

**The faithful regulator and the agnostic practitioner:  
Whither public service in the Canadian Radio-Television and Telecommunications  
Commission's renewed decision and Canadian Broadcasting Corporation's New Media?**

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**RIPE@2010:** 8-11 Sept 2010  
London UK, "Media Policy and Discourse about PSM" theme

Submission dates: Abstract deadline: Jan 11/10  
Paper deadline: September 23/10  
8110 words

**Abstract**

This paper applies a neopluralist theoretical perspective to an examination of the renewed decision of the Canadian Radio-television and Telecommunications Commission (CRTC) to continue the exemption of New Media from public service regulation for an in-depth critical assessment of policy and practice to ascertain the commonalities and differences between the CRTC and Canadian Broadcasting Corporation (CBC) interpretations of the public service role of New Media. The neo-plural theoretical approach of the thesis recognizes the CRTC as one influence among many on how the CBC interprets and implements its public service remit. Document analysis of the 2009 decision, its 1999 precursor and any intervening CRTC releases compare the conceptualization of public service between New Media and broadcasting in Canada. The broadcast data comes from document analysis for concurrent dissertation research to identify and assess the role of the Internet in changes to the public service remit of the CBC.

The specific economic culture of Canada plays an important role in the analysis (Jackson and Vipond, 2003) since the recession affected Canada differently than other nations. Long-standing problems and challenges facing the CBC prompted it to embark on a path toward an integrated media approach well before the recession began. Many of those challenges remain and have been exacerbated by economic upheaval, government reactions to it, and changes within the Canadian media market brought about by the recession. The CBC justifies the considerable resources it has put into developing its content and platform agnostic model of service delivery by claiming it makes the organization more accessible, democratic, and representative; it can serve new audiences and story-makers in new ways and provide more interaction mechanisms for audiences. These improvements all assure a greater degree of currency and relevance in a fast-paced media environment.

However, there is justifiable concern that the move toward platform agnostic content is erosion, rather than a new articulation, of the public service remit; the cross-platform approach has affected the quality of the content produced, and in some cases, has actually limited public access. The issues of content and access converged during the launch of the new CBC season in the fall of 2009. As in previous years, programs and personalities were dropped, added and moved around in the radio and television schedules. This year, the controversial

content decision to change Radio Two service from classical to a wider range of more 'popular' music generated a substantial negative public reaction. In addition to content changes, the CBC has been adding different formats with cross-platform content such as podcasts of radio programs, videos of radio shows available on the CBC YouTube channel, television and radio programming streamed online, and resources for user-generated feedback. Also new were four online streaming music channels without hosts or show formats, one of which plays classical music 24/7. The CBC claim that the classical stream is a reasonable substitute for Radio Two ignores substantive differences between over-the-air broadcast and online services that make it unlikely many of the disaffected Radio Two classical fans will listen, whether because of preference (Canadian Media Research Inc., 2008) or dual digital divide (Reddick and Boucher, 2002). This is just one example of why the time seems right, as the CRTC professes renewed faith in the market place to serve the public without regulation, and the public broadcaster invests resources in redefining itself as an agnostic content and platform provider, to ascertain whether there is any agreement between the two on a public service role for New Media.

### **Introduction**

The RIPE readers have provided insight and analysis of various issues facing, primarily European, public service broadcasters (PSB) since the introduction of the internet. The Canadian Broadcasting Corporation (CBC) faces many of the same issues, but there are significant contextual differences between the CBC and other PSB organizations that make the Canadian situation singular, including the actions of the federal regulator, the Canadian Radio-television Telecommunications Commission (CRTC). Media organizations have had different rates of success building an online presence, but one of the earliest success stories was the CBC. The CBC has since redefined itself as an agnostic content and platform provider, ostensibly to make the organization more accessible, democratic, and representative. The CRTC regulates the telecommunications and broadcast sectors in Canada, and chose to exempt new media from regulation twice, in 1999 and 2009, placing its faith in the market to serve the public.

The question for the current paper is "How has public service been treated in the approaches that the CBC and CRTC have taken to new media?" There is concern that the CBC's move toward platform agnosticism erodes rather than re-articulates the public service remit. On the surface it would appear that the CRTC exemptions reflect a pro-business stance that denies the validity of public service goals for new media. This exploratory study uses themes identified in a selective reading of the RIPE books to examine the place of public service in Canadian new media through the activities of the CBC and the policies of the CRTC. Both organizations are important influences on public service in Canadian new media, but they are not the only influences. A neo-pluralist theoretical approach acknowledges the multiple factors and players, with relative degrees of influence, affecting public service in both the practices of the CBC and the policies administered by the CRTC. The time frame starts with the first exemption order in 1999 and ends recently, but background that predates the exemption order is provided for context.

Canada can learn much from the experience of European PSBs and the RIPE initiative, and there may be value in sharing the Canadian situation with European scholars (Raboy, 1994;

Raboy and Taras, 2005). The literature and data are grouped into three themes, and the final section provides a brief analysis. This paper is not based on a stand-alone research project and due to its reliance on secondary data and the exploratory approach I caution that this is neither a complete nor a definitive reading of public service in Canadian new media.

### **Literature review**

The literature reviewed for this work is confined to the series of RIPE readers published in 2003, 2005 and 2007 for their relevant and insightful theoretical and empirical analysis of PSB and public service media (PSM). The 2009 reader is devoted to issues of engagement and the relationship of PSM to the public, which is outside the scope of the current paper. Some of the RIPE articles about Canada inform, but do not contribute directly to this work, like Savage's piece on CBC audience research (2007) and the need for better tools to assess audience engagement and PSM accountability. The re-conceptualization of public service broadcasting in view of the changing role of the nation-state within the global context (Raboy, 2003) is on a much higher plane than this work.

#### *Public service and broadcasting*

Even though the context has changed, Hujanene and Lowe argue that the ideals of PSB still have value. These are: reach everyone; serve minorities not only majorities, to facilitate understanding of civic rights and responsibilities and ensure pluralism, which is essential to democracy; finance publicly, primarily, and equally by citizens regardless of whether or not they use it; nourish culture; provide information, education and entertainment; and provide a platform for social sharing, building identity and constructing community (Collins 1998<sup>1</sup>; Tracey, 1998<sup>2</sup> in Hujanene and Lowe, 2003, 20-21). McQuail (1992)<sup>3</sup> identified recurring themes in PSB mandates as universal service, nurturing diversity and providing representative political, social and cultural content; democratic accountability, a significant proportion of public financing and finally, non-profit goals (in Bardeol and Lowe, 2007). Kleist and Scheuer (2006)<sup>4</sup> scanned mission statements and identified the common duties of different PSBs: to be independent, objective, unbiased, provide services (with an emphasis on news and cultural content) equally to all citizens regardless of social position or geographic location, in the service of democracy (in Bardeol and Lowe, 2007).

Scannell (2005) separates economics and policy issues of broadcasting, to examine whether broadcasting as a medium has a legitimate role to play in the delivery of services in the "convergent" media environment. Radio started out as a two-way medium but gained the most momentum and widest use in broadcast, which involves sending the signal out so anybody can pick it up. This act is fundamentally democratic. The British model of universal dissemination as an inclusive public good was the inspiration for the CBC. Broadcasting is not the most efficient method of delivery, but Scannell emphasizes that the main concerns should be ethical and political rather than nickels and dimes. Public services are the political manifestations of

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<sup>1</sup> Collins, R. (1998) *From Satellite to Single Market: New Communication Technology and European Public Service Television*. London: Routledge.

<sup>2</sup> Tracey, M. (1998) *The Decline and Fall of Public Service Broadcasting*. Oxford: Oxford University Press.

<sup>3</sup> McQuail, D. (1992) *Media Performance: Mass Media and the Public Interest*. London: SAGE.

<sup>4</sup> Kleist, T. and Scheuer, A. (2006) Public Service Broadcasting and the European Union: from 'Amsterdam' to 'Altmark' – the Discussion on EU State Aid Regulation. In Nissen, C.S. (ed.) *Making a Difference: Public Service Broadcasting in the European Media Landscape*. Eastleigh, UK: John Libbey Publishing.

what citizens think is important in a society, to help it become what it should be. Scannell (2005) differentiates between “the public”, which is a minority group that is self-selecting, self-defined and gathered together around a particular interest, from the “general public”. The latter can be created by broadcasting; it is an aggregate of individuals who can access the signal, regardless of their class, age, sex, religion, ethnicity, or geographic location. General interest programming fare of public broadcasters has been intended to serve the interests of diverse ‘publics’, and also to broaden and deepen the range of experience in the general public. The general public is political in a democracy, and a basic principle of “mass media” has been inclusion for the general public in a common public life. That changed in the 1980s when the politics of culture shifted towards diversity and individuality. Newer technologies are good at serving the interests of individuals, but they do not replace the function of broadcast media that disseminates general interest content as widely as possible to bring together a general public, for a healthy social democratic society. Scannell reminds us that radio and television are both important in everyday life at different times and for different reasons; it is because television is expensive that it usually dominates discussion about PSB.

Hujanene and Lowe (2003) point out that convergence has appeared before in history, and has complex social and political consequences for both the conjoined technologies and the institutions that use them. The authors warn against underestimating the resilience and efficacy of broadcasting as the discourse of convergence increases in sound and fury. They review cultural implications and social applications of broadcasting and cite the example of digital television in Finland as a policy-driven approach that failed, because the technology was neither developed nor pervasive enough to succeed. Broadcasting was dismissed in the 1980s for its “broadness”, but Hujanene and Lowe (and similarly Scannell, 2005) identify that as a key strength of the medium. Broadcasting has a dual nature; it is both the utilization of the electromagnetic spectrum, and the social application that can bring segmented populations and individualized societies together to share one experience simultaneously. Described as the “operational fulcrum for pluralism” (p.13), a broadcast signal can be sent out to reach diverse, plural audiences that can count from the 10s to the millions across time, geography, social and cultural spaces. Hujanene and Lowe (2003) suggest that the lack of interactivity that is frequently criticized in broadcasting is not necessarily a weakness; broadcast content has the potential for long-term social benefit, so its relevance does not depend on the immediate interaction of audience and producer.

### *Challenges*

Steemers (2003) explains how public broadcasters are survivors; they have weathered political, technological, economic and social storms by adapting and transforming their institutional structures and services. Western European PSBs play important roles in the formation and continuation of cultural identity, pluralism, diversity and the western model of social democracy. Market failure is a valid reason to justify the continuation of PSB, not to provide coverage, but to serve minority interests and provide access to a wide range of perspectives, content and issues. Various measures have been adopted by different public broadcasters to survive different challenges, such as altering and extending programming strategies, cooperating with third parties on co-productions, finding supplementary sources of income through sponsorships, subscriptions, co-productions and licensing agreements, and organizational rationalization strategies. Even recognizing that “purity” in public broadcasting

has been eroding for a long time, leaving a commercial/public hybrid that pursues ratings, even though that is antithetical to its core principles, the problem with these approaches is the loss of distinctiveness and individuality that distinguishes PSB from private competitors. They are all strategies that McQuail describes as the five degrees commercialization<sup>5</sup> (1986<sup>6</sup> in Steemers, 128). Contextual and structural differences make the challenges the CBC faces slightly different, but Steemers' arguments resonate with the Canadian situation.

Raboy and Taras (2005) provide, as a cautionary tale for other public broadcasters, a valuable summary of the precarious position of the CBC in the national and global media context. They identify three central tensions that the CBC faces between domestic and national versus global and transnational services, between public and private operators in the same system, and the challenges that come with cultural diversity. Canada's large geographic size and sparse population settled primarily along the United States border have been seen to necessitate media regulation. In the 1930s, the precursor to the CBC was set up, funded by federal monies, and charged with overseeing the existing radio industry made up of private stations, many affiliated with American networks. A public monopoly was never allowed to happen, and there has always been tension between private and public broadcasters coexisting in a mixed market. Culturally, the struggle between the two dominant language groups of French and English over broadcasting is part of a larger struggle over identity, polity and culture. The article situates the CBC in the Canadian media landscape and lists its challenges as inadequate funding, high expectations, low audience numbers, the loss of local and regional services, a lack of policy support for technological innovation, and direct political interference. Regulatory and financial pressures have limited the resources of the CBC to the extent that it can not fulfill its obligations under the Broadcasting Act (1991) and its future is in jeopardy. Raboy and Taras also provide a quick snapshot of public attitudes toward both public and private broadcasters, and identify the need for a substantial public commitment to create a broadcasting environment that contributes to cultural and social development. They warn that broadcasting can not cure social ills, but can act as a mirror to reflect social reality of the past and present, and offer projections for the future. The measurement of success for public broadcasting should be based on how effectively it empowers citizens to deal with issues. The lessons for other broadcasters are in the form of warnings about audience fragmentation, the power of global media bodies, and damaging political and economic decisions by government will likely happen in Europe as they did in Canada. Another warning is against cutting local service, because that limits the ability to build up a general public audience for other content. Finally, the freedom and ability to develop multiple services in the digital universe is seen to be necessary for the future of PSB, as is protection from political interference.

Sampson and Lugo (2003) explain the important role of convergence as an ideological construct to justify a corporate driven agenda within the neo-liberal discourse promoting privatization, commercialization and deregulation. They discuss how the "discourse of convergence" (33) in New Labour media policy in the United Kingdom has limited participation

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<sup>5</sup> The popularization of content and commensurate marginalization of minority or niche content in peak periods; cost-consciousness and efforts to increase efficiency by using private sector management practices and outsourcing; offering subscription services that void the universal access principle central to public broadcasting; increased reliance on commercial income; and sale of parts or aspects of the broadcaster (McQuail, 1992).

<sup>6</sup> McQuail, D. (1986) Kommerz und Kommunikationstheorie. *Media Perspektiven*, 10, pp. 633-643.

and commitment of the government in regulation, to align media organizations with market values. The New Labour idea of convergence is similar to the Canadian government's approach, which ignores how people interact with technology on cultural, economic, political and social levels, and how that interaction contributes to the nature and necessity of media. It does not accept that public service principles are still important in the current media environment. The authors identify the need for new regulations to assure a commitment to public service broadcasting values in the changing communications sector.

Jackson and Vipond (2003) write about the implications of convergence for the public service remit and the concern that cross-media production will limit the number and variety of public and private voices in Canadian media. A potential consequence for PSB is it will become the only source of diversity and representation, while vertically and horizontally integrated private competitors profit from homogenized content spread across media platforms. The neo-liberal approach in the Canadian economy and politics has produced a regulatory regime for communication infrastructure and use that favours private capital accumulation and commodity markets over public-interest values. The close relationship between the state and capital in the context of globalization, with memberships in international political and trade agreements, and the centralization of capital, have all undermined the legitimacy of the state as a publicly oriented body. Without the political will to create a clear role for PSB in the future, the regulatory regime will not prevent privatization of the public domain.

#### *Public service media*

The 2007 RIPE reader focuses on the idea of public service media. Bardeol and Lowe's opening chapter distills the key issues explored in the collected works and reiterates that a clarified, renewed and revitalized mission is essential for the transition from PSB to PSM. By separating the ethos of public broadcasting from the paternalistic tradition of the broadcast model and its economic and political context (McQuail, 1992 and Kleist and Scheuer, 2006 in Bardeol and Lowe, 2007), the authors identify the core values of PSB that need to be retained to provide the foundation for the next generation of PSM so it can perform its essential task of communicating in the public interest.

The chapter identifies various tensions and challenges to overcome. The tension between commerce and culture creates the challenge of how to produce cross-media and cross-genre content that is popular but maintains its distinctiveness from private competitors' output. The tension of the relationship between media and society sets up the challenge of how overcome the distance inherent in the broadcast model, and then how PSB can partner with citizens to serve them, the public interest, and meet social, cultural and democratic needs. To overcome these challenges, public service broadcasters have to reverse their philosophically, structurally and historically entrenched supply-oriented transmission model and use a demand-oriented approach to service and content provision, i.e. make the generational shift from a 'push' model of PSB to a 'pull' model of PSM. PSM faces the daunting task of overcoming the individualistic characteristics of new media technology, building social cohesion to serve the central democratic function of PSB, at the same time as it meets the demands of cultural diversity, special groups and individual users.

If the social, cultural and political role of public television can be re-validated by emphasizing how it might enable public participation, Himmelstein and Aslama (2003) suggest a publicly engaged PSB could counter-balance neo-liberal consumerism and rejuvenate public broadcasting content. The key ingredient is a public access infrastructure that would answer the mandates of “trickle-down”, policy driven public broadcasters like the CBC, and maximize the potential of the access capabilities of grass-roots, “bubble-up” internet technologies. The result would serve both individual and collective identity and promote active citizen involvement, without institutional gate-keeping or intervention.

Finally, Leurdijk (2007) uses a double case study of the BBC and Dutch broadcasters’ digitization and release of archival material to explore how PSBs and regulators are re-defining the public service remit in a digital media environment. Leurdijk describes the process of how many European PSBs moved into providing online services, beginning in the 1990s with websites about television programs, eventually adding interactive features, digital radio and television, streaming, opening up the archives, and finally, institutional restructuring to integrate all streams in cross-media production. In most countries, new media projects came under stricter conditions for financing and scope of service than the traditional media streams. The process is similar to how the CBC developed its services, except that it was CBC radio that took the lead, and that many European PSBs had the support of national regulators, whereas the CBC did not.

Leurdijk identifies and explores four dilemmas in the process of PSB expanding online. The first deals with problems around copyright and the affordability of digital rights, as well as its ability to compete with other copyright holders to retain those rights. The second is the charge of unfair competition and market distortion from private broadcasters about government funding the digitization of archival content. The third dilemma is how to maintain editorial control in the relationship of the PSB with private partners, who are necessary as the PSB seeks sources of funding and ways to ensure adequate market exposure of online content. Finally, PSBs have to reconcile professional production standards, the demands on time and resources, and copyright issues with the need to engage and encourage public interaction, when the public produced user generated content. The distinctions between public and commercial, professional and amateur are less clear in digital than analogue media. Leurdijk suggests that redefining the PSB remit as PSM would be a useful first step. PSM could then lead the way in the industry towards open access standards and greater user participation both in defining the remit of PSM and assessing the resulting performance.

The central themes and challenges raised in these readers about the transition of PSB to PSM are primarily identified with Europe broadcasters, but are useful for analyzing the situation of the CBC. By separating the ‘ethos of public service’ (Bardoel and Lowe, 2007) as a set of defining principles from the PSB structures, allows us to identify the building blocks of the PSM mandate. An ethos is “... the characteristic spirit or attitudes of a community, people, or system...” (Barber, 1998, p. 478) and is useful for this work because it focuses attention on what public service means and how it can be characterized. As explained above, it is comprised of non-commercial, public-minded attitudes, values and expectations that are expressed in policy, outlined in legislation and regulation, mission statements and mandates,

then interpreted and implemented by PSB. The following is a preliminary PSM ethos, building on values guiding PSB from the literature:

- 1) public service remit revitalization: convergence, internationalization and globalization necessitate public policy response to ensure communicating in the public interest across media and in multi-media
- 2) universal service: reaching everyone regardless of social position, demographic characteristics, beliefs, or geographic location
- 3) nurture diversity: serve minorities, not only majorities
- 4) representative content: diverse political, social and cultural representation
- 5) democratic accountability: ensure pluralism and facilitate understanding of civic rights and responsibilities
- 6) public funding: a significant proportion of public financing to be paid universally and equally by citizens regardless of whether or not they use it
- 7) inform, enlighten and entertain: an emphasis on news and cultural content, maintain distinctive programming
- 8) independence, objectivity, unbiased
- 9) provide a platform: for social sharing, building identity and constructing community
- 10) non-profit goals: non-commercial focus in the content and services created and provided
- 11) public partnership: advanced level of public interaction in activities, policy directions, assessment; accountability, transparency

### **Theoretical framework**

Policy is not devised just as a reaction to technological innovation. Critical communications research consistently shows that changes to communication policy 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). A neo-pluralist analysis helps to show that the creation of the Canadian information society was enabled by how government policy was shaped, how it worked, and the processes and institutions that delivered it (Macpherson, 1987, p. 56). Public service policy had been used to balance political, economic, technological and social forces, but the economic and political practices of successive Canadian federal governments since the 1980s have shifted public responsibilities on to the populace, and public service has given way to a technologically determinist neo-liberal philosophy that favours market forces.

Government departments, regulatory agencies, the private sector, cultural groups and the public broadcaster have all had some level of influence, at different times, over new media policy and practices. Power distribution in society affects the levels of agency and influence for each of these different actors (Macpherson, 1987, p. 54), and the effect of class distinctions, social movements, culture, politics, business interests and agency (Macpherson, 1987, p. 54) on that distribution of power can not be ignored. The federal government is not just an arbiter between groups; it has self-interest. Mosco explains how a utopian vision of what information and communication technologies (ICT) can do for a country, a people, and an economy (Mosco, 2004) feed into a mythology that promotes the enthusiastic adoption of any technology with the hope that it will change fundamental human problems. This myth has

driven the creation of communication policy and fed the idea of the “information society”, in which government regulation would become unnecessary as ICT reorganizes relationships between citizens, the state and the new “information economy”. Increased reliance on the market dictating the applications and uses of ICTs becomes the most efficient way to achieve instant universal access (2004). The banal truth in the myth is that when the powers that run the information society are entrenched and dishonest business practices or inflationary economics are the norm, then existing power relations will stay the same and no real social transformation can occur (Mosco, 2003). By understanding that there are numerous sources of influence at different times over how public service has been treated in the approaches that the CBC and CRTC have taken to new media, it is hoped the current paper can show where some of those influences intervened, and what the effects were, and so provide a clearer picture of what public service has become.

### **Research method**

The data for the current paper is primarily analysis of policy documents, and materials collected from various sources for my Master’s thesis on the incorporation of the internet into CBC services offerings. This paper constitutes a smaller segment of my dissertation, which is a case study and therefore has a narrow focus. The thesis is not comparative; it uses the CBC as a case study to identify, explain and critique the changes to public service broadcasting in the Canadian information society from 1993 to 2008, a period characterized by the rapid spread and uptake of information and communication technologies, globalization and neo-liberal economic and political policies (Mackay, 2007). The CBC was chosen because it is the only national public broadcaster in the country, it is fully engaged with the information society and it is partially publicly funded. There are limitations and shortcomings of this work that must be acknowledged. Some may question whether the results can be generalized, but as Lowe points out in the RIPE @2009 reader, discourse about PSM has been primarily focused on European PSB and is therefore not universally applicable. He cautions that care is needed in presuming that results from any of the RIPE research can be generalized from one PSB to another.

### **Research findings**

#### *Public service and broadcasting*

Concern about Canadian cultural sovereignty has motivated cultural and communication policies for a long time. Since the 1930s there have been a public broadcaster and a regulatory body; in the beginning they were one and the same. In 1968, the CRTC was formed as an independent, arms length, national regulatory agency that enforces the statutes, regulations and licensing for broadcast and telecommunication undertakings. The CRTC is responsible for upholding the *Broadcasting* (1991) and *Telecommunications Acts* (1993) that lay out the general rules around communications infrastructure, ownership and content. It works with industry stakeholders and holds public hearings as part of its regulatory, research and license renewal procedures. The CRTC had little input to the introduction of the Internet to Canada; Industry Canada was in charge and used a secretive and highly undemocratic process (Barney, 2004).

The *Broadcasting Act* (1991) treats radio, television, cable television, pay television, and specialty television individually because broadcasters are legally responsible for the content

they transmit. The broadcasting system must be owned and operated by Canadians, provide service in both official languages, and preserve and strengthen the "... cultural, political, social and economic fabric of Canada" (Government of Canada, 1991, p. 3). The system has to adapt to scientific and technological change, promote Canadian programming, use Canadian resources, and make a high-quality product that reflects Canadians and their experiences.

Part III of the *Broadcasting Act* (1991) is the mandate for the CBC and outlines its numerous public service responsibilities, which sometimes conflict. It is to: provide equal service to French and English-speaking populations; produce a wide range of radio and television programs that inform, enlighten and entertain; content should be mostly and distinctively Canadian as well as representative of a multicultural and multi-national society; both national and regional concerns must be addressed and the CBC should also help create a national consciousness (Government of Canada, 1991). The CBC provides over-the air, cable and satellite television and radio content in English, French and eight aboriginal languages. It broadcasts Radio Canada International (RCI) in seven languages. Specialty channels are available by subscription for English and French television drama, comedy, sports and documentaries. Television is heavily reliant on advertising revenue and has been commercial since its inception, whereas advertising was removed from the radio service in the 1970's. The two broadcasting streams have also had very different approaches to developing new media content. Internet services include an integrated corporate web site that provides corporate information, can be customized by region, and acts as a portal to radio and television programming and digital archives, as well as new media and interactive features like monitored commentary and streaming audio and video.

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. It does not apply to broadcasting and comes under the responsibility of the Ministry of Industry Canada. This helps explain the commercial direction taken with decisions about new media by the CRTC. The *Act* was barely referred to in any of the research for the CRTC's exemption orders, even though the Internet falls under its jurisdiction. The limited public service remit provides technological and economic frameworks for reliable and affordable service, efficiency, national and international reach, user privacy protection, and a role in maintaining Canadian identity, political and economic sovereignty. Internet service providers are "carrier" companies, expected to provide transmission for any and all types of content at reasonable and equitable cost. Carriers are prohibited from tampering with or generating content.

### *Challenges*

If new media met criteria in either the *Telecommunications* or *Broadcasting Acts*, the CRTC would be required to ensure the industry and content complied with the goals of the *Act*. The CRTC held nation-wide public consultations, during which it received 1000 written submissions and heard over 100 verbal presentations from companies and individuals. *The Report on New Media* (1999) was issued to answer the concerns of the growing multimedia industry that

ownership, production and content might become subject to the requirements of either *Act*. The industry was most concerned about the *Broadcasting Act* because it imposes legal responsibility for content; the report deals almost exclusively with that *Act*. The CRTC used technical arguments to distinguish new media from broadcasting undertakings, and online from broadcasting content, and exempted new media from regulation. For new media that did fulfill the criteria of a 'program' and 'broadcasting' as described in the *Broadcasting Act* (1991), the CRTC waved regulation on the assumption that "... market forces alone will continue to provide an adequate supply of Canadian content" (17 May 1999, 15). Concerns raised about issues of quality were dismissed, and the CRTC declined to regulate spectrum or bandwidth because the others were working on it. The CRTC decided not to regulate the Internet 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.

The CRTC explained why it was not imposing any kind of levy system to encourage the domestic industry by increasing funding, or to shape its development, or to protect existing media. The available federal, provincial and private funding and the level of Canadian expertise were deemed adequate to ensure growth in the industry. A levy system to fund new production was not seen to be necessary, and might damage sector growth. The benefits of new media were its potential to provide promotional opportunities and to increase exposure for niche groups and communities that were under-represented in the mainstream. The internet was expected to follow the established pattern in communications history that new media supplements, rather than replaces old media; it might never pose a direct threat to radio and television because it could evolve in a completely different and unpredictable direction. New media growth was naturally limited by the absence of a working business model, technological issues, cost, a shortage of computers and the limited appeal of online content. Broadcasting on-line was unlikely for another seven to ten years and electronic commerce was dismissed. The CRTC did not perceive new media having a significant impact on either the revenue streams or the audience share of traditional media. In 2003, internet retransmission of specialty services, broadcasting content and any internet-based program undertakings were added to the exclusion (Broadcasting Public Notice 2003-2). In 2006, mobile television was added to the list of exempt services (CRTC 2007-13).

Its mandate was cited as one reason the CRTC could not conduct a full examination of the new media phenomenon, but it did collect data from 2006-2008 and issued reports<sup>7</sup> that identified challenges to the industry and advise politicians on policy development. The CRTC revisited the order in 2008 and renewed the exemption in 2009 (Public Notice CRTC 1999-197). The new exemption used a slightly different description of a "new media broadcasting undertaking" as opposed to the earlier 'new media undertaking'. This brought the whole business just a bit more in line with the definition of "broadcasting" under the *Act*, much the chagrin of the industry, but not close enough to be covered by it. By dismissing the relevance

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<sup>7</sup> *Report on the Future Environment Facing the Canadian Broadcasting System: A Report Prepared Pursuant to Section 15 of the Broadcasting Act*, 14 December 2006.

*New Media Project Initiative* (<http://www.crtc.gc.ca/eng/media/media3.htm>) final report *Perspectives on Canadian Broadcasting in New Media*, (June 2008).

of maintaining the distinction between audio and video content, the CRTC was free to extend the exemption to any and all forms of media without a renewed hearing process for each one. This is why content changed 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). The 2009 decision extended the 1999 exemption because the CRTC still thought that regulatory intervention was unnecessary. It did recognize, that new media developments happen rapidly, so it moved up the next review to five years and implemented a reporting process for new media broadcasting services. It also asked the Federal Court system to interpret the legislation and clarify if the *Broadcasting Act* (1991) applies to Internet Service Providers (ISP) when they provide broadcast content.

Digital divide issues are relevant in Canada still. There is a discrepancy between urban and rural broadband penetration. The CRTC recognizes that market forces are neither extending affordable broadband access into rural and remote parts of Canada nor are they ensuring affordable broadband access for lower-income Canadians. Regulatory approaches could be considered. There are significant differences between Internet and broadband access and computer ownership in the highest and lower income level households; these issues will likely worsen with network upgrades and the move to digital television in 2011.

In the 1980s and 1990s, regulations were relaxed and private Canadian broadcasters bought other media platforms and amalgamated, ostensibly to achieve enough resources and scale to compete with the big transnational media companies (Raboy and Taras, 2005). As a result, the CBC share in the hybrid media market shrank considerably. The CBC started with a digital radio program distribution service in 1993 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. There was adequate demand for the CBC to adopt the trial and stay online. It was not clear what the real potential was for this new service, nor was it clear who inside the corporation would take control. The overall sense was that a web site would never function as a stand-alone medium (Milliken, 2002). At the same time 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 promoted television and radio programs, and emphasized news. The main site was managed by Communications because they had the technical expertise. Communications could also ensure proper branding, common look and feel, content management and promotional development. By then no one wanted to be left off-line. Then-president Perrin Beatty envisioned the Internet replacing traditional services, and was instrumental in creating the third "New Media" line funded with monies cut from television and radio budgets. By 1997, CBC Radio had developed its own content separately and when the CRTC denied a license application to create a third over-the-air radio network to serve youth, Radio decided to attract the next generation of CBC listeners online. Radio Three, or R3 on the Web was launched in June 2000 to showcase Canadian talent and reach "digital natives" (Prensky, 2001). 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 difficult balancing act between the benefit of instant updates that were not tied to production deadlines (Careless, 1999), and the concerns that speed led to an easing of journalistic standards (Miljan and Cooper, 1999).

From 1999 to the early 2000s, the site continued to be news-heavy, but offered an ever-increasing array of services and information, as well as more opportunities for public interaction and personalization. No one knew what to do with the archives. Regional input came lately to the web site, with most of the national level content generated at the four regional centres in Vancouver, Toronto, Montreal and Halifax. The centralization was due in part to the chaotic developmental process, unclear jurisdiction, organic growth and a lack of vision, but also because the technology infrastructure had big network, hardware and software compatibility problems between locations. 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. The CBC agreed, in principle, that new media would simply function as a support for and enhancement of those core services, both of which were eyeing it as a new site for their old turf war (Milliken, 2002).

The bureaucratic and organizational structure of the CBC had 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 were reinforced by the relationship the CBC has with the federal government for its funding, and by the management structure of the institution. The main CBC budget is a parliamentary appropriation that is approved annually. The President divides the funding between the individual services of French and English, radio, television, and more recently, the Internet, all headed up by vice-presidents who report directly to the President and compete for funding and priority. The management structure had no mechanism for conflict resolution.

The initial new media funding was skimmed from television and radio budgets at the top-most corporate level, and then offered back to the two traditional services to match with their own funds. Radio created its own department and went on to build 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 high level 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. By receiving that budget, new media was established as its own silo, competing with radio and television for resources, personnel and support. This complex and disorganized process highlighted key challenges for the PSB, some intrinsic to the institution itself with its divided and hierarchical structure, conflicting visions, lack of leadership and cooperation, technical infrastructure, copyright and most importantly, how to fund new media. Some were external, such as the lack of support from the CRTC and the level of competition it faced with ever-larger private competitors. The federal government was pushing a wired agenda, but not funding the public broadcaster to plug in.

### *Public service media?*

By 2002, Beatty's vision of an online service equivalent to television had been lost and the absence of a clear vision, power and authority to guide the development of CBC online made an already challenging process even more difficult. Since 2005 corporate restructuring has flattened the service silos. The goal is to transform the public broadcaster into a "content company" capable of using any and all technological means to transmit content. The new divisions are English and French, with heads managing all of the services for that language. The expectation is that content is produced for use on all of those services. And yet, as the recent firing of the English head shows, new corporate strategies and structures can not resolve every problem.

The CRTC report *Navigating Convergence: Charting Canadian Communications Change and Regulatory Implications Convergence Policy, Policy Development and Research* (February, 2010) indicates a possible change of heart by the regulator. The CRTC's research into how digitization and convergence are driving change, both in and outside broadcast and telecommunication systems, showed how existing distribution networks have increased in value because the same network can deliver multiple services. The concern is that neither the existing infrastructure nor the existing regulatory regime will satisfy the demands of future growth. Internet use is cutting into conventional television and radio consumption and advertising revenue. The CRTC sees an unidentified role for the public broadcaster in the globally competitive digital environment, that would enable Canadians to both contribute to and consume stories about themselves across platforms, but the focus is still on "Strengthening and promoting Canadian content, services and applications in a global digital environment will enhance Canada's position in a global digital information economy" (#230).

### **Discussion and conclusions**

The role of the public broadcaster in recent years has undergone dramatic change as its social, political, economic and technological surroundings have changed. Without government or regulatory support, the CBC has acted on its own, overcoming some fairly big hurdles, to expand online and redefine itself as a content company. There are big challenges in making that transition complete-- to achieve PSM status--which may become a bit easier now that the CRTC has lost its faith in the market's ability to provide public service in new media. The best way to measure the place of public service in new media is to see how close we've come to the PSM ethos.

- 1) A revitalization of the public service remit in a convergent, globally competitive environment is the necessary first step. This has not happened and is not likely to under the current federal government. However, the CRTC, while it does not set broadcast policy, has recognized the need for some public service in new media, and so may provide the support that the CBC needs to revitalize its own mandate to communicate in the public interest across media and in multi-media, and eventually include new media in the CBC mandate.
- 2) The provision of universal service is not going to be automatically solved with the internet. Canada's broadband penetration rates are high, especially in urban centres but

ISPs are using traffic shaping techniques, and the cost is high in Canada compared to other OECD countries. The CBC will need to find some way to maintain service on multiple transmission and network structures in order to ensure universal service.

- 3) The ability to nurture diversity by serving minority interests may be more possible with more media avenues and more media interactivity and flexibility, provided they all have adequate support and resources.
- 4) Producing content that is representative of diverse political, social and cultural interests in the country will require a restoration and enhancement of local and regional services to reach those diverse interests and provide them with avenues of access.
- 5) Ensuring pluralism and facilitating understanding of civic rights and responsibilities for democratic accountability is always going to be a big challenge for any media organization that is dependent on annual funding from the government of the day. Here are just two suggestions that appear, time and again, in the numerous studies, reports and reviews of the CBC and public broadcasting, that would help if they were ever enacted. Rather than the government appointing the Chair, who is not accountable to the Board, the recommendation is to have the Board of Directors elect the chair and be granted the right of dismissal. Guaranteeing funding for more than one year at a time would help limit the potential for direct political interference.
- 6) The current “significant proportion of public financing, paid universally and equally by citizens regardless of whether or not they use the PSM” that the CBC receives is relatively low compared to other developed nations. It could be increased.
- 7) Maintaining distinctive programming that informs, enlightens and entertains, even with the emphasis on news and cultural content, across multiple platforms and in various formats may prove easier with adequate funding. It will require vigilance to ensure that the efficiency of the media does not interfere with the depth or quality of the content, and stands of excellence are maintained.
- 8) The levels of independence, objectivity and bias in the PSB are often in the eye of the beholder. Greater transparency and a closer partnership with the public may go a long way to designing some mechanisms for assessing and addressing any concerns.
- 9) If the PSM is to provide multiple platforms for social sharing, building identity and constructing community, decentralizing its operations, reinstating and expanding local and regional services are required.
- 10) Ensuring that the PSM is motivated by non-profit goals and maintains a non-commercial focus in the content and services it creates and provides is easier to assess if mechanisms that guarantee financial security and transparency are in place.

11) Multiple platforms have a much greater chance of developing that essential public partnership that includes public input and engagement in activities, policy directions and assessment, and ensure accountability and transparency.

As for the relationship between the CBC and the CRTC, the latter has attempted to exert some direct influence over the CBC online, which the PSB appears to have ignored. The CRTC is, however, responsible for creating an inhospitable environment by relying on market control, and denying support for public service online. And yet, the CRTC has shown either an unwillingness to interfere in the CBC's activities, or tacit support; it is only by acting outside its mandate that the CBC is online at all, and the CRTC has not commented. The CBC's initial efforts to get online were not funded, Radio did its own thing, and Communications acted outside its mandate for years to support the development of the main site. The CRTC has not always behaved in ways that private corporations wanted, and with the redefinition of new media broadcasting, and apparent loss of faith in the market's ability to provide public service, the CRTC may actually be preparing for some type of intervention under the *Broadcasting Act*. The CBC continues to be a troubled disciple, struggling to reconcile various tensions and overcome challenges, There is the possibility that the transition to PSM is more possible than it used to be, but the process probably won't be pretty. The current paper is exploratory and by no means definitive or complete. The richness of the PSM model is such that exploring any one of components listed above, or others that I missed, would provide insight into the challenges and possibilities of PSM.

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