



Rebooting Canada's Communications Legislation



**A conference to examine changes to Canada's
broadcasting and telecommunications legislation**

Friday and Saturday
May 22 and May 23, 2015

Ottawa, Ontario

Faculty of Social Sciences (FSS) Building (120 University), 4th floor, room 4007

Co-sponsored by the University of Ottawa's Centre on Governance and the
Forum for Research and Policy in Communications (FRPC)

Register online at eventbrite.ca

Rebooting Canada's Communications Legislation

This two-day policy and law conference will focus on Canada's broadcasting and telecommunications legislation, and whether these statutes should be changed.

It will examine issues related to communications sovereignty and the use of new content distribution services, the socio-cultural objectives of Canada's communications legislation, lessons from the last 50 years and whether they can be applied to the regulation of electronic communications in the 21st century, cultural employment, media ownership, and the availability of evidence needed for public participation.

The conference will also include a discussion of ethical issues related to broadcasting and telecommunications regulation.

Registration - through Eventbrite (<https://www.eventbrite.ca/e/rebooting-canadas-communications-laws-tickets-15682843808>)

To obtain more information, contact the Forum for Research on Policy in Communications (FRPC): (613) 526-5244, execdir@frpc.net, or www.frpc.net

Cette conférence de deux jours sur la politique et le droit concentrera sur la loi canadienne sur la radiodiffusion et les télécommunications, notamment si les statuts doivent être modifiés.

Elle examinera les questions qui touchent la souveraineté en communication et l'utilisation de nouveaux services de distribution du contenu, les objectifs socio-culturels de la loi canadienne sur les communications, les leçons des cinquante dernières années et si elles s'appliquent à la réglementation des communications électroniques au 21^e siècle, l'emploi dans les milieux culturels, la propriété des médias, et la disponibilité de la preuve requise pour la participation du public.

Enregistrement: Eventbrite (<https://www.eventbrite.ca/e/rebooting-canadas-communications-laws-tickets-15682843808>)

Pour obtenir plus de renseignements, contactez le Forum de recherche et de politique en communication (FRPC) en composant le (613)526-5244, execdir@frpc.net, ou www.frpc.net



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Schedule

Friday, May 22, 2015

8:30 – 8:45 Welcome, and introductory remarks: Dr. Caroline Andrew, Director, Centre on Governance, University of Ottawa

8:45 – 9:15 Keynote address: Professor Liora Salter, FRSC, York University & Osgoode Hall Law School

9:15 – 10:30 **Session 1: The medium vs the law: communications sovereignty and technology**

In 1932 the Judicial Committee of the Privy Council of the United Kingdom held that radio broadcasting fell under federal jurisdiction. Sixty-seven years later the CRTC decided that some programs and broadcasts made using the internet also constitute broadcasting, but exempted these from regulation.

How far does Parliament's jurisdiction extend online? If Parliament decided to consider new communications legislation, should it or could it establish and enforce federal jurisdiction over Internet distribution and programming services used in Canada? Does the medium make the legislation? Should all services that deliver ephemeral content (over the air, by satellite, through cable or by the internet) in Canada be subject to Canadian broadcasting, telecommunications, copyright or criminal law? Should Canadian law be enforced with respect to programming services that earn money from, but are located outside of Canada?

Moderator: John H. Stevenson, Rocket Stable Consulting

Panellists: Tim Denton, The Windermere Group, formerly CRTC Commissioner (2008 - 2013)
Dr. Michael Geist, Faculty of Law, University of Ottawa
Dr. Gregory Taylor, Ryerson
Jay Thomson, Vice-President Broadcasting Policy and Regulatory Affairs, Canadian Media Production Association

10:30 – 10:45 Refreshments

10:45 – 12:00 **Session 2: Window to the world, mirror for ourselves – socio-cultural objectives of contemporary communications legislation**

Parliament has required Canadian communications media to reflect Canada and Canadians in their programming.

Are such socio-cultural objectives passé? Or should Parliament ensure that broadcasting and telecommunications serve the interests of Canada and Canadians, and if so, which interests? Are legislative changes needed to meet Canada's socio-cultural objectives in broadcasting and telecommunications? Would these changes be affected by Canada's international treaty obligations?

Moderator: Andrew Cardozo, Pearson Centre for Progressive Policy, formerly CRTC Commissioner (1997 - 2003)

Panellists: Dr. Larry Chartrand, University of Ottawa
Dr. David Ellis, York University
Sheridan Scott, former Commissioner of Competition
Kealey Wilkinson, former Executive Director, Canadian Broadcast Museum Foundation

12:00 – 1:00 Lunch

1:00 – 1:30 Afternoon address: to be announced

1:30 – 3:30 **Session 3: The ethics of advocacy in a regulated sector**

The CRTC has expanded its efforts to engage the public in discussions about the future of Canada's communications system.

Have these efforts increased public confidence in the CRTC's administration of its responsibilities under the *Broadcasting and Telecommunications Acts*? How should legal practitioners manage their duties to advocates, to act in good faith, to maintain confidentiality, and to avoid sharp practice, when practising before a tribunal that is expected to rely heavily on its members' experiences and expertise?

Moderator: Alain Pineau, Special Advisor to the Hon. Stéphane Dion, Cultural Policies at Liberal Party of Canada, formerly National Director, Canadian Conference of the Arts

Panellists: Dr. David Dubinski, University of Ottawa
John Keogh, formerly Senior General Counsel, CRTC
John Lawford, Executive Director and General Counsel, Public Interest Advocacy Centre (PIAC)
Jeff Leiper, City of Ottawa Counsellor (Ward 15)

3:30 – 3:45 Refreshments

3:45 – 5:30 **Session 4: Enforcing electronic communications regulation in the 21st century**

Canada's current communications laws do not specifically require the CRTC to put the public interest first in its determinations, and many believe the CRTC is either ineffective, obsolete, or conflicted when required to investigate and sanction licensee non-compliance.

Should Parliament give the CRTC more explicit directions, or expand the federal regulator's authority? What mechanisms enable Parliament to know that its communications policies are actually enforced? Should the federal government license and set the terms of operation for Canada's broadcasting, telecommunications and internet companies, and leave enforcement to the CRTC?

Are legislative amendments required to ensure that the regulator makes the public interest its first priority? Why would administrative monetary penalties be more effective than the CRTC's current powers in implementing Parliament's objectives? Should the conflict of interest between licensing and regulatory enforcement be removed by creating a separate enforcement body?

Moderator: Kirsten Embree, Partner, Dentons LLP

Panellists: Dr. Geneviève Bonin, University of Ottawa
Ann Mainville-Neeson, Telus
Dr. Samuel E. Trosow, University of Western Ontario
Jeanne d'Arc Umurungi, Communications Director, Canadian Media Guild

Saturday, May 23, 2015

8:30 – 9:00 Keynote speech: to be announced

9:00 - 10:30 **Session 5: Quasi v. judicial - have expectations for fair process changed in the last century**

The rules governing CRTC procedures are set out in the *CRTC Rules of Practice and Procedure*, which came into force in April 2011. Among other things, the new rules reflect contemporary use of technology in terms of filing materials. At the same time, practices common in legal proceedings, such as hearings, cross-examination and the recitation of facts in decisions, have largely fallen into disuse at the CRTC, although it has recently increased its outreach to Canadians by using social media to encourage public participation and interaction.

Are these changes enough to maintain or increase meaningful public participation in CRTC proceedings? If new communications legislation were introduced, should Parliament continue to leave issues about procedural fairness to the CRTC, or should Parliament give the CRTC more detailed guidance about the requirements to make relevant evidence available to those participating in its proceedings, and to give reasons in its policies and decisions?

Moderator: Lew Auerbach, formerly Director, Office of the Auditor General of Canada

Panellists: Nathalie Blais, conseillère au service de la recherche, Syndicat canadien de la fonction publique
 Tamir Israel, Canadian Internet Policy and Public Interest Clinic, University of Ottawa
 Barry Kiefl, Canadian Media Research
 Benjamin Klass, University of Manitoba
 Dr. Catherine Middleton, Ryerson

10:30 – 10:45 Refreshments

10:45 – 12:00 **Session 6: It's our culture, and it's a job – employment issues in Canada's communications sector**

Parliament expressly refers to broadcasting as a source of employment opportunities, but is silent about the role of telecommunications in employment. More than 170,000 people work for Canadian telecommunications, broadcasting and Internet companies across Canada – although a large number of broadcasting and telecommunications jobs have disappeared in the last twenty years.

Should Parliament encourage employment opportunities in the content and carriage sector, or rely on the market to allocate jobs efficiently? Are legislative amendments required to ensure that Canadians have employment opportunities in the country's communications media?

Moderator: Doug Barrett, BellMedia Professor, Schulich School of Business, York University, formerly Chair, Canadian Television Fund (2004 - 2008)

Panellists: Dr. Arthur Cordell, Carleton University
 Canadian Media Guild
 Danielle Lamy, legal counsel, Syndicat canadien de la fonction publique
 Howard Law, Director, Media Sector, Unifor

12:00 – 1:00 Lunch

1:00 – 1:30 Afternoon address by David Colville, DC Communications Consulting, formerly Vice-Chair, Telecommunications, CRTC (1995 to 1999), and acting Chair, CRTC (1990 to 1994 and 2001 to 2002)

1:30 – 2:45 **Session 7: Democracies and oligopolies – too big to regulate?**

Highly concentrated media ownership began to be accepted in Canada in the early 1990s, as a way of strengthening Canadian program production. Today the four largest companies control 80% of the communications system's total revenues. Yet since the 1990s the level of original broadcast news has decreased, private television broadcasters spend substantially more on foreign than on Canadian programming, and two-thirds of the music played by radio stations is foreign. Do the benefits of concentrated broadcast and telecommunications ownership outweigh its disadvantages, and if not, can Parliament act?

Should Parliament change its statutes to address concentrated media ownership, or leave such questions to the discretion of the CRTC? Is it possible in a 'too-big-to-fail' era to regulate highly-concentrated media in the public interest? Would such regulation run counter to Canada's international trade obligations?

Moderator: Dr. Daniel Paré, University of Ottawa

Panellists: Bram Abramson, Chief Legal & Regulatory Officer, Teksavvy
 Dr. Mark Bourrie, Carleton University
 Geoff White, Public Interest Advocacy Centre
 Dr. Dwayne Winseck, Carleton University

2:45 – 3:00 Refreshments

3:00 – 5:30 **Session 8: If we could do it all over again, should we? Lessons from the last 50 years**

The CRTC celebrated its 47th birthday this year. Its enabling legislation predates the internet, leading some to argue for legislative change.

Before changing Canada's communications statutes, what can we learn from the past – and specifically, from those charged with implementing Parliament's policies? What, if anything, could the CRTC have done differently, and what do those lessons suggest for legislators going forward?

Moderator: Nick Ketchum, Ketchum Advisor, formerly Senior Director, CRTC (1986 – 2009)

Panellists: David Colville, DC Communications Consulting, formerly Vice-Chair, Telecommunications, CRTC (1995 to 1999), and acting Chair, CRTC (1990 to 1994 and 2001 to 2002)
 John Hylton, former CRTC Commissioner (1977-1982)
 Dr. John Meisel, formerly Chairman, CRTC (1980 to 1983)

CPD accreditation

The Law Society of Upper Canada has accredited this conference for 3 hr 0 min Professionalism Content, and the program is also eligible for up to 12 hr 30 min Substantive Content.

Registration

Registration begins 9 February 2015, and includes morning and afternoon refreshments, lunch and a digital copy of the conference materials. Printed copies of the materials are available for an additional fee.

Registration on or after 1 April 2015	\$800.00 + taxes and Eventbrite fee
Students & faculty (50 seats reserved on a first-come, first-served basis)	\$50.00 + taxes
Printed copy of materials (at conference)	\$50.00 + taxes and Eventbrite fee
(When purchasing tickets, select whether materials are digital or printed)	

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