

**IIC SPEECH
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Thank you, Konrad, for your kind introductory remarks, and for giving me an opportunity to contribute to the important work of this conference. The key issues, technological innovation and regulatory direction, should guarantee three lively debates tomorrow.

Though innovation is never far from my mind – after all, that’s what Rogers was built on – this evening I have been asked to take a more reflective approach. In extending his original invitation to Ted Rogers, the Chairman asked him to place the conference themes in a historic context, to draw upon his 40 years of experience working with and, occasionally, butting heads against the CRTC.

Tonight, I have been asked to stand in for Ted. I don’t have his 40 years experience, but I do have 39. And let’s just say that not much happened at the CRTC in its first year, so I think I can paint a fairly complete picture.

If Ted were here this evening, I am confident that he would open his remarks by reiterating a message that over the years has become something of a corporate philosophy at Rogers. While at times we have shaken our heads in disbelief over specific decisions, Ted and I have long been convinced that, over all, the regulatory process shaping Canada’s broadcasting and telecommunications landscapes has worked reasonably well.

Though sometimes reluctantly, the Commission has freed industry players to innovate, to give consumers what they want and to profit from doing so. Simultaneously, it has served the public interest by defending Canadian culture and promoting Canadian ownership.

Fulfilling their private/public mandate has compelled Commissioners to develop a sense of balance more typical of high-wire performers than public servants. It's a tough act. There's no safety net. Disaster constantly threatens, particularly when the unexpected reaches out to give the high-wire a hearty shake.

The unexpected can come in many forms, from economic turbulence to political involvement. It can frustrate the best-crafted business plans and the entrepreneurs behind them. And, we in business know full well that the unexpected can frustrate regulatory planning and regulators just as much. At Rogers, we have always believed that, in that sense, we're all in the same boat.

That does not mean that we believe the Commission can do no wrong. Like Rogers, the CRTC is a collection of very human beings. And, Ted Rogers has made mistakes. If you don't believe me, check out the history of his purchase of Unitel, in his autobiography, *Relentless*. The horror story can be found in chapter 16. Its heading, "A Bloody Disaster," says it all. The book is a real eye opener into what it took to build a communications business over the past 40 years. I think *Relentless* is highly useful reading for regulators and regulated alike in these uncertain economic times.

One of its lessons is that industry can make mistakes when it moves too fast. With regulators, though, it's the other way around. They make mistakes by moving too slowly. Problems arise when they're too slow to recognize the power of innovation, or when the Commission continues to enforce regulatory policies that have long since passed their "best-before" dates.

Look, for example, at the earliest days of cable, before it was dragged, unwillingly and unceremoniously, under the regulatory umbrella. Forty-one years ago, all you needed to start a cable operation was a 25 dollar licence from the Department of Transport, enough money to roll-out a network, and the inclination and stamina to work 24/7. Back then, Ted had the 25 bucks and the work ethic, but not enough money to go it alone. He teamed up with the broadcast interests owned by the Eatons and the legendary John Bassett.

A year after Ted got started, the government created the CRTC. It, in turn, created the equivalent of the Berlin Wall between broadcasting and cable. Overnight, the Rogers – Eatons – Bassett partnership became the regulatory equivalent of "the love that dares not speak its name." Ted suddenly found himself with his back to the wall. Rogers Cable had either to find a banker with unlimited faith, or a new partner with deep pockets, or fold its tent.

For the first time in its history, but by no means the last, a Commission decision forced a Canadian entrepreneur to abandon a well-crafted business plan and to plunge head first into damage control. At Rogers, we couldn't devote scarce resources to enterprise and innovation. We had to pull back, hunker down and pour all our energies into a struggle to survive.

I am certain that the Commission's intentions were honourable. It was worried about the dangers of corporate concentration. It wanted to ensure a diversity of voices. These are very laudable goals. But I would argue that, in separating broadcasting and distribution to achieve those goals, the Commission chose far too blunt a regulatory instrument.

Ironically, the forced split ended up energizing Ted. In a sense, it inspired the Rogers corporate group we now know. It could just as easily, however, have left him dispirited and financially ruined. The Commission did not need to go as far as it did to guard against the downsides of corporate concentration.

More sophisticated remedies were and are available, as the present Commission demonstrated in its recent "Diversity of Voices" decision. Improved dispute resolution processes, greater reliance on undue preference and more finely focused conditions-of-licence can do the job better. Outright bans restrict entrepreneurial activity and deprive both the system and consumers of the many benefits of investment and innovation.

Over the years, whenever Rogers tried to bridge the artificial chasm the Commission had dug between broadcasting and distribution, we were almost always rebuffed. We kept trying because we saw the two businesses as perfectly complementary. But only when no other solution existed – for example, when we bailed out Toronto’s bankrupt ethnic television station – were we allowed to proceed.

Only when cable stayed in its own backyard, did the Commission welcome its business strategies. We were well received when we tried to expand by buying other cable companies – Canadian Cable Systems, Premier Cablevision and Maclean Hunter, for example. Of course, we made sure we built huge benefits packages into those applications. But, our success rate in trying to expand outside of our core interest was far less spectacular.

I make these points, not to complain or criticise, but simply to suggest that artificial barriers create artificial environments, and artificial environments tend to fall apart fast in the face of real world pressures. Regulation is most effective when it is light handed. It works best when it applies pragmatic solutions to real problems. It succeeds when it encourages innovation and enterprise through permissive as opposed to restrictive policies.

This is precisely the approach the Commission took in the original CapEx decision that enabled Canadians to become world leaders in broadband rollout. The “New Media” Exemption Order decision, is another case in point. Though 10 years old, it continues to serve all Canadians well.

The 1998 Radio Policy is one more example of effective and pragmatic regulatory direction. By allowing the ownership of up to four stations, depending on market size, I believe the Commission saved commercial radio in Canada. It had the courage to abandon tried, but no longer true, policies on ownership concentration and to adopt a new approach, one that did the job.

That is a legacy to feel good about. And, in the new economic reality, perhaps regulators at both the CRTC and the Competition Bureau could do a lot worse than adopt the approach underlying the 1998 Radio Policy. In these dire economic times, when both CTV and CanWest have already served notice that they can no longer fulfill all their conditions of licence, old remedies simply won't work. Supersized national players may be our last best hope for revitalizing over-the-air conventional television, just as they were the answer 10 years ago to what ailed radio.

In the recent BDU policy decisions, the Commission demonstrated that it would not be dictated to by those who demanded stale-dated solutions. It wisely rejected fee-for-carriage as an artificial remedy. It focused on the public interest and, with the exception of a new questionable subsidy for local news, it left entrepreneurs to resolve their own financial problems.

Since its inception, the CRTC has worked most effectively when it has taken a national view of the challenges ahead. It has served the public interest best when it has allowed the system to evolve naturally and resisted the temptation to constrain it artificially. That is the vision it now appears to have embraced.

With respect, I believe that the Commission could not have adopted this vision at a more propitious moment. By doing so, it has clearly signalled its willingness to entertain new ideas. This is an encouraging sign to industry players who may be positioned to seize the opportunities hidden beneath the surface of the current economic maelstrom. As a corporate group with a reputation for thriving in adverse circumstances, the Rogers companies welcome this pragmatic approach.

Mr. Chairman, Mr. Minister, fellow participants, ladies and gentleman, I said at the beginning that the real and important work of this conference begins tomorrow. I meant it.

The issues of innovation and regulation in a competitive environment are complex and always in transition. That's what makes our world so interesting, so much fun, frankly. I look forward to hearing what tomorrow's excellent panellists have to say.

I only wish Ted could have been here, as well. He would have been the first person to get to a floor mike and join in the debate. In 40 years, no one ever accused Ted Rogers of holding back.

Thank you very much.