

Jean-Pierre Blais’ “Magic Items”: Over-the-Air Digital Television Delivery as Canadian Regulatory Revelation

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ABSTRACT

This article argues that a January 2015 speech by former Canadian Radio-television and Telecommunications Commission (CRTC) Chairman Jean-Pierre Blais represented a moment of regulatory revelation for digital Canada. In the speech, Blais proclaimed that his Canada included over-the-air (OTA) television, elevating the profile of OTA television delivery, spectrum, and infrastructure in the process. This article discusses the policy implications of the CRTC’s vision of an alternative path for Canada’s television broadcast system. It is a vision that deviates from the subscription-based cable, satellite, and Internet Protocol television modes of delivery in Canada and positions OTA as a viable component of Canada’s television delivery future.

Keywords *Digital television; CRTC; Over-the-air; Broadcasting; Regulation; Policy*

RÉSUMÉ

Cet article soutient qu’un discours prononcé en janvier 2015 par Jean-Pierre Blais, ancien président du Conseil de la radiodiffusion et des télécommunications canadiennes (CRTC), a été révélateur pour ce qui est de la réglementation du numérique au Canada. En effet, Blais a proclamé dans son discours que son Canada incluait la télévision hertzienne (sur les ondes), élevant ainsi le profil de la diffusion, fréquence et infrastructure hertziennes. Cet article discute les implications réglementaires de cette vision d’une alternative pour le

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système télévisuel canadien. Cette vision s'écarte de celles qui privilégieraient les modes de diffusion par abonnement que sont la câblodistribution, la diffusion par satellite et la télévision sur protocole internet, conservant la télédiffusion hertzienne parmi les choix disponibles aux téléspectateurs canadiens.

Mots clés Télévision numérique; CRTC; Hertzien; Radiodiffusion; Réglementation; Politique

Introduction

I have with me a special item, both behind me and next to me.
You could call them magic items. After all, they can
make cable and satellite bills disappear into thin air.

— Former Canadian Radio-television and Telecommunications
Commission (CRTC) Chairman Jean-Pierre Blais, January 29, 2015

Of the numerous regulatory decisions to have emerged from Let's Talk TV (CRTC, n.d.), the exhaustive and multiphased 2013–2015 consultation by the Canadian Radio-television and Telecommunications Commission (CRTC), the decision outlining continued regulatory support for over-the-air (OTA) television was perhaps the least expected. Although OTA television (alternatively known as conventional, terrestrial, or free-to-air television) continued to be available to most Canadians following the country's August 31, 2011, digital television transition, OTA had rarely been referenced or promoted as a twenty-first century mode of television delivery in Canada since. It was not until Broadcasting Regulatory Policy CRTC 2015-24 revealed that "(a)n overwhelming number of Canadians" (CRTC, 2015, para. 4) who had participated in the Let's Talk TV proceeding described "the ability to receive television programs inexpensively over the air as important and valuable" (CRTC, 2015) that the CRTC opted to "continue to require conventional television licensees to maintain an over-the-air presence" (CRTC, 2015), thereby renewing its support for OTA television broadcasting in Canada.

This article argues that Broadcasting Regulatory Policy CRTC 2015-24 signalled a moment of regulatory revelation for the CRTC: the Commission acknowledged that OTA television continues to provide Canadians with meaningful access to television programming in the digital age and took action (or rather, maintained its existing regulatory support) to protect such access. The decision to continue regulatory support for OTA television broadcasting ran counter to post-analogue notions of digital television delivery (i.e., that Canadians would best access their television through a subscription service or by way of online streaming) that had been promoted by the Canadian government and industry alike following Canada's digital television transition of 2011 (see Canada [2014]).

The dramatic public unveiling of Broadcasting Regulatory Policy CRTC 2015-24 (CRTC, 2015; cpac, 2015) by then-CRTC Chairman Jean-Pierre Blais on January 29, 2015, at a London, Ontario, Chamber of Commerce breakfast gathering is of particular interest to this article. While flanked by gleaming metallic OTA television antennas, Blais announced the CRTC's decision related to the over-the-air transmission of television signals and local programming, which marked a meaningful shift in the Commission's

approach to regulating television delivery. Canada's newly digital, and often high-definition (HD), subscription-free, over-the-air television broadcast system was deemed by the Commission to be a proven and consistent core element of Canada's digital television landscape, rather than simply a burdensome remnant of the country's analogue television legacy. With CRTC 2015-24 there was meaningful, enshrined, recognition that perhaps Canada's digital future (and digital present), fuelled by the reallocation of the country's electromagnetic spectrum, was not solely limited to fixed and mobile wireless internet connectivity. This shift was guided in part by the clear message participants sent to the Commission during the Let's Talk TV consultation that OTA television broadcasting continues to serve the public interest in the twenty-first century. While 78 percent of Canadian households were receiving their television via a paid cable, satellite, or an Internet Protocol Television (IPTV) subscription service at the time (CRTC, 2016), Blais drawing attention to OTA television antennas in 2015 highlighted how the discourse of television delivery regulation in Canada is not limited solely to delivering a steady stream of paying subscribers to vertically integrated Broadcasting Distribution Undertakings (BDUs).

This article discusses the policy implications of the CRTC's vision of an alternative path for Canada's television broadcast system that includes OTA television. It offers a recommendation that digital OTA television continues to benefit from regulatory support in Canada in order to maintain the well-rounded provision of television access to Canadians. This alternative OTA path deviates from the paid-subscription model for BDU (cable, satellite, and IPTV) modes of television delivery used by the majority of television-viewing households in Canada and instead highlights OTA as a component of Canada's post-analogue television-delivery system.

Let's Talk TV

The Let's Talk TV proceeding of 2013–2015 actively encouraged Canadian television viewers to share their vision for Canada's future television system with the Commission. This outreach included a Phase 1 online survey, a Phase 2 online "Choicebook" (used to understand Canadians' preferences for various ways of watching TV and funding TV production, with findings summarized by Hill + Knowlton Strategies [2014]), and a Phase 3 consultation combining online submissions with a more traditional hearing (featuring interventions and questions to interveners) held at the CRTC offices in Gatineau, Québec, (see Luka & Middleton [2017] for a consultation timeline). Broadcasting Notice of Consultation CRTC 2014-190 (CRTC, 2014), launched in April 2014 as part of Phase 3 of Let's Talk TV, offered up policy discussion points and potential policy directions. Of the policy questions posed by the CRTC in the consultation, the following question was asked about OTA television's role within Canada's regulated television broadcast system:

Q24. Is regulatory intervention necessary to maintain access to local television stations and, if so, how could this best be achieved? Given that the vast majority of Canadians receive television services through a cable or satellite subscription, are there compelling reasons to maintain and support OTA transmission? Would the discontinuation of OTA transmission

allow local television stations to devote more resources to programming?
If the Commission determines that OTA transmission should no longer be required, under what timeframe should this be implemented? (CRTC, 2014, para. 69)

The CRTC was not asking interveners for compelling reasons to maintain and support BDU television delivery in Canada. Rather, it was the maintenance of Canada's OTA television transmission system that was being investigated. Less than three years after the CRTC-imposed OTA digital television transition deadline of August 31, 2011, the CRTC was asking Canadians for reasons not to shutter Canada's new digital OTA television transmission system, in which Canadian television broadcasters had invested millions of dollars (without special financial support from the federal government). The CRTC pondering in 2014 the possibility of discontinuing OTA television was likely a vestige of Canada's 2011 digital television transition, which primarily valued freeing the spectrum for other purposes and generating revenues in the process rather than improving OTA television access to Canadian households (Taylor, 2013). Once Canada's 700 MHz band had been cleared and auctioned off in early 2014 (to wireless service providers who would then, according to Industry Canada [2012], offer Canadians additional, improved wireless services at low prices), the continued discussion of the merits of digital OTA television delivery largely subsided. The fact that Canada's Transition to Digital Television (DTV) website (Canada, n.d.) has been offline since mid-2014 and is no longer available except through archive.org (Wayback Machine, 2014, May 16) suggests a lack of government interest in digital OTA television delivery following the 700 MHz spectrum auction.

As noted by Marc Raboy (2010), "(p)ublic hearings, however flawed, are one of the best support mechanisms for communication rights" (p. 117). The Let's Talk TV proceeding, held after Canada's digital television transition and after the 700 MHz spectrum auction, revealed to the Commission that the benefits of Canada's digital television transition extended beyond the reallocation of the 700 MHz spectrum band to wireless service providers and the \$5.27 billion in auction revenue realized by the federal government (Industry Canada, 2014). Broadcasting Regulatory Policy CRTC 2015-24 recorded the strong and clear message about the value of OTA television from those who answered Question 24 of Let's Talk TV's Phase 3 consultation, noting:

Over 95% of the participants who posted comments on the topic of over-the-air television in the online consultation held during Phase 3 referred to the importance and value of the ability to receive television programs inexpensively over the air and opposed proposals to shut down transmitters. Many of the interveners in Phase 3 of the consultation were of the same view. They argued that many Canadians rely on over-the-air transmission to get their local news and programming and that, in some areas, over-the-air reception is the only means available to watch television. Some suggested that if Canadian conventional television stations were to shut down their transmitters, Canadian viewership would shift toward watching American over-the-air signals. (Broadcasting Regulatory Policy CRTC 2015-24, par. 8)

Making OTA TV infrastructure visible

The CRTC's decision to maintain regulatory support of OTA television transmission, vis-à-vis the *Broadcasting Act* (Canada, 1991), is of interest to the study of digital television broadcasting regulation for two reasons. First, the regulatory decision, and Chairman Blais' use of props (material, rather than magical) when announcing it, are examples of the process of making television broadcasting infrastructure visible (Parks, 2013a) to Canadians by identifying and displaying OTA television antennas and hardware capable of receiving television programming without usage fees, bundles, or monthly contracts. Second, the decision highlighted the cost of television reception for Canadian television-viewing households (rather than simply the cost of television-delivery transmission by television broadcasters) and the role OTA television delivery plays in providing Canadians access to television programming. This point highlights the tensions in allocating the radio spectrum in ways that preserve the public interest, given ongoing efforts to make more of the spectrum available for mobile broadband while still retaining sufficient capacity for OTA television delivery (see Industry Canada's 2015 consultation and decision on repurposing the 600 MHz spectrum band). This is what makes the CRTC 2015-24 decision revelatory in nature: OTA television infrastructure illuminates the base upon which Canada's television broadcast system rests. Furthermore, Gregory Taylor (2016) stresses the importance of making OTA television hardware and infrastructure visible in the digital age, and the lasting impact of failing to do so. Referencing specifically CBC/Radio-Canada's OTA television infrastructure, Taylor (2016) warns that "(o)nce the infrastructure is let go, there is little budget or political will to bring it back" (p. 356), observing that while "(c)onventional television is clearly no longer the only source of programming ... it remains a formidable force for the foreseeable future" (p. 356).

While OTA television antennas were most likely already visible to former CRTC Chairman Blais and the rest of the Commission prior to Let's Talk TV, their role in post-analogue television delivery in Canada and their visibility to Canadian television subscribers became more prominent as the Commission's review of television policy unfolded. Blais made a concerted effort to make OTA television reception visible to additional Canadian television-viewing households by featuring them on the stage where he made the CRTC's OTA television decision announcement. While it might be a stretch to suggest that Chairman Blais and the CRTC made OTA TV antennas cool in 2015, the spectacle of the Commission's OTA announcement certainly assisted in making OTA television antennas more visible.

Over-the-air television delivery: Magical or material?

Canadian households located near the Canada/U.S. border continue to be able to receive available OTA digital television signals originating from south of the border, as well as available Canadian OTA television signals. While Blais noted in 2015 that "magic items" (Canada, 2015) were providing Canadians with "free" TV, there are in fact a number of costs associated with both the production and delivery of Canadian television signals via OTA antenna that are not magically paid for by the spirit world and/or by Americans. Television programming created and delivered to Canadian viewers is paid for by Canadians in the form of a federally regulated and funded television system

and by fees spent each year by Canadian broadcasters and BDUs. Dallas Smythe (1981) noted that television audiences (including OTA viewers) work for their television programming by having to either watch or try to avoid watching television ads. As Mark Andrejevic (2002) notes, interactive television audiences also work for their television programming by way of having their interactive viewing choices monitored by content providers (p. 231).

Lisa Parks's (2013b) research pertaining to the U.S. television industry stresses how the maintenance of a "viewer body count" (p. 9) as a mass of television-viewing eyeballs is closely linked to the expectation that American broadcasters will deliver viewers to advertisers. Television advertisers in Canada also expect a healthy supply of eyeballs. If a particular mode of television delivery, for example OTA, does not provide enough viewers it is less attractive to the television industry and advertisers. Regardless, Blais' focus and wonder related to OTA television illustrates the fact that Canadian households can skip BDU offerings and the monthly fees and bundles that typically come along with cable, satellite, and IPTV television subscriptions.

While the CRTC's 2015 decision to continue regulatory support for OTA television transmission served to maintain OTA television broadcasting as a point of citizen access into Canada's television system, this article argues that Blais' presentation of OTA TV antennas as "special" and "magical" items (instead of material hardware linked to the real world) has served to stunt additional regulatory and societal discussion of why Canada has an OTA television system and its future role in the provision of access to Canadian households and mobile-device users. Framing OTA television as a magical, free, cord-cutter friendly blessing from an unknown benevolent spirit (Marvin, 1988) minimizes the opportunity for the country to truly appreciate and harness the usefulness of Canada's OTA digital television system at the very time that Canadian regulators and the government are seeking ways to preserve and promote Canadian culture in the digital age (Canada, 2016).

For example, the provision of OTA access to 4K/Ultra HD television programming and the potential adoption of the Advanced Television Systems Committee (ATSC) 3.0 digital OTA/IP-based television broadcast standard would offer the possibility of no-fee, high-fidelity, interactive OTA television broadcasting in Canada. The framing of OTA television as magical rather than material may inadvertently hinder recognition of the future use of digital OTA television broadcasting in Canada, leaving OTA in a precarious regulatory limbo in the face of the future repurposing of electromagnetic spectrum.

Still, in 2016 Media Technology Monitor (MTM) reported a resurgence in an appreciation for television hardware, such as "rabbit ears," that can provide Canadians with access to television programming. MTM noted that, "13% of Anglophone Millennials (18-34) now report having an Off-Air TV [OTA television] connection. Penetration has nearly tripled in the past three years" (2016, p. 8). It would appear that Canadian Anglophone millennials residing in urban areas (MTM, 2016), where most digital OTA television transmitters also happen to be located, have an appreciation for the no-fee television access that OTA hardware provides.

Policy recommendations

Blais' 2015 magic-items speech was an important recognition of the role of OTA televi-

sion delivery in Canada's regulated television system, and an acknowledgement of the public benefit inherent in continuing to allocate spectrum to broadcast television. What remains is for the Canadian government and the CRTC to enhance Canadian knowledge of, and access to, alternative paths to television (such as OTA) in a meaningful way, recognizing OTA as material to television delivery. Recommendations for enhancing OTA television in Canada follow below.

While the Justin Trudeau federal government has to date highlighted the importance of Canadian culture and media, and initiated extensive consultations such as the Digital Content in a Digital World Consultations (Canada, 2016) and the Broadcasting and Telecommunications Legislative Review (Canada, 2018), it has yet to take action on television-related initiatives, especially those that focus on delivering Canadian culture and media. The following recommendations provide a start in terms of enhancing Canada's regulated post-analogue television broadcast system:

A renewed education program related to the benefits of OTA digital television in Canada. The CRTC itself made a positive step in this direction on February 19, 2016, when it launched its Communication Service Providers in Canada online tool (Cision, 2016), allowing Canadians with internet access to search for mobile, phone, internet, free TV, and paid TV services in their area. As part of this CRTC search tool, it would help if Canada's previously mentioned digital television website could be brought back online as an informational archive and ideally updated with current information related to Canadian OTA television reception specifics. The timing is right for such a renewed education campaign as a complement to the CRTC-mandated BDU television regulation for affordable basic packages, pick-and-pay and small packages that came into full effect December 1, 2016. As Canadian television-viewing households continue to consider modifying their BDU television subscriptions, additional information related to OTA television signals that are already available to many Canadian households (without the need of a BDU) may assist such households in selecting a television subscription that best suits their needs.

Future spectrum reallocation plans that reflect the CRTC's renewed support for OTA TV. While spectrum sharing and dynamic-spectrum allocation should eventually allow for more flexibility in spectrum allocation (e.g., Basaure, Marianov & Paredes, 2015) and shift the framing away from pitting OTA television against mobile broadband in favour of co-existence, at present the dominant discourse sees these uses for spectrum as competitive, not complementary. If there is indeed a competition, is it in the public interest to auction spectrum to mobile broadband providers so that Canadians can then buy back their use of it (through mobile broadband services) in order to access, among other things, online television content?

The articulation of a volunteer program to assist with the installation and on-going troubleshooting of OTA TV Canadian households capable of receiving OTA television. Training Canadian volunteers associated with groups such

as the United Way, Salvation Army, and the St. John Ambulance Therapy Dog Program on how the households they already visit on a regular basis may benefit from OTA television would permit these volunteers to assist with connecting Canadian television-viewing households with no-fee, local, often HD-quality television programming. Indeed, what is possible is a rediscovery of a forgotten technological literacy: using an antenna to receive OTA television.

Over-the-air television is not a television solution for all Canadians, and for many television viewers in the country it is likely to be just one part of an “ensemble” approach to viewing TV. In 2019, digital OTA television seems comparatively old and inflexible when compared to Canadian television experiences available today through subscription services or online streaming. Canadian over-the-air television access does not allow for on-demand, instant replay, and/or recording (at least not without additional hardware). For OTA TV to really have a future in Canada, and merit ongoing regulatory support, it requires additional promotion to the Canadian public along with the preservation of spectrum for OTA broadcasting use. It needs champions and enthusiasts who will work to overcome the challenges and disadvantages of the linear, appointment-based model that is still the basis of OTA TV. The ATSC 3.0 digital OTA television standard (approved by the Federal Communications Commission for voluntary adoption by U.S. broadcasters in February 2017) may assist in this regard. The ATSC 3.0 standard combines the access qualities of digital OTA television broadcasting with an internet-connected backchannel for user-based interactive features along with improved broadcasting to mobile devices, which has been lacking in the digital era (May & Middleton, 2013). This enhanced digital OTA television standard may prompt meaningful discussion pertaining to the potential future role of digital OTA television broadcasting by Canadian regulators. But from a public interest perspective, CRTC support for OTA remains important.

Conclusion

As noted by Blais in a 2016 speech to the Canadian Club of Toronto, the CRTC under his stewardship opted to put Canadians “at the centre of our conversations about the future of broadcasting and telecommunications” and the Commission’s focus at the time was on “giving [Canadians] back control over their communication system” (CRTC, 2016). The future policy implications of an alternative path for the CRTC regulation of a Canadian television system that includes OTA television present an opportunity for current CRTC Chairperson Ian Scott to assist Blais’ magic items in making the leap toward tangible and visible television delivery infrastructure.

Website

Communications Service Providers in Canada, <https://crtc.gc.ca/eng/comm/fourprov.htm>

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