

CRTC to keep hands off mobile video

Could accelerate revamp

Mark Evans, Financial Post

Published: Thursday, April 13, 2008

A decision not to regulate the fast-growing mobile video industry could accelerate the overhaul of Canada's broadcasting framework, according to industry experts.

Mark Hayes, a partner with Blake Cassels and Graydon, said the Canadian Radio-television and Telecommunications Commission's decision to keep its hands off video services sent to wireless devices such as cellphones is a recognition by the CRTC that anything delivered over the Internet is going to be difficult to regulate.

This is a key regulatory concession, he said, because the Internet is changing the television industry's business models and how programs are delivered. Mr. Hayes said it is a strong signal the CRTC's broadcasting rules need to change.

"The CRTC has to recognize it is not 1978 anymore, and they will have to change their regulatory model to take the increased competition they can't control into account," he said. "[For traditional broadcasters] this could result in less Canadian content, and less indirect taxation. And while broadcasters may have failed to gain control over a small distribution system, what they have gained is a regulator realizing they will have to loosen controls over traditional broadcasters to let them compete."

The CRTC plans to begin an extensive review of the television industry in June. The review, which will have federal government input, could see regulations governing TV rewritten to reflect new technologies. Public hearings are expected in the fall, sources said. CRTC chairman Charles Dalfen told the CSC yesterday the public broadcaster's planned licence renewal will be delayed until the review is completed.

In its decision not to regulate mobile video, the CRTC said services provided by Bell Mobility Inc., Rogers Wireless Inc. and Telus Corp. through MobiTV Inc. fall within the New Media Exemption Order that applies to services delivered and accessed over the Internet.

The decision was applauded by the carriers and technology developers, who said it will encourage innovation and the creation of new services. Raja Khanna, chief creative officer with QuickPlay Media Inc., which helps carriers deliver video content, said deregulation is positive because the industry is small but it has promise and needs more time to mature.

"We were worried about licensing obligations that would cost, filing obligations that would cost, and a percentage of revenue that would be allocated to content production," he said. All these things are potentially good for the industry but its too early and the industry needs more time to be nurtured."

The CRTC's decision was assailed by the Alliance of Canadian Cinema, Television and Radio Artists, which contends it ignores the cultural and content aspects of Canada's broadcasting policies.

Ken Thompson, ACTRA's director of public policy and communications, said the CRTC should have imposed conditions on mobile video services such as a requirement to have a certain amount of Canadian content beyond news, weather and sports, and that service providers make financial contributions to help develop domestic talent.

He said ACTRA is disappointed the CRTC has decided to fall back on a "1999 view of things or the pre-Napster view" by giving the impression that digital content on the Internet can't be regulated.

Mr. Hayes said broadcasters must embrace the Internet because, at some point, it will seriously affect their business models. To fight new developments such as mobile video, he said, is unproductive because it is better to take on new rivals at an early stage rather than try to keep them out.