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The CRTC's dial is stuck on failure

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The CRTC just won't come to its senses. It is going to think for another year about its latest insipid "fix" for the regulations governing Canadian television content. The latest fix proposed is guaranteed to fail, just like the last fix. It is time we stopped trying regulations that are guaranteed to fail. There are enough regulations that turn out as failures; we don't need - in fact, can't afford - still more regulatory structures that are absolutely guaranteed to fail. And in this case, there is an obvious better way: a switch from input regulation to output regulation.

To go back to the last failure, in 1961, the CRTC declared there to be too little watching by Canadians of Canadian-produced television. To get more watching, the CRTC mandated that 50 per cent of prime-time television had to be Canadian-produced. Notice that the desire was an output (more watching) yet the regulatory requirement was an input (Canadian shows on television). What happened? Pretty soon we got 50 per cent Canadian shows, the input; but we also got something we didn't want - in prime-time drama and comedy, those 50 per cent of hours in total garnered 10 per cent of viewership, the output. The regulators viewed the low viewership as occurring despite the regulations; in fact, it has occurred because of the regulations. Viewership was far below the desired 50 per cent because Canadians didn't want to view Canadian content to the extent regulators wished they did.

When the broadcasters were forced to produce more hours of Canadian content per week, they had the choice of taking dollars away from the budget for buying the American shows that viewers showed the desire to watch, or spreading the dollars spent producing Canadian content across more hours of Canadian programming.

Not surprisingly, Canadian broadcasters by and large chose the latter, driving down the investment per hour for producing Canadian content and driving up the investment per hour of purchasing American content. Hence, Canadian viewers (and advertisers) are drawn toward where the investment is going and away from where it is not - directly caused by the regulatory "fix."

Unhappy with the mess it singularly caused, the CRTC is reaching back into its regulatory toolbox, which unlike most toolboxes has only one tool, and has pulled out input regulation. It is discussing forcing Canadian broadcasters to spend one dollar on Canadian programming for every dollar it spends on foreign programming. This will cause, in the minds of the CRTC regulators, some of the vast pile of money being spent on U.S. programming to be redirected to Canadian programming, producing a huge windfall for Canadian television production. Lovely thought, but it won't happen.

When regulators focus on input regulation as the tool for changing outputs, all they do is cause the targets of the regulation to produce the mandated inputs with the least amount of disruption to what they were attempting to do before the regulation. And in the case of Canadian broadcasters, they were trying to maximize viewership to maximize advertising dollars and that meant giving viewers the shows they wanted to watch: *CSI, Law & Order, Grey's Anatomy, Desperate Housewives* , etc. So will they pump hundreds of millions into Canadian production? No.

What will they do? First, they will go en masse to the U.S. television producers and let them know that the market for their shows in Canada has just cratered because a 100-per-cent tax has been applied to their purchases of U.S. content. And since the tax applies to all the bidders for Canadian rights and Canadian rights are just marginal revenue for U.S. producers, the U.S. producers will drop their prices significantly.

That will produce a nice windfall for Canadian broadcasters. That notwithstanding, the Canadian broadcasters will buy fewer hours a season of U.S. content because the 100-per-cent tax is so high - so they will buy only the top shows and they will take fewer risks on new shows. That will mean for the vast majority of Canadian viewers who have access through cable television to the major U.S. networks, more of the programming they want to watch will no longer be simulcast on a Canadian and U.S. channel meaning the cable company will no longer be able to enforce the watching of Canadian broadcast and the Canadian advertising. Net, the Canadian broadcasters will experience reduced viewership of all programming and significantly reduced advertising revenue.

Will viewership of Canadian programming increase at all? Nope. The only net beneficiaries of this proposed regulatory change will be the U.S. border stations who will experience greater Canadian viewership because Canadian viewers won't get switched to the Canadian simulcast nearly as often. And it will impoverish the Canadian broadcasters. The effect will be to convert viewership of U.S. programs on Canadian stations to viewership of U.S. programs on U.S. stations.

Fortunately, there is an easy solution: output regulation. If the CRTC wants more of an output, it should regulate that output. The CRTC should drop all input regulation and mandate, say, a 50-per-cent increase in Canadian-content viewership with massive fines for the Canadian broadcasters who don't meet the target. The Canadian broadcasters will immediately stop spreading their dollars across 50 per cent of prime-time hours of mediocre Canadian content and focus on paying big bucks per show to Canadian producers to generate a few hit shows. And they will figure out how to do that because that is what they are good at. The result:

- a 50-per-cent increase in Canadian viewership; and
- Canadian shows that might well perform in the international market.

But it is only possible if the CRTC actually starts thinking rather than grabbing for the same old ineffectual tool.