



POLICY3.0

COMMUNICATIONS LAW FOR THE 21ST CENTURY

MAY 10-11 2019

OTTAWA

Rights and responsibilities in the next generation of Canadian communications law

In 2015 the Forum for Research and Policy in Communications (FRPC) held a national conference to consider whether Canada's communications statutes should be changed (papers and presentations from that conference are available on the Forum's website, at www.frpc.net).

On 5 June 2018 Canada's Ministers of Innovation, Science and Economic Development, and of Canadian Heritage, announced that Canada's 1993 *Telecommunications*, 1991 *Broadcasting* and 1989 *Radiocommunications Acts* would be reviewed by a panel of external experts. The review, "guided by the principle of net neutrality", is intended to modernize these statutes "in a balanced way that takes into account the realities of Canadian consumers and businesses, and our artists, artisans and broadcasters" – "without increasing the cost of services to Canadians."

The Ministers expect the seven-member Legislative Review panel "to engage with the industry, creators, and Canadians – including those from Indigenous and official-language minority communities – in order to ensure that Canada's communications legislation takes full advantage of the benefits that the digital age brings to our country." The 'BTLR' panel began its consultations on 25 September 2018, and written submissions are due 11 January 2019, with an interim report expected to be filed in June 2019. The government expects to receive the panel's final report by 31 January 2020.

On 12 June 2018 the Standing Senate Committee on Transport and Communications began to study the modernization of Canada's communications legislation; it plans to release its report before the next federal election in October 2019.

FRPC is hosting a policy and law conference in Ottawa from Friday, 10 May 2019 to Saturday, 11 May 2019 to hear speakers and panelists address proposals for new communications legislation. The conference will therefore focus on issues raised by the Review's *Terms of reference* (in English at <http://www.ic.gc.ca/eic/site/110.nsf/eng/00001.html> and in French at <http://www.ic.gc.ca/eic/site/110.nsf/fra/00001.html>). The first six sessions of the conference will address the rights and responsibilities that should (or should not) be provided by Canada's communications system(s). The seventh and final session will consist of a moderated forum for conference participants to discuss and debate their priorities for Canada's communications policies.

Registration for the conference is available at Eventbrite: <https://bit.ly/2QHoKjN>. Advance tickets with lower rates are available until 10 April 2019; special rates have been provided for for students, public-interest organizations and government.

Special invitation to students to submit papers

The Forum is inviting students enrolled in university communications departments and law faculties to submit papers on topics in two areas: whether national sovereignty requires control over content and carriage; and whether the relationship between news and democracy justifies legislative support for the gathering and publication of news. The author of the best paper in each category will be invited to address the conference on Saturday, May 11, 2019 and will receive a \$500 prize, along with tickets to the full conference. Preference will be given to papers that present new data or use existing data in innovative (yet academically rigorous) ways to evaluate current communications policies, and that make specific recommendations for (or against) legislative change. Please submit your papers by 10 April 2019, to FRPC's Executive Director (execdir@frpc.net).

Friday, 10 May 2019

Session 1 The right to sovereign control over communications systems

The Legislative Review panel's Terms of Reference explain that the review will study "telecommunications and content creation in the digital age, net neutrality, cultural diversity, and how to strengthen the future of Canadian media and content creation", while making clear that "the Government is not interested in a proposal that reduces Canadian ownership of broadcasting." Does Canada have the right to control its communications systems? What justifies its continued assertion of sovereignty over these systems? What do cases such as the 1998 Federal Court decision in *Rogers Communications Inc. v. Canada (Attorney General)* (<https://www.canlii.org/en/ca/fct/doc/1998/1998canlii7494/1998canlii7494.html?resultIndex=1>) mean for Canadian sovereignty?

Session 2 The right to be informed - strengthening democracy in Canada by ensuring the production and distribution of local, national and international news

The 1991 *Broadcasting Act* says that Canada's broadcasting system – not individual programming undertakings – "should" offer information about Canada and other countries from a Canadian viewpoint, and that the system's programming "should" provide information. The Legislative Review's Terms of Reference ask whether Canada's communications laws "ensure the provision of trusted, accurate, and quality news and information", and whether these statutes should be changed "to ensure the continuing viability of local news". Do people in Canada have a right to be informed? To what extent should news media receive financial support from the federal government? What are the risks of acting, or not acting? What new mechanisms could be developed to ensure the availability of local news in Canada, and what should they achieve?

Session 3 The right to universal, affordable access to distribution systems

The CRTC currently has the authority to impose conditions on telecommunications providers' services, and it has helped to create the Office of the Commissioner for Complaints for Telecom-Television Services and established a *Wireless Code of Conduct*. That said, the federal government has asked the Legislative Panel whether "further improvements pertaining to consumer protection, rights and accessibility" are required by statute. Do people in Canada have rights of access to communications distribution systems? Should Canada's broadcasting and telecommunications statutes be changed to strengthen protection for audiences, content providers and telecommunications users, and if so, how?

Session 4 The right to sovereign control over audio-visual content, and the responsibility to reflect Canada to all people in Canada

The Terms of Reference of the Legislative Review panel say that the federal government's "vision for a Creative Canada makes investing in Canadian stories, artists, and creators a priority" although it "is not interested in an approach that increases the cost of services to Canadians".

To what extent do national governments in the 21st century retain the right to promote domestic culture by controlling audio-visual content through quotas, financial levies, expenditure requirements, mandatory carriage requirements or algorithms? Should Canada's communications laws require parties benefitting from access to Canadian audiences and subscribers to provide financial and/or algorithmic support to Canadian audio-visual content? Are some 'players' in the communications system more relevant than others, and is the 'playing field' level for all? Who bears the responsibility to support the creation of Canadian programming?

Saturday, 11 May 2019

Session 5 The responsibility to set a clear mandate for, fund, and distribute a national content provider in the 21st century

On 5 June 2018 the federal government said that while it supported the current mandate set out for the Canadian Broadcasting Corporation in the 1991 *Broadcasting Act*, the context in which the Corporation operates has changed, meaning that CBC's mandate must be adapted. In 2009 Parliament approved annual operating appropriations for the CBC's programming services (radio and television networks and stations, in French, English and eight Indigenous languages) of \$1,070 million (or \$31.87 per capita); a decade later, in 2018, it approved \$1,110 million (or \$29.96 per capita).

Should the mandate and/or funding model for a national content provider change and if so, how?

Session 6 The responsibility to ensure effective governance of the communications system in Canada's public interest

The CRTC is currently the sole public authority for Canada's broadcasting and telecommunications systems (although other agencies such as the Competition Bureau intervene from time to time); none of the statutes affecting its authority require the CRTC to place the public interest first in its decision-making. Is the CRTC's regulation and supervision of the systems 'effective', and is the CRTC 'governing' content and carriage in the public interest? Whether yes or no, could governance of Canada's communications system(s) be improved, and if so, how?

Session 7 Which rights and responsibilities matter most? Setting priorities for Canadian communications in law

The website of the Legislative Review panel indicates that it received more than 2,000 submissions. These will be made public when the Panel releases its interim report in June 2019. Meanwhile, however, a number of parties have already made their submissions available to the Forum (see <http://frpc.net/submissions-to-the-broadcasting-and-telecommunications-legislative-review-panel/>). The hundreds of recommendations in even this small number of proposals make clear why developing policy objectives for Canada's communications legislation is such a complex endeavour.

This moderated, concluding session will pinpoint areas of emerging consensus and enable participants to identify, discuss and debate what Parliament must prioritize - and protect - in new or changing law.

The Forum will update its website (www.frpc.net) with additional information about the conference' keynote speakers, moderators, panelists and academic papers.

Tickets

Conference tickets are available from Eventbrite (<https://bit.ly/2QHokjN>). They include electronic access to all materials before, during and after the conference, all sessions, morning and afternoon refreshments, as well as lunch, and must be purchased online through Eventbrite. Tickets will not be available for sale at the conference; tickets are not available for individual days or sessions. Requests to FRPC's Executive Director for financial assistance to attend will be considered case by case.

Advance registration (to 11 April 2019)

Students* (enrolled in the 2018/19 academic year)	\$60.00 + EB fee + GST/HST = \$73.08
Faculty (on sabbatical or teaching in the 2018/19 academic year)	\$240.00 + EB fee + GST/HST = \$288.85
Members of not-for-profit organizations	\$240.00 + EB fee + GST/HST = \$288.85
Full- or part-time government employees	\$350.00 + EB fee + GST/HST = \$420.72
All others	\$400.00 + EB fee + GST/HST = \$480.66

Registration (12 April 2019 to 9 May 2019)

Students* (enrolled in the 2018/19 academic year)	\$70.00 + EB fee + GST/HST = \$85.07
Faculty (on sabbatical or teaching in the 2018/19 academic year)	\$300.00 + EB fee + GST/HST = \$360.79
Members of not-for-profit organizations	\$300.00 + EB fee + GST/HST = \$480.66
Full- or part-time government employees	\$400.00 + EB fee + GST/HST = \$480.66
All others	\$450.00 + EB fee + GST/HST = \$540.60

* Due to space limitations, a total of twenty-five (25) student tickets will be available on a first-come, first-served basis

Cancellations

Tickets may be cancelled and refunds will be provided for cancellations received before 10 April 2019; no refunds will be given for cancellations received on or after 11 April 2019).

Contact: Monica Auer, Executive Director, FRPC
 execdir@frpc.net