

CASE STUDY – THE CRTC

Policy and Regulations, Industrial and Organizational Context, Impact of Change

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Executive Summary

The following paper is a case study. It will analyze a regulatory organization responsible for overlooking, supervising, and regulating the broadcasting and telecommunications aspects of the Canadian cultural industries: the CRTC – Canadian Radio-television and Telecommunication Commission – a Canadian public organization. The case study will take an in-depth look at the Canadian cultural industry realm associated to the CRTC while illustrating the different characteristics that shape the organization. More precisely, the case study will look at the different the type of organizations that compose the cultural industries that are impacted by the CRTC, the regulatory concerns, information on the competitors in the realm, the policy frameworks, a core concept linked to the organization, and more. In addition to those different features, the case study will analyze a moment of change that forced the CRTC to react and adjust. In this case, the moment of change is the adjustments the CRTC has had to make in regards to the arrival of Internet broadcasting and online streaming platforms, commonly called over-the-top (OTT) services. Scholarly articles, documentary sources, organizational reports, relevant data, and more bibliographical records acquired from the scholarly databases as well as the lecture slides, books, and articles that have been put to my disposal in this course enable this case study. A case study in which we find that the arrival of OTT services such as Netflix and more forced the CRTC to changes their regulations, policies, and approach as a whole as it pertains to overlooking the cultural industries concerned.

Introduction

The CRTC – Canadian Radio-television and Telecommunication Commission – is one of the most prominent regulatory organizations in the Canadian cultural industries. Broadcasting

and telecommunications are a crucial part of the Canadian cultural industries. They are also the main concern of the CRTC. Therefore, it is important to analyze the organization and the changes it made overtime as the impact they can have can be pivotal to the real of the Canadian cultural industries. In this case, the following paper will be analyzing the adjustments the CRTC has had to make in regards to the arrival of Internet broadcasting and online streaming platforms. As rules, regulations and quotas needed to be implemented to address the technological advancements that allowed for the new broadcasting techniques to be prominent. The analysis of the adjustments made by the CTRC has an impact on the wider climate of the cultural industry realm because it gives an opportunity to other parts of the industry to be positively influenced, inspired, and impacted by changes done by a prominent regulatory organization of the Canadian cultural industry. To conduct a relevant and fluent case study the paper will give a literature review of the industrial realm, examine the current industrial and organizational context, and analyze the moment of change mentioned earlier. The different aspects of the paper will allow a better understanding of the cultural industries as a whole which will, in turn, justify and clarify the moment of change.

Literature Review

Firstly, it is important to understand the Canadian cultural industry realm as well as the specific type of organization the CRTC is before going into details about the industrial and organizational context. The term “culture industry” emerged in 1944 with the help of Frankfurt school theorists (Bourcheix-Laporte, slide 2, Week 1: Defining Questions in the Cultural Industries, 2021). This allowed for over 70 years of development of the industry. Today, the Canadian cultural industries are composed of many sectors including television and radio, the film industries, the music industries, print and electronic publishing, video and computer games as well as

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advertising, marketing, and public relations as the core cultural industries in Canada (Hesmondhalgh, 2019).

This makes for a lot of industries to be looked after which involves high concerns in regard to regulations, market changes, and more. In fact, there are many theoretical considerations to take into account in regard to the cultural industries. Pluralism in the industries, distribution, and access, censorship and freedom of expression, intellectual property, the impact of globalization, economic and structural features, social concerns, policies and regulations as well as the impact of digitalization are the prominent considerations when it comes to the cultural industries (Boucheix-Laporte, 2021). The realm of the cultural industries is wide which is advantageous at times but can also be a downfall in some instances. That reality enables many types of organizations to constitute the industry. The mediatic and cultural organizations such as production companies like Netflix or public broadcasters like the CBC (Canadian Broadcasting Corporation); the advocacy organizations such as the Association of Black Journalist or the Alliance of Canadian Cinema; the regulatory organizations such as the Canada Council for the Arts or Telefilm Canada (Bourcheix-Laporte, 2021).

This case study analyzes the CRTC which is a regulatory organization highly governmentally influenced and governmentally funded organization that regulates and supervises the Canadian broadcasting and telecommunication field in the public interest (Canada, 2021)(cbc.radio-canada.ca, 2018). Over time, the organization created in 1976 has had to develop policies and regulations to be able to respond to the changes occurring in the field it overlooks. Similarly to many other areas of the cultural industries, the fact that free trade is so prominent forced the CRTC to develop policies and regulations that would ensure the viability of the related industries.

Free trade is one of many issues that impeded the simple concept of policy and regulation. Michael Bergman makes this point in his article when he states that free trade will be Canada's cultural industries "grim reaper" while speaking about the impact free trade can have without the implementation of the right policies (Bergman, 1985, p. 8). Policy and regulation in the cultural industries is a simple concept as they are in place to structure market relations and ensure that Canadian values are respected (Bourcheix-Laporte, *Between the Market and the State: Policy and Regulation in the Cultural Industries*, slide 13, Week 4, 2021). While policies are the broad idea that structure the entities, regulations are the specifics such as laws, quotas, and ownership rules. The "tariffs, taxes, foreign investments restrictions, and content requirements that overtly discriminate against the U.S." are legislations and regulations implemented, a few years ago, by the Canadian government in response to NAFTA (North American Free Trade Agreement) that exemplify the concept of policy and regulation (Headly, 1994, p. 655). As market relations are structured while Canadian values are put to the forefront.

Description of industrial context

As it pertains to the Canadian cultural industry, the broadcasting and telecommunication context has many facets. Broadcasting in Canada is highly regarded as a tool that communicates national ideals, culture, and values. Since the 1960's, broadcasting and telecommunication are said to be "the central nervous system of Canadian nationhood" as well as help preserve the existence of the Canadian "political and social entity" (Babe & Collins, 1990, p. 5). That belief shapes the overall context. In fact, financial data and policies that have been implemented over the past few years show that the industrial context of broadcasting and telecommunications steer towards that belief. As stated in Charles Davis' article *Cultural Policy in the Time of Digital Disruption: The Case of Creative Canada*: "Canadian broadcasting policy employs a 'walled

garden' regulatory model in which domestic firms are afforded protections, support and privileges in return for delivery of specific cultural and social goods and services which otherwise probably would not be produced" (Davis & Zboralska, 2019, p. 154). This is a policy that represents the overall direction of policies in the Canadian context that is to have Canadian content, producers, and values at the forefront even in a time of digital disruption. A time that enables over-the-top competitors from all over the world such as Spotify, YouTube, Netflix, Hulu, Google, Amazon, and more to enter the Canadian broadcasting and telecommunication context (Rimock, 2013, p. 335).

In addition to the policies and plurality of competitors that shape the industrial context, the CRTC "is responsible for regulating both telecommunications under the Telecommunications Act and broadcasting under the Broadcasting Act" and is the largest regulatory organization in the industry (Bannerman, 2019, p. 229). Is fully funded by the government which impacts the realm of the industry as the funds given to the organization are redistributed in a biased manner that favors Canadians. In 2019-2020, it enabled the CRTC to spend over 69 million dollars to ensure well being of the Canadian broadcasting and telecommunications industry (Guilbeault, 2020, p. 6). The continual investments the government injects into the CRTC shape the industrial context.

Description of Organizational Context

The CRTC is an organization that is said to be devoted to the Canadian public. The CRTC's CEO Ian Scott states, "Put simply, our role is to regulate in the public interest, to ensure that Canadians have access to a world-class communications system." (Canada, 2021). The different reports, public statements, press releases, and more show that the CRTC as an

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organization tries to provide world-class communication and act in the interest of Canadians. Though it is influenced by their governmental funding, it is true.

The CRTC is a public organization that operates with transparency and allows the public to stay informed. They provide public financial reports, hold public hearings to listen to the broadcasting and telecommunication issues of the Canadian public, share their data and statistics, and more. In 2020, they had over 300 press releases that kept the public informed on what was occurring within the CRTC and what decisions were being made on a weekly basis. Whether it be reapproval of licenses, changes in tariffs, requests, and more.

The latest report the CRTC released showed that they spent close to 70 million dollars. That money served many purposes that help shape the organization's context. The report contains the achievements and milestones the organization was able to reach as well as the milestone they are trying to reach that shape the way they operate. The report shows that 87.3% of Canadian households have access to world-class communications services, the short-term target was 90% for 2020 while the long-term target is 100% by December 2036 (Guilbeault, 2020, p. 17). To do so, on March 19 2021, the CRTC announced that it "will provide up to \$750 million over 5 years" to build infrastructure to enable underserved Canadian areas to have access to broadband Internet (Broadband Fund: Closing the digital divide in Canada, 2021). It also, shows that 100% of organizations that are supervised by the CRTC are compliant with regulations placed within the last 12 months. Those are two examples out of many that are in the report. The report also shows the financial data, gains, and losses the CRTC incurred during the year

In addition to the reports, the CRTC constantly tries to make the telecommunication and broadcasting industry in Canada more secure to the public. In January 2021, "the CRTC

launched a consultation on its proposed framework to address botnets, harmful networks of malware-infected computers that are under the control of a malicious actor.” (Commission, 2021). The CRTC’s CEO and chairperson Ian Scott followed the announcement with a quote that shows how much public interest is central to the organization. He says that “Almost every week, we see another organization victimized by ransomware or hear of a fellow citizen lured in by a phishing scam. With the launch of this proceeding, we are aiming to better protect Canadian individuals, businesses and institutions against damaging botnet activity.” (Commission, 2021). This being the most recent example out of many that represent the way the CRTC’s organizational context serves Canadian interest and constantly monitors the needs and advancements in the industry, addresses issues, provides better services, and communicates directly with the public.

Analysis of a Moment of Change

In recent years, the CRTC has faced a serious challenge that required that the organization adjust and reconsider policies as well as regulations that they had put in place beforehand. That challenge is the arrival of the Internet, more specifically Internet broadcasting and online streaming platforms, commonly called over-the-top (OTT) services, that offer content to the Canadian public. The description of the industrial and the organizational context provided earlier shows that the CRTC works to favor the Canadian telecommunication and broadcasting industry. The different policies that are in place favor Canadian content and protect the cultural industry. But, as discussed earlier, over 85% of Canadians now have access to world-class Internet which enables them to access whatever they want. Including OTT services, broadcast and cultural content that is not produced locally by Canadians that pose a threat. That is where the issue and the challenges that required change from the CRTC lie.

OTT's platforms and services forced the CRTC to make highly required changes. Because the interest of the Canadian public was being put at risk with the arrival of those channels and they were unregulated as they were not in the Canadian cultural industry sphere before. A mandated review of the CRTC conducted by the MacDonald-Laurier Institute makes this point when it states that the CRTC "was designed for an era of cultural nationalism, limited competition, and airwave scarcity. Its mandate was focused on managing the "orderly development" of Canada's broadcasting and telecommunications sectors in the "public interest.'" (Katz & Speer, 2016, p. 2). However, the arrival of OTT's and new channels that emerged during the start of the 21st century and keep growing today required intervention by the CRTC as "orderly development" and "public interest" were drifting to unknown territory. The mandate review informs us of that fact and states that "The explosion of new technologies, market structures, and consumer expectations has disrupted this quaint vision for the CRTC. Its capacity to manage the "orderly development" of Canada's communications sectors has been undermined by market dynamism and technology enabled disorder" (Katz & Speer, 2016, p. 2). The Broadcasting Act that was last reviewed, in 1991, for television and the Telecommunication Act that were the base on which the CRTC operated were outdated in regards to the OTT services and platforms (Schnitzer, 2019, paragraph 3). Leaving the new OTT services somewhat unregulated and free-roaming.

However, in response to the threat that the constant growth of OTT services and other Internet channels posed. The CRTC, in 2009, took the first step by requiring that "internet broadcasters like Netflix submit information on their broadcasting activities, or other information the Commission may request from time to time in the process of monitoring internet broadcasting." (Bannerman, 2019, p. 234). Compliance by the companies targeted was not total as some, like Netflix, refused to abide by the demands. The CRTC could not enforce the

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demands because, as stated earlier, no policy, laws, regulations were in place for the OTT services and Internet channels. Plus, the CRTC's net neutrality which is a principle where Internet traffic should be allowed without discrimination of provenance or subject, allowing OTT services to cause more havoc in the Canadian cultural industries especially in the broadcasting and telecommunication sector.

Following that first step, in 2011, in a speech a former CRTC chairperson, Konrad von Finckenstein, says in a speech "the control of access as a means of guaranteeing the supply of Canadian content is becoming outdated." (Katz & Speer, 2016, p. 26). Finckenstein is alluding to the fact that action should be taken in regards to the OTT services in some way or another. The same year the commission tries to adjust and by trying to see to what extent OTT services require their attention. But no significant actions were taken as the organization concluded that none were required. Michael Rimock's article, *Regulatory Issues Concerning New Media Alternatives to Television*, make that point when its state, "in 2011 in order to assess the significance of OTT services in Canada and consider whether or not there should be regulatory intervention. The commission confirmed that "OTT programming accessed over the Internet is increasingly available to consumers at attractive price points" and found that new changes in the communications sphere are "creating uncertainty concerning established business models and associated support for the creation and presentation of Canadian content." However, the commission decided that the impact OTTs will have on Canadian broadcasters remains inconclusive, and that for the time being they should remain unregulated" (Rimock, 2013, p. 337).

Still today in 2021, no considerable regulations or policy changes have yet to be introduced in a concrete manner. In 2018, the CRTC, in junction with the Canadian government,

set out to have the “Telecommunications Act (1993) and the Broadcasting Act (1991)” reviewed “by an expert review panel in order to modernize the legislative framework that applies to Canadian communications.” (Guilbeault, 2020, p. 5). In 2020, “the review panel presented its final report, Canada's Communications Future: Time to Act to the Government of Canada. The report made specific recommendations that touched on the following main themes:” reducing barriers to access by all Canadians to advanced telecommunications networks; supporting the creation, production and discoverability of Canadian content; improving the rights of the digital consumer; and renewing the institutional framework for the communications sector.” (Guilbeault, 2020, p. 5). To this day the CRTC cannot impose nor create regulation and policies concerning to OTT services as changes to the review are still pending. Disabling them the ability to find a solution to the challenge of the rise of the Internet, OTT services, and related technological advancements.

Conclusion

Ultimately, the CRTC issues with OTT services, the Internet, and technological advancements are still ongoing. As they try to alter the policies and regulations that apply to the telecommunication and broadcasting sphere of the Canadian cultural industries. Since solutions tried in the past did not succeed. It might explain why the Canadian government is looking at other solutions and trying other alternatives. Such as the deal they signed, in 2017, with Netflix, the biggest OTT service in Canada in terms of users and revenue, for over 400 million through 2022 in the Canadian cultural industries which would help Canadian “public interest” (Koronios, 2020, paragraph 3). Deals of that kind may be the way to come to terms with OTT services and platforms and technological advancement related to the Internet. As the simple concept of policies and regulations, introduced in the literature review, is more complicated to concretely

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implement when technologies are fast-changing, there is freedom of access, a plurality of features have to be considered (i.e., the impact of new policies) and preceding regulations are outdated. This case study on the CRTC illustrates it.

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