



IIC Canada 2017 Conference New Developments in Communications Law and Policy Speaker Profiles

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The CRTC's Enforcement Regimes

Research Paper

ADAM BALKOVEC is legal counsel to the Canadian Radio-television and Telecommunications Commission. After graduating from the Common Law section at the University of Ottawa, Mr. Balkovec articulated with the Commission and was called to the Ontario bar in 2014. A significant amount of his time is devoted to the practice of administrative law, which, despite his best efforts, has yet to be made perfect.

KELLY-ANNE SMITH is a Legal Counsel with the Canadian Radio-television and Telecommunications Commission. Ms. Smith is a graduate of Carleton University and the University of Windsor Law School and was called to the Bar of Ontario in 2005. She articulated with Gowling Lafleur Henderson in Ottawa and has previously held positions with Industry Canada and the Competition Bureau. Her work primarily is in the areas of unsolicited telecommunications and electronic commerce enforcement.

Moderator

LESLIE MILTON recently joined Telesat Canada as Senior Counsel, Regulatory Affairs, following over 20 years in private practice as a partner at Johnston and Buchan and Fasken Martineau DuMoulin. Before becoming a lawyer, she worked as an economist at the Bank of Canada. Ms. Milton's areas of legal practice, which include communications law, competition law and international trade law, build on her training in economics.

Ms. Milton's work in communications law extends to all areas of communications regulation. While her current focus is Canadian, U.S. and international satellite regulation and access to radio frequency spectrum, she has acted in regulatory proceedings before the Canadian Radio-television and Telecommunications Commission and Innovation, Science and Economic Development Canada covering all aspects of telecommunications and radiocommunications regulation, including the framework proceedings for local and international services competition, forbearance proceedings, price cap regulation, regulation of Internet services, competitive safeguards, terms and conditions of interconnection, universal service and subsidy obligations, licensing, privacy, telemarketing, anti-spam and voter contact requirements, spectrum allocation and licensing, certification of radio apparatus and foreign ownership requirements.

Ms. Milton was seconded to the Competition Law Division of the Department of Justice in 2003-2004, where she acted as counsel to the Commissioner of Competition on merger reviews and investigations under the reviewable practice and deceptive marketing provisions of the Competition Act, and in proceedings before Competition Tribunal brought under the ordinary selling price, abuse of dominance and consent order provisions. In private practice, she regularly assisted clients in clearing mergers through the Canadian Competition Bureau under the Competition Act and the Investment Review Division under the Investment Canada Act, and advised clients on competition compliance.

In international trade, Ms. Milton has expertise in Canada's international trade commitments under the CUSTA, NATFA, WTO and other bilateral trade agreements, with particular emphasis on telecommunications and cultural industries obligations and exemptions.

Panellists

JONATHAN CHAPLAN has had a varied career as a lawyer, mediator, trainer and manager. He was called to the Bar of Ontario in 1985 and practiced law as a sole practitioner, primarily as criminal defence counsel, until 2001. In 1999 he obtained an LL.M. in Alternative Dispute Resolution and acted as a mediator in civil and family law matters.

From 1998 to 2001, Mr. Chaplan also worked in the area of restorative justice. He initially joined the Government of Canada in 2001 to lead a dispute resolution program at the Canadian Environmental Assessment Agency, where he later went on to become a director, responsible for the regional offices. In 2005, Mr. Chaplan returned to law, working for the Department of Justice at the Competition Bureau Legal Services, specializing in large merger files. From 2008 to 2013, he was the General Counsel and Deputy Legal Advisor at the Office of the Department of National Defence/Canadian Forces Legal Advisor, the Justice Legal Services Unit for the Department of National Defence and the Canadian Forces.

In January 2014, Mr. Chaplan returned to the Competition Bureau Legal Services as Executive Director and Senior General Counsel where he leads a team that is responsible for legal advice on behalf of Justice Canada and litigation before the Competition Tribunal, Federal Courts of Canada and Provincial Superior Courts. He has extensive experience appearing before courts and tribunals. He speaks English, French, Spanish and Vietnamese.

ANDREA ROSEN has over 30 years experience in law enforcement and regulation. She was Deputy Commissioner of Competition at the Competition Bureau of Canada and Chief Compliance and Enforcement Officer at the Canadian Radio-television and Telecommunications Commission. Ms. Rosen created and designed the enforcement infrastructure at these agencies and has deep and extensive experience in law enforcement and fostering compliance with regulations.

She led the drafting of Canada's anti-spam legislation (CASL) and its Regulations, numerous amendments to the Competition Act, a review of the Unsolicited Telecommunications Rules, many Guidelines and the first Immunity Program under the Competition Act. Ms. Rosen also led many strategically important cases at the Bureau and Commission, involving world-wide cartels,

misleading advertising, Do Not Call, Robocalls and telemarketing fraud, all of which resulted in landmark fines or penalties, clarity of the laws and education of the marketplace.

Ms. Rosen is now President and CEO of Andrea Rosen & Associates Inc., and draws on this experience when providing private sector firms with advice on how to respond to regulatory and enforcement actions, design compliance programs to ensure adherence to laws and regulations, and demonstrate due diligence. She also assists government agencies in building responsive regulatory and enforcement programs that yield high impact outcomes. Ms. Rosen works in the fields of anti-trust, telecommunications, privacy, anti-spam and cybercrime.

PHILLIP MARCHESIELLO is a partner with Wilkinson Barker Knauer, a U.S. law firm that specializes in communications and energy regulatory and transactional matters, as well as privacy and cybersecurity. Wilkinson Barker is regularly ranked as one of the nation's top tier communications law firms by Chambers USA, Legal 500, and U.S. News – Best Lawyers “Best Law Firms.” The firm was named the first ever “Best Law Firm” in the Communication Law category by U.S. News – Best Lawyers “Best Law Firms” in 2012, and received this ranking again in 2014 and 2018.

Mr. Marchesiello represents regional, national, and international communications, media, and technology companies with respect to a variety of transactional, regulatory compliance, licensing, and policy matters before the Federal Communications Commission (FCC), state public utility commissions (PUCs), and foreign telecommunications agencies. He assists clients to navigate the FCC's and PUCs' regulations and to develop practical compliance mechanisms in light of his clients' business objectives. He also assists companies to advocate their policy positions in FCC rulemakings and to participate in licensing and enforcement proceedings. In addition, Mr. Marchesiello negotiates and secures FCC and state PUC approval for telecommunications and media transactions and represents companies in a wide variety of communications and information technology enterprise-level commercial transactions.