of the digital divide and were not able to get online, and maybe attract some from that subsection of non-users, the dual digital divide, who were just not interested (Reddick, 2000). The programs had some success introducing Canadians to the Internet, but their technical focus rarely addressed social and community needs, and they were implemented with limited funding and terms of operation so as to be unsustainable (Rideout, 2003). If CAP site users still wanted to get online after the CAP site closed, they would have to buy their own computers and internet connections.

Since 1998, Canada has developed one of most liberal licensing environments anywhere with open market entry in all areas of the telecommunications sector. There are no entry procedures, registration or regulatory obligations for Internet Service Providers (ISPs) that do not own or operate transmission facilities. Standards for foreign ownership and board composition have relaxed, and there are no such restrictions on resellers who do not own facilities. Basic telephone service and the ability to access the Internet at local rates have been identified as universal services, but the CRTC did not do the same for broadband, even though to do so would facilitate deployment (Lie, 2003, p. 27). This is not to suggest that there has been no regulation of the internet-market forces have regulated the internet for the benefit of business, so the Internet has come to resemble a traditional media form, except that it has escaped public service expectations that apply to traditional broadcast media (Reddick, 2003).

Theoretical framework

Critical communications research has consistently shown that changes to communication policy frameworks are not simply reactions to technological innovation; they are based on political and ideological decisions (Abromson and Raboy, 1999) about how technology is organized, who owns it, how it is used and who controls it (Winseck, 1998). Macpherson's neo-pluralist analysis of power, government legitimacy and its relationship with industry (Macpherson, 1977, 1987) helps to explain the "onset" of the Canadian information society by directing attention to the form, function, processes and institutions of government policy (Macpherson, 1987, p. 56). Public service policy, for example, has been a tool the government could use to balance political, economic, technological and social forces. Successive Canadian federal governments of different political stripes have been shifting public responsibilities on to the populace over the past thirty years. It is the adoption of a technologically determinist neo-liberal philosophy, rather than partisan politics that has caused the policy shift to favour market forces over public service.

Neo-pluralist theory helps to explain how public service policy is influenced by a number of different situational, systemic and structural forces, as well as different actors. The government is not simply a mechanism for communication and arbitration between groups to resolve conflicting interests as it is conceived in pluralist theory. Nor is it just the tool of economic or elite interests as portrayed in class and managerial state theories (Alford and Friedland, 1985). The Canadian state has interests of its own, identified by Mosco as the utopian vision of information and communication technologies (ICT) about what they can do for a country, a people, and an economy (2004). Each new technology is seen as a force to bring about the “ends” of history, geography and politics, and provide the way forward to a new society. The sublime aspect is the mythology that spurs on the enthusiastic adoption of any technology is the hope that it will change fundamental human problems; these could be to eliminate the constraints of time and geography and transform politics to an accountable, transparent and direct format with power based in networks around issues rather than in partisan interests. The mythology has become the foundation of communication policy, and the belief that government regulation would become unnecessary as ICT reorganizes relationships between citizens, the state and the new “information economy”. Market determination of the applications and uses of ICTs are seen as the most efficient way to achieve instant universal access (2004).

However, because what goes on in a liberal democratic society is also affected by factors such as class distinctions, social movements, culture, politics, business interests and agency (Macpherson, 1987, p. 54), it is important to consider how uneven power distribution in society affects the levels of agency and influence for different actors (Macpherson, 1987, p. 54). For this example, government departments, regulatory agencies, the private sector, cultural groups and the public broadcaster have different levels of influence, at different times, over communications policy. The myths that Mosco writes about conceal a banal truth: a communication technology is only as good as its content and accessibility, and if the powers that run it are “the powers that be” (such as transnational corporations) then existing power relations will stay the same and no real social transformation will occur (2003). The utopian vision can not account for the banalities of dishonest business practices or inflationary economics, or any of the other many factors that brought about the dot-com bust.

Following Mosoc’s lead, *universality* is conceptualized as placing the onus on the provider to get content out to everyone, regardless of who or where they are, whereas *access* places the onus on the user and his or her ability to pay--and keep on paying--for the means to consume content. This key difference between the two is the level of *inclusion* in the Canadian information society.

Research questions

In the fall of 2009, the Berkman Centre for Internet and Society at Harvard University released a draft of a study comparing the status of adoption and policy of Internet-related technologies around the world. The report disagreed with the CRTC claim that Canada is a broadband leader among G7 nations, and actually concluded that Canada had some of the slowest and

most expensive Internet access in the developed world (2009). Limited broadband access means that people country-wide are excluded from Internet-driven social change that is supposed to be happening in all sectors of the information society, including their publicly-funded institutions like the CBC.

If universality and access have similar public service objectives and are equally inclusive, then there is a greater chance that new media can meet the public service goals of the *Broadcasting Act* (1991) in the current exempt environment. However, if these concepts do not share the same vision of inclusion of the Canadian public, is it really possible to meet those public service goals without regulation? And if that is the case, where does that leave the CBC in its efforts to expand its online service in the quest of providing universal service?

Research method

While this paper does not use a grounded theory approach, the research questions about universality, access and inclusion arose from preliminary NVivo analysis of interviews collected for my dissertation (working title: Canadian Public Service Broadcasting in the Information Age). The data used in this paper includes analysis of relevant CRTC documentation (i.e. research and policy about new media) and is informed by some input from interviewees about the CBC. The limitations of this study are that it is exploratory and relies almost exclusively on document analysis, without corroboration from other resources, and that the data collection did not directly address these research questions. Thesis research protocols were approved by UNB Research Ethics Board.

Regulation

The Regulator and New Media

The Canadian Radio-television and Telecommunications Commission (CRTC) is the independent, national regulatory agency that operates at arms length from government to enforce the statutes, regulatory framework and licensing for broadcasting and telecommunications undertakings. It also sets standards and measures to ensure that goals of both *Acts* are met. It works with industry stakeholders and public hearings feature as part of its regulatory, research and license renewal procedures.

The CRTC had limited input in the introduction of the Internet to Canada, but since any of its decisions could be overturned by Industry Canada, it was not likely to counter the neo-liberal agenda of the federal government (Barney, 2004). If new media met any of the criteria in either the *Telecommunications* or *Broadcasting Acts*, the CRTC would be expected to enforce regulations to ensure the industry and content met and fulfilled the goals of those *Acts*. In 1999, after running a nation-wide public consultation to assess the need, the CRTC issued *The Report on New Media* to answer the concerns of the growing multimedia industry that ownership, production guidelines and Canadian content quotas from the *Acts* might be applied to the industry. In the report, most of the analysis dealt with whether online content fell under the *Broadcasting Act*. In fact, the only mention of the *Telecommunications Act* is that the CRTC promised to explain its regulatory approach to competitive high speed rates and terms

of service between providers (p. 3). The report outlined the issues and then provided the rationalization for the decision by the CRTC to exempt new media from regulation.

The public consultation was called to answer four questions:

- a) *In what ways, and to what extent, do new media affect, or are they likely to affect the broadcasting and telecommunications undertakings now regulated by the Commission?*
- b) *In what ways, and to what extent, are some or any of the new media either broadcasting or telecommunications services?*
- c) *To the extent that any of the new media are broadcasting or telecommunications, to what extent should the Commission regulate and supervise them pursuant to the Broadcasting Act and the Telecommunications Act?*
- d) *Do the new media raise any other broad policy issues of national interest? (CRTC, 1999, p. 6)*

The CRTC received 1000 written submissions and heard over 100 verbal presentations from companies and individuals both for and against applying either the *Broadcasting* or *Telecommunications Act* requirements to new media. The thirty-page report begins with an executive summary of the decision, and after a brief introduction that outlines the hearing and decision process, continues with numbered paragraphs to outline the attributes of new media (12-25), the approach of the CRTC to new media (26-59), Canadian presence in new media (60-89), how it was affecting traditional media and telecommunications (90-116), and finally offensive and illegal content (117-124). Two appendices provided a (dateless) pyramidal "chronology" of regulatory and policy initiatives that predated the report and a glossary of terms.

For the first question, the CRTC did not perceive a significant detrimental impact of new media on either the audience share or revenue streams of conventional broadcasting bodies or telecommunications services (#104). Broadcasters told the CRTC that their websites were useful for cross-promoting traditional broadcast services and providing popular additional regional and local content (#70). The threat of the Internet replacing traditional radio and television broadcasting was not seen as imminent, both for technological reasons and by virtue of the status of the Internet as 'new'. The report suggests that technological limitations would naturally curtail the number of on-line users and therefore, Internet usage would not cut into television-viewing or radio-listening time (CRTC, May 17, 1999, p. 2). Technology that would allow for broadcasting on-line was not predicted for another seven (#95), or possibly ten years (#94). At the time of the report, less than a decade had passed since the introduction of the internet to the public, and penetration was around 20 per cent, which was considerably less than radio and television with their respective 100 and 50 year histories (#93).

The root of the question about the "impact" of the internet on conventional broadcasters was whether it posed any threat to their revenue streams. Loss of audience share and advertising revenue, directly and indirectly, due to electronic commerce was dismissed. Radio and television advertising revenues had risen steadily since the early 1990's, so new media was not

seen to have had an impact on those. While radio use was stable, television viewing had declined by about 1.7 hours/week since 1986 (#103), but the reasons for the decline were complex, so the CRTC was not convinced that new media " . . . have thus far had a significant and detrimental impact on traditional media audiences' (CRTC, May 17, 1999, p. 20). The CRTC concluded that the Internet had not cut into advertising revenues, and suggested that the increased efficiencies that came along with new media's capability for direct and selective advertising might even enhance revenues (#107) for conventional broadcasters.

The report concluded that the Internet was likely to remain complementary, rather than replace radio and television, due to " . . . the cost of exhibition devices, the general appeal of the service offerings, customers' willingness to pay, as well as PC and Internet access penetration rates" (#96). The Internet might co-exist with television and radio, perhaps never posing a direct threat, because it could evolve in a completely different and unpredictable direction (#97), and thereby follow the established pattern in communications history that new media supplements, rather than replaces, older media (#82).

One benefit of new media was increased exposure to niche groups and communities under-represented in mainstream media. It was doubtful, however, that the Internet would create "mass audiences" in the same way as television or radio because "... the sheer number of "channels" offered by the Internet would always result in fragmentation" (#87). If the Internet ever did replace television and radio, the economic model for broadcasting would not be applicable so a different business model would have to be developed (#83). The report outlines three online business models to generate revenue, with advertising and transaction-based sites seen to have more success than subscription sites (#98). It was noted that established media firms with sizeable infrastructure and stores of content that can be re-purposed had a competitive advantage over new entrants to the Internet market (#99).

To help answer the next two questions, the CRTC distinguished new media from broadcasting or telecommunications undertakings with a technical argument. New media was not broadcasting because of its use of "... digitization, interactivity and interconnected networks" (p. 5), such as the Internet. Acknowledging that new media can be received and used either by computer or a television, the report goes on to describe it as

... encompassing, singly or in combination, and whether interactive or not, services and products that make use of video, audio, graphics and alphanumeric text; and involving, along with other, more traditional means of distribution, digital delivery over networks interconnected on a local or global scale (CRTC, 1999, p. 5).

Simply put, the Internet is described as a delivery system made up of various distribution networks for digital content that can include pictures and sound. The *Report on New Media* also describes on-line content as made up predominantly of alphanumeric text, notes that content can be customized and that the technology to deliver audio and video elements was developing slowly (CRTC, 1999, #22).

"Broadcasting", on the other hand, is defined in section two of the *Act* (1991) and involves sending signals such as:

. . .any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place (Government of Canada, 1991).

Differentiating between online and broadcast centred on the definition of "programs" in the *Broadcasting Act* as:

" . . .sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text"
(Government of Canada, 1991, Section 2, p. 2).

In 1999 one could have argued that the audio and video clips that had been available on the main CBC site since 1996 could be described as "programs", but they were a still only a very small part of a predominantly text-based site. Alphanumeric text was outside the scope of the *Broadcasting Act*, as were the more interactive components, like merchandise sales, chat rooms, and any kind of forum that could be personalized or customized by the user.

The CRTC turned to market analysis to answer the third question, which acknowledged that some new media did fulfill the criteria of a 'program' or 'broadcasting' as described in the *Act* (1991), and asked to what extent the Commission should regulate and supervise that content (CRTC, 1999, p. 4). From submissions to the hearings, the impression was that there were an adequate number of Canadian search engines on-line that would guide users to Canadian sites. There were also four factors that contributed to a "...strong Canadian presence":

- (1) *the impressive number of Canadian web sites that exist;*
- (2) *key partnerships that have developed between some ISPs and Canadian content creators for the specific purpose of generating a supply of Canadian content;*
- (3) *the expansion of many traditional Canadian media businesses to the Internet; and*
- (4) *the search tools available that make it easier to locate Canadian content on the Internet* (CRTC, May 17, 1999, p. 14).

It was felt that current federal, provincial and private funding provided valuable core funding for adequate amounts of Canadian content on-line as well as growth in the industry and there was sufficient expertise in the Canadian marketplace for on-line success. One confusing passages in the report, that "...Canadian websites represent about 5 per cent of all Internet websites" was followed by "French-language content represents about 5 per cent of total Internet content" (CRTC, May 17, 1999, p. 7), but provided neither the criteria nor the measurement methods used to identify Canadian sites. A levy system to fund new production was not seen to be necessary, and might damage sector growth (#21), so "... the Commission does not consider that it needs to impose any regulatory measures to support the development, production, promotion and distribution of Canadian new media content and services" (CRTC, May 17, 1999, p. 18).

In answer to concerns about ensuring that Canadian new media content was high quality, the CRTC concluded that in the public and private sectors, "... enough was being done" (CRTC, May 17, 1999, p. 16) and that "... market forces alone will continue to provide an adequate

supply of Canadian content" (CRTC, May 17, 1999, p. 15). The CRTC did not see a valid argument for getting involved in regulation of spectrum or bandwidth control, since these are not facing the same restrictions as traditional broadcast technologies; the efforts of the marketplace and government were deemed sufficient to develop these technologies (CRTC, May 17, 1999, p. 7).

Finally, in answer to the last question, the report does include some interesting broad policy issues of national interest raised by new media (CRTC, p. 4). The report noted that there was disagreement over the level of potential threat from on-line gatekeepers who might control and charge for connections with portals or search engines. Offensive content, like other alphanumeric text, fell outside the jurisdiction of the CRTC, and the industry was left to self-regulate on that and similar issues (CRTC, p. 3).

The explanation for the CRTC decision not to regulate the Internet was based on the belief that doing so would neither further the goals of the Broadcasting Act, nor would it enhance the development of the new media industry, and so the CRTC issued an exemption:

51. Accordingly, the Commission will issue a proposed exemption order without terms or conditions in respect of all undertakings that are providing broadcasting services over the Internet, in whole or in part, in Canada (CRTC, May 17, 1999, p. 11).

But by leaving the decision open to re-visitation "...in the near future" (CRTC, May 17, 1999, p. 13), the CRTC was clearly in a 'wait and see' mode.

On the 17, December 1999, the official "Exemption order for new media broadcasting undertakings, Public Notice CRTC 1999-197" was issued exempting those undertakings operating in Canada from any and all regulation, without terms or conditions, or licensing requirements. The CRTC acknowledged the rapid rate of change in the new media market but would not shorten the standard review period (as per a suggestion from the public hearing process) from five years to less in order, for fear it might create market uncertainty and stifle growth. The exemption used a slightly different description of a new media broadcasting undertaking as providing broadcasting services that are delivered and accessed over the internet, which brought it more in line with the definition of "broadcasting" under the *Act* (17 December 1999).

In 2003, internet retransmission of specialty services, broadcasting content and any internet-based program undertakings were excluded (Broadcasting Public Notice 2003-2). The consensus was that there was no way to prevent unauthorized retransmission, but networks with sufficient technological control would be left to try to stop them once they started. Bandwidth penetration was not sufficient at this time to enable video transmission and reception, and because ISPs were talking about using bandwidth caps in an effort to control their expenses, it was felt that retransmission would not achieve wide-spread commercial success. In 2006, the mobile television services came under review and in 2007, they too were added to the list of exempt services (CRTC 2007-13) because they were both delivered and received online.

In December 2006, the CRTC issued the *Report on the Future Environment Facing the Canadian Broadcasting System: A Report Prepared Pursuant to Section 15 of the Broadcasting Act* (14 December 2006) in response to a Governor in Council's order to create a factual record for the government so it would be better able to form policy around Canadian broadcasting. The report provided a picture of current services and offered predictions about how they might evolve, as well as recommendations about what public policy would be needed in the next three to seven years. It outlined technological developments, trends, stakeholder and audience research and trends, provided some international comparisons and identified some key challenges. These included fragmentation, copyright, audience measurement and media buying, scheduling and bundling.

The *New Media Project Initiative* (<http://www.crtc.gc.ca/eng/media/media3.htm>) ran from 2007 to 2008, collecting and compiling research from stakeholders about technological, economic and cultural issues associated with broadcasting in new media. It was intended to build on the *Report on the Future Environment* from 2006 and provide a basis for policy development. Views and research were solicited and collected from stakeholders in the broadcasting and telecommunications industries, national and international level policy-makers, consultants and academics, as well as an in-person and online public consultation. The results were published in the report *Perspectives on Canadian Broadcasting in New Media*, (June 2008). The report began with a historical background and summary of issues, provided an overview of the new media landscape including broadband adoption, the speed requirements of new media, changes to patterns of media consumption, audio and video content online, mobile, technology enablers and business models. The third section dealt with issues for Canadian new media broadcasting content and access. On the consumption side of the equation, the picture was positive: High-speed Internet service, available to 93% of Canadian households had been adopted by over 60%. Canadian consumers were happy adopters of both fixed and mobile devices, and were spending more time accessing broadcasting content, and high-quality broadcasting content was now available. Technological innovations like geolocation, deep packet inspection (DPI) and digital watermarking were enabling new media expansion, and business models were evolving to develop multiple ways to generate revenue. Funding mechanisms existed with Broadcast Distribution Undertakings (BDUs) contributing a portion of revenue to the Canadian Television Fund, radio stations channeling money through Canadian content development (CCD) and with independent production funds², while advertising revenue growing steadily.

The main issues identified in the report were how to define new media broadcasting so it was wide enough to accurately encompass the full range of activities and mechanisms of delivery

² #140. Independent production funds and approximate amounts (<http://www.crtc.gc.ca/eng/media/rp080515.htm#s2g>):

- Bell Broadcast and New Media Fund (\$10 million annually);
- Telefilm Canada's Canada New Media Fund (\$14.5 million annually);
- OMDC Interactive Digital Media Fund (\$870,000 in 07/08);
- Canadian Film Centre's Telus Innovation Fund (\$300,000 annually); and
- Fonds Québecor (\$3.5 million annually).

and access, but not so wide that it would include activities that clearly fall outside the Broadcasting Act (#32). Cultural groups and producers had long been asserting the need for increased support for producing and promoting content, while other stakeholders argued that the existing mechanisms were sufficient and the exemption order enabled diversity and innovation (#34, 35); and the CBC was identified as a creator, promoter and distributor of high value content (#36). Content providers raised concerns about the suggestion from ISPs that traffic shaping techniques would become necessary to manage capacity (#37); stakeholders pointed to the need for copyright amendment, more direct government subsidy and Income tax amendments (#38); and privacy and accessibility issues were identified as outside the scope of the document (#39).

During the *New Media Project Initiative* stakeholders disagreed over the necessity of regulatory intervention to support Canadian new media broadcasting content (#153). The level of innovation and uptake by Canadians in an unregulated environment was cited as proof that that regulation was unnecessary (#154). ISPs opposed subsidy programs and argued that regulation would inhibit their ability to be competitive and expand (#155). Broadcasters and content providers favored regulation to provide support and incentives, but suggested that the traditional restrictive licensing models would not work (#156) and there was a need for reforming regulatory frameworks to adapt to the new marketplace and audience fragmentation (#157). Cultural groups were concerned that without regulatory intervention funding, exhibition, promotion and consumption of quality Canadian content would be limited (#159). Stakeholders expressed concern about access issues like network capacity, traffic shaping, quality of service and access to mobile platforms (#160).

The report explored different avenues of support and ended with a list of three general funding mechanisms proposed by stakeholders: new or increased direct subsidy programs run by government, a mandatory regime for contributions from ISPs like the broadcasting model, or introducing different forms of expenditure incentives (#186). The national broadcaster received some praise for its international recognition as a leader in innovative new media broadcasting content that was attracting audiences, and its move toward a multi-platform integrated content creation model (#208). This section ended with the expectation that success would continue, and the suggestion from cultural groups that more funding would help (#209).

Section C., entitled "Access to new media broadcasting content" explained how in 1999, the CRTC forbore to exercise rate regulation of retail Internet services (Telecom Order 99-592, 25 June 1999), even though retail internet service is a telecommunication service, and it fits with the *Telecommunications Act* and therefore comes under the jurisdiction of the CRTC. Even so, the CRTC retained power to provide safeguards against carriers using discrimination or undue preference. Most households at the time only had access to dial-up, but since then, broadband availability had become available to 93% of Canadian households (#215). Growth of the internet has increased demand (#216-217) and sparked international conversation about network infrastructure capacity and revenue sources for upgrading them (#218). Online video and network traffic was expected to continue growing, and networks needed upgrading

(#219). The fact that ISPs were already managing traffic by offering tiered services was seen to demonstrate that high speed was ‘migrating towards a usage-pay model’ (#221). ISPs warned that the cost of infrastructure upgrades would be passed on to consumers unless they were able to establish priority services (#223). Stakeholders expressed concern that priority services would impose barriers to entry and negatively impact content and application innovations, as well as give preferred service to larger firms with deeper pockets over smaller ones (#224). ISPs promised to behave and not favour affiliates with preferred service (#225). ISPs had been using traffic throttling techniques since 2005 for P2P traffic, and broadcasting and consumer groups expressed concern that legitimate Canadian new media content was being negatively affected (#226). They also accused ISPs of non disclosure of business practices about levels of service for consumers and how that affected their ability to access broadcast content (#227). The Commission recognized that it had recourse under subsection 27 (2) of the Telecommunications Act to deal with ISPs throttling practices but did not clearly state that it would use it (#229). Finally, there were questions about access to mobile platforms, because some mobile service providers were acting as gatekeepers; stakeholders argued for a CRTC role in ensuring access to wireless platforms so content providers could get their work out to the public (#230).

At the conclusion of the report, the CRTC noted the dramatic change in 10 years since the Exemption order went into effect (#231-232) and acknowledged that its review of the order generated polarized reactions from stakeholders (#234). The Commission concluded that it was necessary to review new media and revise the exemption orders if necessary. The review would have to determine if the new media broadcasting environment was achieving the goals of the Broadcasting Act, if it would continue to do so, and to include public discussion (#235). The CRTC was careful to point out that it did not align itself with any of the suggestions from stakeholders in the *Perspectives* report.

The CRTC started the process of reviewing the exemption order in October of 2008 after soliciting comments to define the parameters of the proceeding (CRTC 2008-44, 15 May 2008). Public hearings proceeding (CRTC 2008-11, 15 October 2008) were to address six main themes: to define broadcasting in new media, identify the significance of it and its impact on the Canadian broadcasting system, ascertain whether it was necessary or desirable to use regulation for the creation or promotion of Canadian new media broadcast content, address access concerns, identify broadcast or public policy goals, and assess whether or not the exemption orders were still appropriate.

The Commission received over 150 comments and over 70 final submissions in response to the notice, and heard from over 50 parties at the hearings. The *Review of broadcasting in new media* (CRTC 2009-329) provided a summary and a concurring opinion from Commissioner Timothy Denton (revised 8, July 2009) that described the limitations the *Broadcasting Act* when dealing with a rapidly changing technological environment and the potential danger to freedom of speech online, as well as how difficult it is for the CRTC to do its work.

The CRTC firmly places the review of the exemption order in terms of whether or not it will contribute to capitalizing on the platform and help define an appropriate business model. The new National Commercial Agreement between the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and advertisers allowed for experimentation with less expensive new media commercials was seen as a positive step toward generating revenue for new media, by new media. There were also problems with digital and distribution rights that were impeding the distribution of Canadian content online, and the Commission left it to the broadcasting and production sectors to develop frameworks to negotiate ownership and terms of digital rights (#25).

In the exemption order, "new media" described not only the content, but also the method by which services were delivered and the way those services were received, whether over the internet or using point-to-point technology with mobile devices (#27-30). In this review, the CRTC expanded the definition--in the face of some resistance--to "new media broadcasting" (#31)0. It reaffirmed that it has no intention of regulating the new media creations of individual citizens (#32). Because television delivered to mobile devices had been included in the exemption order, the CRTC had the option to either add online audio undertakings to the exemption order, or dismiss the relevance in maintaining the distinction between audio and video content and thereby extend the exemption to any and all forms of media in one fell swoop. It opted for the latter, which necessitated expanding the description of the content from *new media* to *new media broadcasting* "... to encompass all undertakings that provide broadcasting services either delivered and accessed over the Internet or delivered using point-to-point technology and received by way of mobile devices" (#33).

Cultural groups had been lobbying for a fund to help support the production and promotion of new media content, either with monies that came directly from the Government of Canada (#39) or collected from ISPs and wireless service providers (SWPs) (#34-37). The ISPs countered that they were not subject to the Act and therefore the Commission had no jurisdiction to impose a levy on their revenue (#38). The CRTC did not see adequate evidence to support a new media fund (#40) and maintained the stance that a levy would be damaging to the industry (#41). The Commission acknowledged that monitoring and measuring the new media industry would be increasingly important (52) and promised to initiate a process to figure out how to do that (#55). The Commission also pointed out the need to address vertically integrated companies with service provision and content creation interests to guard against undue preference (#59). The Commission initiated a reference to the court to decide if the Broadcasting Act was applicable to ISPs (#70) and threw its support behind the call by the National Film Board (NFB) for a national digital strategy to foster Canadian industry and help it compete globally (#71-73) and the Library and Archives Canada (LAC) for a national strategy to strengthen content, ensure preservation, maximize access and use of Canadian information assets, accumulate knowledge, and foster both intellectual and creative endeavors (#75). A strategy was seen to help resolves issues around "...taxation, copyright, privacy, spectrum management, and convergence of broadcasting and telecommunications industries ... " (#76).

The exemption continues

The result of the 2009 decision extended the 1999 exemption for online and mobile new media from regulation, with the addition of a call for the development of a national digital strategy. Regulatory intervention for broadcasting in new media was not seen as necessary for five reasons. The first was because it continued to complement the traditional broadcast system, and regulation might stifle innovation. Secondly, the CRTC was still not convinced that intervention was needed to stimulate the creation or presentation of Canadian new media broadcasting content. Recognizing that new media developments happens rapidly, the CRTC's third point was to move up the next review to five years and implement a reporting process for new media broadcasting services. Fourth, the Commission turned to the Federal Court system to interpret the legislation and clarify whether or not the *Broadcasting Act* (1991) applies to Internet Service Providers (ISPs) when they provide broadcasting content. The final reason was that the limited mandate of the CRTC under the *Broadcasting Act* curtailed its ability to conduct a more full examination of the new media phenomenon.

Most recently, the CRTC released a report called *Navigating Convergence: Charting Canadian Communications Change and Regulatory Implications Convergence Policy, Policy Development and Research* (February, 2010). Of interest for this work are the challenges to the existing regulatory framework and particular issues that are identified as needing attention sooner rather than later. The two themes of fragmentation and consolidation emerged in the CRTC's research into how digitization and convergence are driving change both in and outside broadcast and telecommunication systems. With convergence, existing distribution networks have increased in value because the same network can deliver multiple services, but neither the existing infrastructure nor the existing regulatory regime may be what is needed for future growth.

Internet use is cutting into conventional television and radio consumption, and having an impact on advertising revenue, at the same time as broadcasters and distributors are moving online. The CRTC sees a role for public broadcasting to play on an international level:

229. Finally, to better compete in a global, digital environment, Canadians need the ability to actively participate in the creation and presentation of, and see themselves reflected in, Canadian stories. A world-leading broadband network infrastructure is not an end in itself. The "pipes" are only useful inasmuch they are used to deliver services, applications and content to Canadians. It will be necessary to ensure that Canadians can contribute to and see themselves in stories that are accessible on multiple digital platforms, whether from private, public or community sectors. The role of the public broadcasters in this environment will be a key consideration.

230. Strengthening and promoting Canadian content, services and applications in a global digital environment will enhance Canada's position in a global digital information economy.

Digital divide issues are quite relevant in Canada still, according to the CRTC's own *Communications Monitoring Report 2009* which shows that while 93% of Canadian households have access to broadband service, almost all of them are in urban centres, while only 81% of rural households have access. While a national digital strategy is outside its jurisdiction, the CRTC recognizes that market forces are neither extending affordable broadband access into rural and remote parts of Canada nor ensuring affordable broadband access for lower-income Canadians and suggests that regulatory approaches could be considered. There is a significant difference between Internet and broadband access as well as computer ownership between the highest and lower income level households. These issues will likely worsen with network upgrades and the move to digital television, which will happen in population-dense centres before it reaches rural or remote users (#178). Competition, copyright policies, taxation, privacy, industry convergence, piracy, striking the right balance between regulatory and market controls for differently sizes and types of stakeholders, and spectrum management are some of the inherent challenges, so the CRTC would have to work closely with government departments Heritage and Industry to develop a holistic strategy.

The Public Broadcaster and New Media

Recent years have seen tumultuous change in media markets and technologies as well as audience types and demands, and a "re-convergence" of broadcast and telecommunications technologies and policies (Winseck, 1998). Since the introduction of the Internet and later the World-wide Web, media organizations have had different rates of success building an online presence into their service offerings. One of the earliest success stories was the CBC. Canada's national public broadcaster services include over-the air, cable and satellite television and radio content as well as Internet-based services in English, French and eight aboriginal languages as well as Radio Canada International (RCI) in seven languages. Additional specialty channels are available by subscription for English and French television drama, comedy, sports and documentaries. Internet services include online radio in both official languages, and an integrated corporate web site tailored to regions that acts as a portal to all of the programming, provides corporate information, new media including interactive content, archives, and streaming audio and video.

The CBC ventured online in 1993 with a digital radio program distribution service as part of an experiment conducted by the Communications Research Centre (CRC). Programs were digitized and distributed using Gopher, FTP and the World Wide Web, and analysis of the traffic logs showed a keen interest in the service, so the CBC decided to adopt the trial and stay online but it was unclear who inside the corporation would take control. It was also not clear what the real potential was for this new service in a time when there were very few computers equipped with dial-up access, even within the CBC. The Information Technology (IT) department at the CBC was primarily responsible for internal network, hardware and software. RadioWorks, a service designed to supply audience requests for transcripts and tapes of programming, saw the potential for e-commerce opportunities, but there were complex technical challenges in changing how programs were made and stored, as well as legal issues around copyright and royalties. The Communications department also recognized some promotional and marketing potential with this new avenue when the IT department

added some corporate and programming information, but the overall sense was that a web site would never function as a stand-alone medium (Milliken, 2002). In the meantime, radio programs were building their own individual pages, which were gradually linked together under the radio.cbc.ca site by Radio Operations.

From 1994-1996, various iterations of the text-heavy main site focused on promoting television and radio programs, and emphasized news. By 1996, RadioWorks had been cancelled and IT had moved away from generating content to network support functions. Communications and Radio Operations formed and co-led a New Media Committee, composed of representatives from radio, television, and assigned one person in Communications to keep track of the technical side of the main web site, even though there was no financial support and this type of work was well outside the mandate of the Communications department.

CBC Television created an English Television Network New Media Unit to set policy, direct new media programming and business development as well as design and manage the television site. It's goal was to help programs start their own pages, but leave maintenance and updates to the production units of the shows themselves, starting with the biggest six shows on-air, and creating a web presence that was in-line with their production budgets. Shows that were smaller or lacked resources would be referred to the Communications New Media Committee, which would then provide a static public relations page with minimal program information, and direct users back to the radio and television services.

However, the television group evaporated. By 1997, cbc.ca had been launched as the main site and it was being managed by Communications because they had the technical expertise. By taking the lead building pages for programs, Communications was also able to ensure proper branding, common look and feel, manage content and integrating promotional potential. The pace of work had increased because, by the, no one wanted to be left off-line.

CBC Radio continued to develop its own content separately from the New Media group. The CRTC had denied a license application to create a third over-the-air radio network to serve youth, so the decision was made to build the next generation of CBC listener online. Radio Three, or R3 on the Web was launched in June 2000 to showcase Canadian talent and reach the "digital native" (Prensky, 2001). CBC partnered with two private Internet companies to design and launch additional cutting edge sites that autumn, complete with audio and video clips and streaming, photos, interviews and chat capability, and featuring Canadian artists exclusively.

Some of the landmarks: in 1996, radio was among the first sites anywhere to stream real-time, online programming starting with *As it happens*, a flagship network current affairs program, followed by the all music network of CBC Stereo. In July that year, Newsworld, the CBC's 24-hour news service, was the first Canadian web site to offer online video clips. In 1997-98, the web site expanded with new services for online news, children, English and French-language arts and entertainment, and updates started happening every half-hour, 24/7, and not just between the hours of noon and 7pm (Milliken, 2002).

The site was still 'first generation' in that the CBC pushed out content and there was little opportunity for audience interaction. In 1997 however, a vision emerged of the site as providing a new media version of CBC TV. In 1998, the CBC was the first Canadian site to launch a stand-alone online news service, complete with original audio and video. It was a balancing act between the benefit of instant updates that were not tied to production deadlines (Careless, 1999), against criticisms that speed led to an easing of journalistic standards (Miljan and Cooper, 1999). Although this new service was ostensibly to support the main radio and television network programming, then-president Perrin Beatty envisioned the Internet replacing these traditional services, and was instrumental in creating the third "New Media" line funded with monies cut from television and radio budgets.

From 1999 to 2002, the number of hits and page views were high on the main site. While still news-heavy, it offered an ever-increasing array of services and information, and there were more opportunities for public interaction and personalization. Regional input was lately introduced to the web site, with most of the national level content generated at the four main locations for the different regions in the country: Vancouver, Toronto, Montreal and Halifax. This was in part because of the chaotic developmental process, with unclear jurisdiction, organic growth and a lack of management vision, but also because there was incompatible technology infrastructure that made network, hardware and software communications impossible.

Add to that the bureaucratic and organizational structure of the CBC, which has long been multi-layered and divided along media lines at the national, regional and local levels, and then split again between Canada's two official languages of English and French. These institutional silos are rooted in part with the relationship the CBC has with the federal government for its funding, and in part with the management structure of the institution. The main CBC budget is a parliamentary appropriation, approved annually, which management then splits between the individual services of French and English, radio, television, and more recently, the Internet. The vice-presidents in charge of these services report directly to the President and compete for funding and priority and the management structure had no mechanism for conflict resolution between the different providers of content.

The initial New Media funding was a hived off television and radio budgets at the top-most corporate level, and offered back to the two traditional services to match with their own funds. Radio created its own department and went on to create its multimedia sites. Television made a couple of attempts, but it ended up with an uncoordinated collection of sites developed by individual programs or by the Communications department. When the Ottawa new media group dissolved, there was no source of direction because without an assigned budget, there is no way to establish an activity. 2000-2001 was the first time a line appeared for New Media in the CBC budget, albeit without any assurance that would happen again. By receiving that budget, new media was established as its own silo, along with radio and television, competing for resources, personnel and support.

As part of the license renewal process for the CBC in 2000, the CRTC emphasized the need to preserve and strengthen core radio and television services and the CBC agreed that new media would simply function as a support for and enhancement of those core services, both of which were eyeing the new service as a site for the old turf war (Milliken, 2002). By 2002, Beatty's vision of an online service equivalent to television had been lost to upper management (Milliken 2002). Milliken's (2002) research revealed that the absence of a clear vision, power and authority to guide the development of CBC online was the chief problem that made an already challenging process even more difficult. Staff saw new media as a viable and useful service, but not equal to or replacing radio and television. With the lack of a department structure, leadership clarity in the mandate and vision, along with market and technological churn, and it is actually a wonder that the CBC made it online at all.

But it did, it is still there, and is often touted as one of the most trusted and busiest Canadian sites, and not just by CBC publicity. Since earlier research, corporate restructuring has flattened the service silos with the goal of transforming the public broadcaster and re-branding itself as a "content company", capable of using any and all technological means to transmit programming and enable public access and interaction. The restructuring happened on language lines between English and French, with heads appointed to manage all of the services for that language, and the expectation that content would be produced for use on all of those services.

Discussion and conclusions

A neopluralist reading identifies multiple players with different levels of power and influence over the shape and growth of new media in Canadian communications. The federal government, private industry, the cultural sector, CRTC and the CBC have each had their own objectives and goals. The least heard voice is that of the public.

Over roughly the past forty years, successive federal governments have worked with business interests to create an environment for profitable online development, unfettered by public service requirements, and excluding public input. This pro-business agenda is characteristic of the shift to a neo-liberal philosophy that has eroded public service in more areas than communications. Business interests do not want the Internet to be regulated; they would prefer unfettered access to consumers, and to avoid paying for or providing public service. Rather than serving the public, federal policy and programs have been developed as mechanisms to 'serve up' the public as consumers to the privately-owned information technology sector.

Culture groups have consistently called for some regulation of the Internet, partly because they would benefit from another source of subsidy, but also because history has shown that the market can not be trusted to protect and provide Canadian culture without regulation. However, the CRTC concluded more than once that it had no business imposing regulation on new media. Even if it wanted to regulate the Internet, the CRTC would not have had government support. The best it could do by 2009 was to support the call for the federal government to develop a national digital strategy that it could enforce.

The chance that new media can meet the public service goals of the *Broadcasting Act* (1991) in the current exempt environment depend on whether “access” and the traditional public service concept of “universality” share the same vision of inclusion of the Canadian public. Both universality and access can be technologically limited by the availability of distribution mechanisms to get the signal out there, but the key point is that there is a fundamental difference between the two approaches; universality is about provision across the board, whether or not the public uses what the service provides, and access latter puts the onus on the public to find (and pay) its own way to the service. Universality is a “push” process, where the onus is on the producer to make its content available to everyone, everywhere. Access is more of a “pull” process; a “build it and they will come” dynamic, even when it describes both consumption and contribution by users. The key element that is present in universality but missing in access is ‘inclusion’ of the public.

Not only has the public been excluded from the decision making process, it is also bearing greater proportions of the expense of the new media it has been encouraged to adopt. Over-the-air broadcasting had finite cost to the consumer once license fees were removed. The transition to direct distribution mechanisms has shifted the cost of ‘getting the content out there’ from producers to consumers. In a market economy, that is a justifiable equation until it is about access to a public service. The CBC, as an earlier adopter of the Internet, has reinvented itself as a cross-platform ‘content company’ based on the potential for new media to help it achieve universality. The challenge is that in order to meet that commitment to universality, CBC’s new media content can only be accessed through privately owned and operated transmission networks³. Citizens are paying twice for that content; first for its production through taxation, and then again at the consumption stage, which is only possible by paying private companies to access public goods. Online content might be a new way for the CBC to reach and expand its audience, but the distribution mechanism subverts the core public broadcasting pillar of universality. It should be noted that this happened before new media came on the scene, with the fight to have CBC carried in basic cable and satellite packages, and will again as Canadian broadcasters move to digital television and start to turn off their analog signals in 2011. There is irony in the thought that universality could be less achievable in the digital information age than it was in the days of analogue broadcast services.

Just because public inclusion has been missing for most of the process of introducing the Internet and new media to Canada, does not mean that trend has to continue. The CBC’s chaotic internal development of new media was symptomatic of the times, but also showed a lack of leadership and vision as the result of divisive internal relations, entrenched power structures and a challenging corporate environment. The CBC’s new media offerings do provide a way for the public to engage with the corporation at a more immediate level than ever before, and corporate restructuring may help alleviate some of those tensions. However, as the recent firing of English services head Richard Stursberg suggests, they are not likely to disappear completely. The CRTC recently reversed its decade long business-friendly stance by

³ Unless you are fortunate to live in Fredericton, New Brunswick and have access to the free municipal wireless network Fred e-zone.

redefining new media as new media broadcasting, appealing to the courts to define the relationship of ISPs to the *Broadcasting Act* and in the *Convergence* report, identifying the need for regulation to address digital divide issues. With its public hearing process, the CRTC has been more inclusive of public views. As for business and government, ISPs are now facing questions of access, arising around whether commercial network services are adequate to user demand. Earlier in the process, it was a question of the number and geographic distribution of providers but more recently, as new media has evolved it is not clear that networks can handle the traffic, which is still slower and more expensive than elsewhere. After the beating private media organizations took in the last economic downturn, it would seem that the evidence is in that market regulation may not be the best way to achieve and maintain a “world leading information society” that the Canadian government invested in so heavily. Perhaps some good old-fashioned public service thinking about universality and inclusion is overdue.

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