



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

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September 1, 2006

Via email

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Ms. Rhéaume:

**Re: Broadcasting Public Notice CRTC 2006-72:
Call for comments on a request by the Governor in Council pursuant
to section 15 of the *Broadcasting Act* to prepare a report examining
the future environment facing the Canadian broadcasting system**

The Canadian Association of Broadcasters (CAB), the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks and specialty, pay and pay-per-view televisions services, is pleased to respond to the above-referenced broadcasting public notice.

The CAB's submission is attached.

Sincerely,

Glenn O'Farrell
President and CEO

Encl.

A Submission to the
Canadian Radio-television and
Telecommunications Commission

With respect to

Broadcasting Public Notice CRTC 2006-72

**Call for comments on a request by the Governor in Council pursuant to
section 15 of the *Broadcasting Act* to prepare a report examining the
future environment facing the Canadian broadcasting system**

Prepared by



Canadian Association of Broadcasters
L'Association canadienne des radiodiffuseurs

September 1, 2006

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EXECUTIVE SUMMARY

1. In this submission the Canadian Association of Broadcasters (CAB) examines the new realities of Canadian broadcasting.
2. The submission paints a clear picture of a broadcasting industry facing change in many different areas: consumers with increasingly demanding expectations as to how content is received and accessed; a technical infrastructure that needs to be enhanced, overhauled or replaced; a traditional business model that must adapt to the unprecedented challenges of a new competitive landscape.
3. The traditional reality of Canadian broadcasting is that Canada's private broadcasters have been the main producers of Canadian content and have provided the primary means by which Canadians access that content. Indeed, the number and diversity of programming services, both domestic and foreign, has vastly expanded over the years to the point where Canada has one of the most content-rich broadcasting systems in the world.
4. For its part, the Government of Canada has called on the private broadcasting sector to take a lead role in the achievement of numerous policy goals – from cultural policy goals such as Canadian and French-language content, local reflection and talent development; to social policy goals of diversity, accessibility and high content standards; to economic goals such as the creation of jobs in all regions; and to matters of public safety through an emergency alerting system.
5. Over the years, working in partnership with the industry, the Government has adopted progressive measures to nurture and develop a national broadcasting system to serve Canadian needs, interests and aspirations. Government investment in the system, from the Canadian Television Fund to the development of a domestic communications satellite system, has been instrumental in creating the underpinnings of the system that Canadians enjoy today.
6. The relationship between private broadcasting and the Government has arguably been the most successful public-private partnership in the history of Canada, creating an east-west infrastructure across which Canadians have communicated for decades.
7. The submission filed today deals largely with television, on the understanding that the research material on the radio industry filed with the Commission as part of the Review of the Commercial Radio Policy will also be taken into account in this proceeding.

The Reality of the Present and the Reality of the Future

8. Appendix 4 of this submission, *The Economic Status of the Canadian Television Broadcasting Industry*, shows that the television industry registered a generally strong economic performance over the past ten years. This could create a false perception that the industry's economic health is inevitable, permanent, an unassailable position. But the question for this sector, as for all sectors of the economy, is, "Where will growth come from? Where is growth going now?"
9. The reality is that broadcasters are now facing huge capital and operating expenses as they upgrade their operations to compete in a new, more complex environment. Appendix 4 notes, in fact, that there is already considerable evidence that growth in the Canadian television broadcasting industry is slowing.
10. Licensed broadcasters are facing increasing competition from largely unregulated players who can offer content directly to consumers with few or no regulatory obligations, and without relying on the traditional players. Given this fundamental change now taking place in the broadcasting environment, the question is how will broadcasters adapt in order to maintain the fundamental contributions of the Canadian broadcasting system?
11. Broadcasters are among the players in the value chain who can be bypassed by the creation of new technology "paths" to the consumer. Moreover, the smaller the broadcaster, the more vulnerable they are to these developments. At one time, the territorial limitations of spectrum gave even small independent broadcasters clear protection in their markets, but the arrival of satellite and then the Internet have created new paths to the consumer that go "around" broadcasters, and reduce the value of the rights they have purchased from other players in the chain. Newer technologies exacerbate these problems for small and large broadcasters alike.
12. The new reality of Canadian broadcasting is the increasing ability of Canadian consumers to choose between broadcast content, on the one hand, and broadband content on the other. This represents the type of disruptive change brought about by new technology – new players in the broadband space can access consumers directly, bypassing the traditional broadcasting value chains.
13. Appendix 3, *CAB Technology Adoption Analysis*, addresses the adoption of new technologies by Canadian consumers. The analysis shows that Canadians are embracing both the new broadband platforms, and to a somewhat lesser extent, the digital successors of the traditional broadcast networks.
14. For example, the penetration of fast connections to the Internet has reached 60% amongst anglophones, although it lags somewhat behind with the francophone population at just under 40%.
15. With respect to licensed television services, while 90% of anglophones and 83% of francophones subscribe to a licensed broadcasting distribution undertaking, digital BDU service is still in the minority – 42% of francophones and 44% of anglophones

subscribe to digital cable or DTH, while other digital service providers (telco TV and “wireless” cable) serve less than 1% each. Thus, a majority of Canadian consumers continue to rely on analog BDU and over-the-air reception.

16. Sub-categories of the digital BDU platform remain at very low levels of penetration. While HDTV set ownership has reached 15% of anglophones and 9% of francophones overall, a minority of these set owners actually has it connected to a source of HDTV programming (i.e. a digital BDU set-top box). The result is that only about 6% of anglophone consumers and just over 2% of francophone consumers are capable of receiving and viewing HDTV pictures.
17. Similarly, PVR penetration remains very low, at 4% of anglophones and 2% of francophones.
18. As broadband networks become broadcasters’ greatest and growing competitor, the impact of unregulated competition becomes more pronounced. New players emerge on a daily basis, offering products and services that have traditionally been the domain of other players, in other industries.

A Complex Ecosystem

19. But this is not a simple system. The complex ecosystem that is Canadian broadcasting contains many players on divergent paths, all of whom are acting and interacting in different ways in light of the opportunities and challenges of new technologies.
20. Consumers are not a homogeneous mass but instead reflect many different behaviours. The *CAB Technology Adoption Analysis* shows that there are in fact several different audiences – in other words, different segments of the population use new and existing media in different ways. Some appear to be satisfied with analog technology; others forge ahead with the transition to digital.
21. With respect to relationships in the value chain, Appendix 1, *The Evolving State of Audio-visual Technology*, examines the drivers behind the adoption of new digital media technologies and assesses the challenges for the Canadian broadcasting system in reacting effectively to these developments.
22. A couple of examples from Appendix 1 illustrate the potential scope of consumer adoption of new technologies:
 - YouTube is streaming over 100 million videos per day for free over the Internet;
 - Mobile television is launching worldwide. Debitel, Germany’s 3rd largest mobile telephone company, began broadcasting four television channels to its subscribers in May using the Korean Digital Multimedia Broadcasting system (T-DMB). Some analysts expect to see 250 million video phone users worldwide by 2010.

23. Appendix 1 notes that different players in the broadcasting value chain may benefit or be hurt by the adoption of new technologies – some, who can easily be bypassed by parallel delivery systems, like broadcasters and television producers, have no choice but to adapt even when the economic model for new technologies offers them no benefit – high definition and digital over-the-air transmission being prominent examples.
24. Many broadcasters are providing significant amounts of content over the Internet. Several examples are described in Appendix 1, among them:
- six CTV Canadian shows are or will soon be available via the broadband service;
 - CHUM offers on-demand access to MuchMusic programs such as VJ Search and Canada’s Next Top Model, plus headlines on Citytv and “mobisodes” of several other shows;
 - the newscasts and public affairs programming of TVA, LCN and LCN Argent are being made available on the Internet; and
 - Alliance Atlantis has begun offering broadband video content, from full episodes on demand (Season III Finale of Naked Josh) to unique webisodes (Rescue Me).
25. Meanwhile, other players continue to use gate-keeping power to shape the future – inhibiting consumer adoption of new technologies in some cases. The relationship among players in the broadcasting value chain has, traditionally, been highly regulated. In this new reality of continuous evolution of technology, the feasibility of regulation is under question; but if not regulation, what measures can succeed in maintaining fair competition among players and the creation of Canadian choices?
26. As noted above, licensed broadcasters are taking steps to access new digital platforms with their own content so as to establish a presence in the unregulated broadband spaces. Appendix 2, *Broadcasting Technology: Industry Adoption and Issues*, concludes however that at this time there appears to be no realistic business plan that will yield the possibility of recovering the substantial investment that these platforms will take.
27. Finally, content providers and broadcasters are engaged in ever more complex and difficult negotiations about how content will flow through different platforms. Appendix 5, *Emerging Trends in the TV Rights Landscape*, examines emerging trends in the television rights marketplace due to new technologies and multiple platforms for delivering content, and assesses the implications of those trends for the Canadian broadcasting system.

Considerations

28. Taking all this into account, the primary conclusion is that there is no one broadcasting marketplace in Canada anymore and there is no longer a single integrated broadcasting system. In one sense, there are now two parallel broadcasting systems – one a traditional regulated system with controlled entry and detailed regulatory obligations

and contributions to achieve cultural policy goals, the other an essentially unregulated, uncontrolled system made possible by new digital platforms for the creation and distribution of content, bypassing traditional channels.

29. So in this new environment, what is the appropriate policy approach that will preserve what's good about our current system as the broadcasting environment evolves?
30. Fundamentally, the CAB believes that a "vision of the whole" is essential, taking into account the reality that technological innovation in the telecommunications sector will impact on the broadcasting sector, and vice-versa. And within this vision of the whole, new approaches for broadcasting policy should still be guided by the fundamental principles of the *Broadcasting Act*.
31. The CAB further suggests four elements that should form the basis of an updated approach to the new realities of broadcasting.
32. As a first step, the CAB supports and encourages the Government's efforts to develop a more thorough understanding of new audio-visual technologies and their impacts on broadcasting value chains and on competition with regulated broadcasters. Such an understanding should also include the extent to which regulatory oversight of new technologies may be appropriate to further the objectives of the Canadian broadcasting system. Where it is determined that regulation as a policy tool is producing diminishing returns, there needs to be discussion of alternative measures to ensure the creation, distribution, and use of Canadian content by the public.
33. Second, the CAB submits that there will be important areas in which licensed broadcasters will need regulatory flexibility to reduce the degree of regulatory asymmetry that currently exists, if they are to continue to make a strong contribution in the face of unregulated competition.
34. Third, to complement a more flexible regulatory approach, the Government should consider other measures to encourage investment in new broadcasting infrastructure in recognition of the fact that incremental revenues are insufficient to offset the substantial investments required to implement digital broadcasting.
35. Finally, two key issues respecting program rights will need attention in the new environment of multi-platform distribution and exhibition: (i) protecting the integrity of the Canadian rights market, and (ii) ensuring that Canadian broadcasters are able to access multi-platform rights. The whole area of rights and copyrights needs examination, if a model that encourages successful Canadian content delivery is to be carried through the new reality.

Introduction

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view television services. This submission provides the CAB's response to Broadcasting Public Notice CRTC 2006-72 *Call for comments on a request by the Governor in Council pursuant to section 15 of the Broadcasting Act to prepare a report examining the future environment facing the Canadian broadcasting system* (PN 2006-72).
2. In PN 2006-72 the Commission, at the request of the Governor in Council, is seeking information on the evolution of new audio-visual technologies and their implications on the ability of the Canadian broadcasting system to remain relevant in a global digital communications environment. The CAB is pleased to provide this response from the perspective of Canada's private broadcasters, who collectively provide the primary means for the achievement of the goals of the *Broadcasting Act*.
3. This fact finding exercise is particularly significant in that it marks the first time since the creation of the Task Force on Canadian Broadcasting in 1984 that a department of the Government of Canada, as opposed to its agencies, has initiated a review of the television broadcasting landscape to assist in policy development. Furthermore, the relevance of the exercise is augmented by the sheer magnitude of recent technology innovations affecting the creation and distribution of media. Hence, there is much to assess in reporting on the future environment facing the Canadian broadcasting system.
4. The first *Broadcasting Act*, adopted by Parliament over seventy years ago, laid out a vision of a broadcasting system that would serve Canadian expression and cultural identity through the creation and delivery of Canadian content over a Canadian owned and controlled infrastructure. Through the succeeding years, in keeping with societal and technological developments, that vision has continued to evolve to ensure that it remains relevant to the needs, desires and aspirations of Canadians.
5. Early policy initiatives ensured the development of national terrestrial broadcasting for radio and television, serving both English and French communities. In a sense, the Canadian broadcasting system served as a 20th century nation-building policy vision, in tandem with other initiatives such as the development of the Canadian Pacific Railway, the Trans-Canada Highway and the St. Lawrence Seaway, creating an east-west infrastructure that ensured that Canadians could communicate and interact with one another as easily as with the outside world.
6. One of the boldest examples of the evolving vision was the Government's initiative in the late 1960s and early 1970s to create a technical infrastructure in space that would connect all parts of the country, including the far north. And so on November 9, 1972

Canada became the first country in the world to launch a domestic communications satellite.

7. The satellite infrastructure that was created almost thirty-four years ago laid the groundwork for the explosion in Canadian programming services that started in the 1980s and that continues to this day. Canada now has one of the most open and advanced broadcasting systems in the world providing an enormous choice of Canadian content in English, French and other languages, plus access to the best programming from around the world on a wide range of Canadian and foreign services. It is a system of which all Canadians should rightfully be proud.
8. At the same time, the Canadian broadcasting system is facing unprecedented challenges associated with the emergence of new audio-visual technologies that are changing consumer behaviour and expectations, altering traditional business models, and changing the way the Commission oversees the Canadian broadcasting system. Over the past several years, two parallel broadcasting systems have developed – one a traditional regulated system with controlled entry and detailed regulatory obligations and contributions to achieve cultural policy goals, the other an essentially unregulated, uncontrolled system made possible by new digital platforms for the creation and distribution of content, bypassing traditional channels.
9. At last fall's CAB convention in Winnipeg, the Future Summit, delegates considered the challenges and implications for the traditional broadcast system when confronted with the new technologies and delivery platforms of the parallel unregulated "broadband" system. The question that was raised was whether we continue to have the vision and the political will to deal with these new challenges to achieve the goals of the *Broadcasting Act*.
10. For its part, the CAB laid out the beginning of a vision that accepts and embraces recent, current and pending technological change as a further opportunity to continue the building process. Broadcasters are actively adopting the ways and means of developing and delivering Canadian media to Canadian consumers. The opportunities are remarkable and the challenges enormous. The rollout of high definition (HD) television and digital radio are but two of the technological challenges facing broadcasters in this time of unparalleled choice for Canadian consumers.
11. Clearly, the public policy framework for broadcasting cannot stand still. To that end, at the Future Summit the CAB called on government to initiate a dialogue concerning the future of Canadian media, with a view to developing a revitalized policy framework that would foster a strong and relevant broadcasting system in the new media environment.
12. The CAB is extremely pleased, therefore, with the Governor in Council's request in Order in Council P.C. 2006-519 that the Commission undertake the current proceeding to provide a factual record on the environment facing the Canadian broadcasting system that will inform the Government's policy determinations with respect to the future of broadcasting in Canada.

13. To assist the Commission in its task, the CAB is providing five reports relevant to the request made by the Governor in Council. The detailed reports are provided as Appendices to this submission. Summaries of their key findings follow.

The Evolving State of Audio-visual Technology (Appendix 1)

14. This study, prepared by Keeble Consulting, examines the evolution of digital media technologies over the past ten years, describing the new content creation tools, transmission infrastructures and “media appliances” that now permeate the environment. It assesses the extent to which the Canadian broadcasting system can react effectively to these developments, in other words, whether Canadian players in the media value chain can, with or without regulatory intervention, continue to prosper economically and provide Canadian content of high quality.
15. This analysis of the evolution of audio-visual technology highlights five key themes.
16. First, technology has always shaped the value chains of electronic media delivery. While this is not always obvious, the current period of rapid evolution is introducing disruptive change in the broadcasting system that requires rapid adaptation by all players.
17. Second, the consumer drivers for change continue to be strong. Combined with the powerful digital tools for new invention available to the consumer electronics industry, the industry must anticipate, not a simple transition to a new period of stability, but an extended period of continuous change.
18. In particular, consumer drivers related to greater choice and for seamless availability of content must be respected:
 - Choice: All media compete with each other for the consumer’s attention, and the proliferation of choice will, at a minimum, fragment and reduce the audience for existing services delivered on traditional platforms. In cases where the new media provide a clear direct replacement for existing media, the impact will be much greater.
 - Availability: The technologies being created to meet these consumer needs will drive the increasing use of new mobile delivery platforms – and ultimately demand for integration of the media experience across those platforms.
19. Third, technology changes will not automatically result in an open and competitive marketplace. Barriers to change also exist. In particular, players in the system who exert “gate-keeping” power over the distribution of services will naturally seek to retain this position, and many have the tools to do so. When technology adaptation is very complex, as in the case of interactivity combined with television, for example, the technical standards needed to move the whole system forward have been very difficult to achieve.

20. Fourth, public policy intervention in the media value chain in Canada has traditionally made use of the particular characteristics of media technology to further policy goals. It has done so through: (i) encouragement of and investment in distribution infrastructure (radio, television, satellite); (ii) investment in programming; and (iii) regulation to protect markets so that Canadian services could support Canadian programming.
21. Finally, in recent years, public policy intervention has become increasingly asymmetrical. Traditional players continue to be regulated, but not new platforms, such that broadcasters' market protections are eroded but their obligations remain.
22. The study concludes by outlining the four elements of technological change that need to be considered in the development of a new framework.

(i) A more thorough understanding of technology

23. In the past, successful regulatory interventions have been based on the particular characteristics of the technologies deployed. This is still true – but when technologies are new, it is easy for simple, but misleading, conclusions about them to be accepted, for example that “the Internet cannot be regulated” or “spectrum scarcity has ceased to exist, so regulation is unnecessary”.
24. In fact, tools for regulatory intervention still deserve consideration. Whether one is in favour of maintaining regulation and obligations, or in favour of gradual deregulation of the system, understanding the technologies, and what regulatory tools may be applied, is essential.

(ii) Understanding the impact of technology on fair competition

25. A marketplace with no intervention may be a fair and competitive marketplace, or it may be a marketplace that tends toward monopoly or oligopoly. New technology may create an open value chain, with many players able to reach the public, or it may give certain players the ability to control the marketplace. It may even stifle innovation, preventing technical advances and new services, just as surely as over-eager intervention in the marketplace.
26. Again, an understanding of the effect of technology change on the value chain is needed.

(iii) A new approach to the flow of rights and revenues in the value chain

27. Traditionally, rights have been segmented and dealt with separately according to territory, delivery platform, and an orderly succession of time “windows”.

28. The proliferation of platforms and the drive to greater choice has created a level of fragmentation that may make it difficult for broadcasters to afford quality professional content, certainly for the Canadian domestic market, unless they are able to re-integrate audiences across platforms.
29. The drive toward seamless availability from the consumer also suggests that a new approach to the segmentation of rights across platforms should be considered.
30. Meanwhile, the ability of existing and new technologies to disrupt the territorial segmentation of rights demands a new approach to revenue models. One example is the severely reduced ability of local television broadcasters to monetize the program rights they have acquired for their markets when out-of-market signals devalue those rights. Such situations demand that we consider the business model for affected players and consider how it may be improved, if they are to continue to provide valuable service to their local territories.

(iv) A vision of the whole

31. Perfect symmetry in policy interventions is not required or possible. However, a degree of consistency, predictability, and the avoidance of disparities that can develop through the arrival of disruptive technologies, is needed to reduce strains between players in the value chain for the delivery of programming content.
32. Policy interventions need to be guided by a common understanding of what the system of electronic media delivery in Canada – including but not limited to traditional broadcasting – is expected to accomplish.
33. This is true whether or not one accepts the continued validity of the goals of the *Broadcasting Act*, and is looking for new means to fulfill them; or whether one rejects the need for a distinctly Canadian culture and is simply seeking fair economic regulation. Policy intervention will be required in either case, and can only be consistent and fair if it is guided by agreed goals and operating principles.

Broadcasting Technology: Industry Adoption and Issues (Appendix 2)

34. Appendix 2 addresses the adoption of new technologies by Canada's private broadcasters, taking into account the following factors:

The regulatory environment for the adoption of digital television and HD technologies

35. Through its digital regulatory framework (Public Notices CRTC 2000-6, 2002-31, 2003-61, 2006-23 and 2006-74) the Commission's expectations have impacted on how fast the industry adopts new technologies and the costs it must absorb to respond to these expectations.

36. While the Commission embraces, in theory, a voluntary, market-driven transition to digital/HD television broadcasting, in practice it has set out a series of detailed regulatory expectations and requirements that have a direct impact on the timing and cost of technology adoption by broadcasters.

Opportunities and costs associated with the adoption of digital television and HD technologies by private broadcasters

37. The cost of upgrading to digital/HD production and transmission are substantial for large and small market television broadcasters, and for specialty and pay services. A key issue is the extent to which these costs significantly increase capital investment and operating expenses without any ability under existing business and regulatory models to recover the incremental costs in the marketplace. This issue is particularly worrisome for small market television stations and for small and independent specialty and pay services, which face the same high costs of upgrading to HD with an even smaller revenue base to offset them.
38. In this context, as Canadian television, specialty and pay services respond to the Commission's desire to see more HD programming broadcast, it is equally important that cable and DTH undertakings respect key distribution policies that support the development of the Canadian HD services. These include making capacity available as a priority for the distribution of the HD versions of Canadian services, and implementing simultaneous substitution requirements vis-à-vis identical programming broadcast on US HD stations.
39. It should also be noted that the evolution of technologies has created opportunities for broadcasters. Private television broadcasters are active in the mobile and broadband spaces, but to date, the revenues generated under these business models do not and, for the foreseeable future, will not come close to offsetting the loss of broadcasters' revenues.

The regulatory and business environment around the adoption of new technologies by Canada's private radio broadcasters

40. Private radio broadcasters are facing new forms of unregulated competition (e.g. broadband radio, podcasting) at the same time as they are planning their digital business models. Opportunities exist for traditional radio broadcasters to make use of new platforms to extend the reach of their brands and content, but so far, those opportunities do not represent revenue opportunities equal to the impact of new audio and multi-media technologies on radio's business models.

The challenges associated with digital television and HD faced by producers of Canadian content

41. Content producers also face incremental costs in the digital/HD environment. As private broadcasters are already the primary investors in independently produced Canadian content, and as they are currently faced with the large, unrecoverable costs of

outfitting their operations for digital/HD broadcasting, it would not be reasonable to expect them to also absorb all of the incremental costs faced by independent producers.

CAB Technology Adoption Analysis (Appendix 3)

42. Appendix 3 addresses the adoption of new technologies by Canadian consumers, analyzing many sources of data, but for Canadian measures relying largely on data supplied by CBC/Radio-Canada Research based on telephone interviews of 12,000 Canadians, 6,000 francophone adults and 6,000 anglophone adults.
43. The report organizes the data into four sections:

The current status of the digital transition

44. The digital transition is proceeding amongst consumers, but at a slower pace than is sometimes projected:
 - 10% of anglophones receive only over-the-air television signals, while 17% of francophones report that they are over-the-air viewers.
 - With respect to digital television in general (cable or DTH), 42% of francophones and 44% of anglophones subscribe to a digital TV service. DTH remains the dominant choice for digital TV – 24% of francophones and 23% of anglophones.
 - Other digital service providers, namely “wireless” cable and telco TV, each have fewer than 1% of francophone and anglophone respondents as subscribers.
45. This can be both a positive and a negative: positive, in the sense that there is still time to adapt to the effects of the digital transition; negative in that the longer it takes, the more costly it may be because broadcasters must maintain parallel analog and digital infrastructures on several delivery platforms.

How consumers access digital content

46. With respect to the choice of digital television platforms, DVD is the most popular, being used by 80% of the anglophone population and 75% of the francophone population. Hi-speed Internet has taken off in the anglophone population with over 60% penetration, but lags well behind with the francophone population at under 40%.
47. The digital television platform is still smaller than analog TV, and subcategories of this platform remain at very low levels of penetration:
 - Only about 6% of anglophone consumers, and just over 2% of francophone consumers, are capable of receiving and viewing HDTV pictures.
 - Only 4% of anglophones and 2% of francophones have PVRs.

48. *The CAB Technology Adoption Analysis*, in part because of the newness of the platforms, cannot report comprehensively on the replacement of analog radio by all its digital alternatives: satellite radio, Internet radio and podcasting, and radio delivered via mobile phone.
49. However, it does contain interesting data on the media habits of Canadians with respect to downloading music, Internet radio, podcasting and the use of mobile and portable devices for listening to audio programming (MP3 players, mobile phones), as detailed in Appendix 3.

How adoption and usage patterns vary by region, demographics and income

50. The results of the *CAB Technology Adoption Analysis* make it clear that in Canada, we are not dealing with a single population of media consumers, all of whom behave in roughly the same way. Differences of age, of language, of region, and of habit create separate populations with different behaviour.

Observations

51. The data in Appendix 3 shows several trends that should be considered in examining any new policy approach to the broadcasting system.
52. First, the direction toward adoption of digital technology is clear.
53. Second, there are many differences within that direction, which should be understood lest parts of the population be left behind.
54. Third, in some respects the digital transition is less advanced than others. The level of analog and even over-the-air reception, and the speed with which this analog group – still more than half the population – is moving towards digital must be part of any policy calculation. On the other hand, policy must also adapt to the willingness of the more advanced media consumers to use “bypass” technologies like Internet video and audio download in place of traditional broadcast media and their digital alternatives.
55. Fourth, this view of the population suggests that many of the more advanced technologies are not so far advanced that it is too late to design measures that will adapt the goals of Canadian cultural policy to these new realities.

The Economic Status of the Canadian Television Broadcasting Industry (Appendix 4)

56. This study, prepared by Armstrong Consulting, identifies and tracks key trends in the economic performance of the Canadian television broadcasting industry as a whole and by sector, and draws conclusions with respect to the relevant market factors that are driving these trends.

57. As demonstrated in the study, the Canadian television broadcasting industry registered a generally strong economic performance over the period 1994/1995 to 2003/2004. Total revenues for all television services grew more quickly than the Canadian economy as a whole, with the result that television revenues as a percentage of Gross Domestic Product (GDP) increased. The number and diversity of the television broadcasting services available to Canadians has been vastly expanded. Profitability has increased in many sectors of the industry, in some cases significantly, especially in the French-language sector and often due to better cost control and improved operating efficiencies. Expenditures on Canadian programming generally increased faster than the rate of growth in revenues.
58. This could create a false impression that the industry's economic health is assured going forward, notwithstanding the disruptive change that is taking place in the broadcasting environment. The reality, however, is that broadcasters are now facing huge capital and operating expenses as they upgrade their operations to compete in this new environment. And, as noted in Appendix 4, there is already considerable evidence that growth in the Canadian television broadcasting industry is slowing.
59. Television advertising revenues increased at a compound annual growth rate (CAGR) of 5.3% and kept pace with the rate of growth in all media advertising, though the growth rate slowed in the second half of the period and other advertiser-supported media, such as the Internet, magazines and out-of-home, registered much stronger performances. Subscription revenues increased rapidly over the period at a CAGR of 13.1% and now account for over 30% of total combined television advertising and subscription revenues, compared to 19% in 1994/1995. However, growth in these revenues also slowed in the latter half of the period.
60. Profitability in the private conventional television broadcasting sector as a whole is drifting downward. This trend is being driven by the English-language private conventional television broadcasters, whose growth in revenues over the past five years at a CAGR of 2.8% has barely exceeded the rate of inflation, while total expenses and programming expenses in particular increased at a much higher rate. French-language conventional television broadcasters, on the other hand, with revenues increasing at a CAGR of 3.8% over the past ten years and with less upward pressure on expenses, have experienced a modest improvement in profitability.
61. There were significant differences in the financial performance of private conventional television stations in major and smaller markets over the period. Smaller market private television stations, as described in Appendix 4, were considerably less profitable, with declining PBIT margins of only 6.6%, 5.7% and 4.2% in 2002/2003, 2003/2004 and 2004/2005, respectively.
62. Revenues are now growing more slowly in the specialty television sector as a whole and in both the English and French-language specialty sectors. The profitability of English-language specialty services decreased modestly over the period, though the recent trend is upward due to reduced growth in expenses. The French-language

specialty television broadcasters have been much more effective at controlling the growth of expenses and as such, significantly increased their profitability over the period.

63. The long-established analog specialty television services appear to have achieved solid and stable profitability, though they have experienced a reduction in the rate of growth in their revenues over recent years. The Category 1 and 2 digital specialty television services have experienced growth in revenues and have made progress in reducing their operating losses, but are likely to face significant financial challenges for some time.
64. The pay television sector is running counter to the general trend, with an increase in its revenue growth rate and a very strong upward trend in profitability, driven in large part by the growth in the digital distribution market.
65. The number of ethnic pay and specialty services increased significantly over the period, with much of this increase occurring in 2004/2005. Trends in this sector mirror the general trends in the industry, with slower growth in revenues and increased profitability achieved through cost control.
66. A comparison of the revenues and profitability of the private conventional, specialty and pay television sectors to the broadcasting distribution sector highlights the size and strong financial performance of the broadcasting distribution sector.

Observations relative to the French-language market

67. The Armstrong study shows that from 1996-1997 to 2005-2006 there was a major viewing shift from conventional television services to pay and specialty television services. This phenomenon affects both English-language and French-language conventional television services equally. Nevertheless, one sees that the drop in English-language conventional television services has been more pronounced than for similar services in the French-language market. In all, between 1996-1997 and 2005-2006, the English-language conventional television services have lost 26% of their viewing share while the French-language conventional television services lost 21%. However the transfer of viewers from conventional television services to pay and specialty services has occurred later in the French-language market than in the English-language market.

Financial results

68. As to financial results, the Armstrong study shows that, generally across the industry, there was strong financial growth from 1994-1995 to 2003-2004, a trend that continued into 2004-2005. In fact, during this period the industry's revenues grew at a faster rate than the Gross Domestic Product (GDP) and the number of television services offered to the Canadian public also grew significantly.

Conventional television

69. The conventional television sector as a whole experienced a growth in expenses, particularly programming expenses, a growth that was not matched by its total revenues between 1995 and 2004. This resulted in a downward pressure on its profitability, particularly during the period 2000 to 2004. This phenomenon seems to have had more of an effect on English-language broadcasters who consequently experienced negative average annual growth on their PBIT for the whole period rather than for just the 2000 to 2004 segment. However, for same period, the growth in total revenues of the conventional French-language television sector was faster than the growth of their operating expenses despite a noticeable increase in their programming expenses, especially between 2000 and 2004. The sector was able to increase, albeit slightly, its profitability for the period 1995 to 2004.

70. On closer inspection, the financial data of the private sector conventional French-language services show up a phenomenon that continues to loom ever larger. Historically, traditional revenues from the sale of the commercial inventory – be it advertising sales at local, national or network level – make up the bulk of conventional television revenues. But if this remains true for the English-language market, where revenues from the sale of the commercial inventory always represent an average of 95% of private English-language television’s total revenues, it no longer holds true for the French-language market. Already, in 1994-1995, these revenues only represented 83% of the total revenues of private French-language television. In 2004-2005, the revenues from traditional advertising counted for no more than 74% of their total revenues. This reduction was caused by a greater diversification of revenue sources. For instance, the portion of ‘Other’ revenues that represented barely 1% of the total revenues of conventional French-language television in 1994-95 represented over 13% of the revenues in 2004-2005. It is the significant increase in other revenues that allowed French-language television services to achieve a greater increase in its revenues than those of conventional English-language television services.

71. The analysis of financial data that reveals that for the whole period covering 1994-1995 to 2004-2005, with the exception of the year 1997-1998, the private conventional French-language networks’ traditional advertising revenues did not cover their operating costs. Considering the faster growth of operating costs over advertising revenues, one sees that the difference between outgoing expenses over incoming advertising revenue that stood at \$15.2 million in 1994-1995 swelled to \$45.2 million in 2004-2005.

Traditional advertising revenues for conventional French-language television compared to total expenditures for 1994-1995 to 1999-2000 (\$000)

	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	Difference '95-'00
Traditional advertising revenue	249,338	248,709	264,784	278,629	281,627	288,713	15.8 %
Total expenditures	264,564	273,656	275,894	275,979	285,719	303,759	14.8 %
Difference	(15,226)	(24,947)	(11,110)	2,650	(4,092)	(15,046)	

Traditional advertising revenues for conventional French-language television compared to total expenditures for 2000-2001 to 2004-2005 (\$000)

	2000-01	2001-02	2002-03	2003-04	2004-05	Difference '01-'05
Traditional advertising revenue	289,601	293,576	313,061	319,354	322,657	11.4 %
Total expenditures	313,938	320,093	335,254	354,254	367,904	17.2 %
Difference	(24,337)	(26,517)	(21,943)	(34,900)	(45,247)	

72. Furthermore, one sees that revenues generated by the sale of infomercials have been generally insufficient to allow the conventional networks to reverse this trend.

Specialty and pay television

73. The specialty television sector overall underwent a very strong growth in revenues between 1995 and 2004, a growth that continued into 2005. It must be noted, however, that the sector's profitability went through significant fluctuations throughout the period as a result of the launch of several digital networks that, from 2001 onwards, began to appear in the English-language market and, from 2004, in the French-language market.
74. For their part, the French-language specialty networks enjoyed sustained growth thanks to their subscription and advertising revenues that allowed them to significantly grow their profitability over the reviewed period. One sees, however, that in 2004-2005 the advertising revenues were lower than those generated in 2003-2004 in spite of the increase in the number of French-language specialty services due to the launch of a number of new digital services. It is too early to assess whether this is a circumstantial or structural phenomenon. However the Armstrong study shows that viewing share of French-language specialty networks peaked in 2002-2003 and was lower than that level every year from 2003-2004 to 2005-2006.

75. This phenomenon occurs as new French-language specialty services need more time to become profitable. As French-language specialty services launched between 1995 and 1997 have quickly reached their level of profitability, those launched in 2000 to a more limited number of subscribers, have required a much longer period to achieve profitability. In light of this, we can anticipate that French-language digital services will have to evolve in a difficult environment for a number of years before reaching profitability.

Emerging Trends in the TV Rights Landscape (Appendix 5)

76. The new technology-driven broadcasting environment is fundamentally altering the once relatively stable marketplace for program rights. Appendix 5 examines emerging trends in the television rights marketplace due to new technologies and multiple platforms for delivering content, and assesses the implications of these trends for the Canadian broadcasting system.
77. From its very beginnings, a separate rights market has been a central objective of the Canadian broadcasting system, and an underpinning of Canadian broadcasters' ability to support Canadian content, particularly in the English-language market. New electronic content exhibition technologies threaten that foundation.
78. In an emerging media landscape characterized by expanding multi-platform exhibition, it is clear that all reasonable public policy measures and instruments will be needed to maintain the integrity of a separate and distinct Canadian program rights market. It is also clear that broadcasters are indispensable to the provision of high-quality original Canadian content for these new platforms. As such, Canadian broadcasters must be given access to multi-platform rights in order to offset the impact of "non-broadcast" platforms which tend to diminish the value of broadcast rights without recompense.

Conclusion

79. Government policy and regulation for the past seventy years has enabled the creation of a strong and diverse broadcasting system by way of a silo view of the broadcasting sector. However, the rapidly changing technology environment described in the aforementioned reports is not unique to the broadcasting sector. To varying degrees, the changing circumstances for broadcasting are impacted by technological innovation flowing from the telecommunications sector. Consequently, it is no longer possible to assess change and develop public policy for each of these sectors in isolation.
80. While policy and regulatory approaches need to be updated for the complex communications and media world that we are operating, new approaches for broadcasting policy should still be guided by the fundamental principles of the *Broadcasting Act* and the specific realities of the English and French market.

81. As a first step, the CAB supports and encourages the Government's efforts to develop a more thorough understanding of new audio-visual technologies and their impacts on broadcasting value chains and on competition with regulated broadcasters. Such an understanding should also include the extent to which regulatory oversight of new technologies may be appropriate to further the objectives of the Canadian broadcasting system. Where it is determined that regulation as a policy tool is producing diminishing returns, there needs to be discussion of alternative measures to ensure the creation, distribution, and use of Canadian content by the public.
82. Second, the CAB submits that there will be important areas in which licensed broadcasters will need regulatory flexibility to reduce the degree of regulatory asymmetry that currently exists, if they are to continue to make a strong contribution in the face of unregulated competition.
83. Third, to complement a more flexible regulatory approach, the Government should consider other measures to encourage investment in new broadcasting infrastructure in recognition of the fact that incremental revenues are insufficient to offset the substantial investments required to implement digital broadcasting.
84. Finally, two key issues respecting program rights will need attention in the new environment of multi-platform distribution and exhibition: (i) protecting the integrity of the Canadian rights market, and (ii) ensuring that Canadian broadcasters are able to access multi-platform rights.