

Attachment A

Summary Chronology

5 February 1993: Cable television companies offer to pay up to \$100 million subsidy for production companies, conditional upon the CRTC changing its regulations to permit the statutory monopolies to charge higher consumer rates than otherwise possible.¹

1 – 26 March 1993: CRTC considers the conditional offer by the cable television industry during the “Structural Hearing”. Representatives from production companies support the concept but lobby for more than \$100 million in non-repayable grants in their self-interest. Ratepayers of the proposed plan are effectively excluded from participating in the hearing due to the failure by the CRTC to inform the public that the issue was to be addressed, apparently denying Canadians their statutory right to represent their interests in the quasi-judicial process.

3 June 1993: CRTC proposes to make change to the *Cable Television Regulations, 1986* (hereinafter the Regulations) in favour of the cable television industry. Included is the addition of subsection 18(6.3) to the Regulations (hereinafter the Diversion Clause). The CRTC estimates that the Diversion Clause is to raise approximately \$300 million for non-repayable grants to production companies over the initial five-year period starting 1 January 1995 (at a cost to consumers of approximately \$600 million, plus provincial sales tax and GST). The Diversion Clause is to permit the cable industry to retain an estimated \$300 million over the initial five-year-period for an unspecified purpose, without the requirement of the monopolies to do any work for the revenue. In addition, the cost of the CRTC scheme is grossly inequitable to consumers in different cable systems. CRTC commissioners David Coleville, Beverley Oda and Rob Gordon issue a strongly-worded dissenting opinion against the majority decision to add the Diversion Clause based upon its numerous deficiencies, concluding by stating: “Cable rates should be justified on their own merits, not used as a lever to extract revenues for other purposes.”² The Diversion Clause is to perform the function of an inequitable and highly inefficient tax. It appears that the CRTC is to exceed its legal jurisdiction by adopting the regulation.

25 January 1994: CRTC adds Diversion Clause to the Regulations, a regulation to facilitate cross subsidization from monopoly revenue and foster unfair competition.

22 September 1994: Keith Mahar advocates that cable television subscribers should be made aware of the Diversion Clause and its cost at a CRTC hearing.

11 October 1994: Governor in Council issues Order in Council P.C. 1994-1689, it is Government policy to foster fair competition and an increased reliance on market forces in the provision of facilities, products and services related to communications.

1 January 1995: Canadians start to pay artificially inflated rates for basic cable television service, pursuant to the Diversion Clause, to pay for non-repayable grants for television production companies and to provide cable television companies a source of revenue for unspecified purpose, without the requirement of doing any work. Ratepayers were not notified in advance of the Diversion Clause or its monthly cost. In fact, cable television companies had formerly notified subscribers the

¹ Submission to CRTC Structural Policy Hearing, NPH-1992-13, Canadian Cable Television Association, 5 February 1993

² Minority decision of the CRTC regarding subsection 18(6.3), resulting from the “Structural Hearing” decision, Public Notice CRTC 1993-74, 3 June 1993, appendix.

surcharge was to permit the corporations to partially recover the cost of eligible capital expenditures required for basic service, a totally different purpose.

17 March 1995: *The Toronto Star* publishes opinion article by Mr. Mahar.³ The former insider in the broadcasting industry addresses fact that consumers are being overcharged for basic cable television service. He describes the surcharge as a “hidden tax”, designed by unelected bureaucrats to subsidize the cost of building the information highway, and resulting in transfer of wealth from the public to privileged corporations; a type of taxation without representation.

29 March 1995: Mr. Mahar, his legal counsel (Christopher K. Leafloor and Neil Milton), NDP Heritage Critic Simon de Jong, Reform Party Heritage Critic Jan Brown, and Dan McTeague, Liberal MP on the Standing Committee on Canadian Heritage, appear together at Parliament Hill press conference and call on federal government to review the Diversion Clause.⁴ Jan Brown issues press release citing information by Mr. Mahar as justification to reconsider the existence of the CRTC.⁵ In reply to press conference, CRTC issues false and misleading news release to discredit facts presented by Mr. Mahar and denies it has imposed a “hidden tax.”⁶ Representatives from cable television industry and CRTC subsequently decline requests by CTV’s *Canada AM* to discuss issue on-air.

30 March 1995: Mr. Mahar appears on *Canada AM* to discuss the imposition of “hidden tax” on Canadians by CRTC. MP McTeague subsequently issues news release to address misleading nature of CRTC news release prior day, and states establishment of sub-committee warranted to examine Diversion Clause.⁷ CRTC officials do not return calls from press for comment on MP McTeague’s news release.⁸ Questions relating to CRTC issue are directed to the Prime Minister in the House of Commons by MP Brown. The Hon. Sheila Finestone alleges Parliament cannot interfere in the arm’s length agency, despite cabinet’s prior interference in a CRTC decision unfavourable to company operated by Prime Minister Chrétien’s son-in-law.

15 May 1995: As a result of failure by Liberal government to act, legal proceeding initiated by Mr. Mahar in Ontario Court (General Division), to try to establish right of consumers to notice of Diversion Clause, and retroactive refund for amount overcharged to 1 January 1995. Mr. Mahar sues Rogers Cablesystems Ltd. (Rogers) for amount he is personally being overcharged as a subscriber pursuant to the Diversion Clause, \$2.52 per month, plus taxes. Legal case designed to try to evade authority of CRTC in order to obtain impartial ruling on matter.

16 May 1995: CRTC Chairman misleads Standing Committee on Canadian Heritage under questioning by Dan McTeague, Keith Spicer testifies that the CRTC notified Canadians of the Diversion Clause.⁹ In fact, ratepayers of the surcharge were not properly notified by CRTC or monopoly service providers of the purpose of Diversion Clause or its monthly cost.

9 July 1995: *Mahar v. Rogers Cablesystems Ltd.* is front-page feature story in *The Toronto Star*. Journalist Antonia Zerbisias notes fact that Rogers is being permitted by the CRTC to retain revenue from consumers “without doing a thing for it.”¹⁰ Government does not act on information.

³ CRTC forces public to pay for building information highway, Keith Mahar, *The Toronto Star*, 17 March 1995.

⁴ Hidden cable ‘taxes’ blasted, Robert Brehl, *The Toronto Star*, 30 March 1995.

⁵ CRTC artificially inflates cable costs to subscribers, Reform Party Heritage Critic Jan Brown, 29 March 1995.

⁶ CRTC statement on allegations of hidden tax, CRTC news release, 29 March 1995.

⁷ CRTC denial of hidden tax on cable TV subscribers is misleading, Dan McTeague, M.P., 30 March 1995.

⁸ Liberal MP urges probe of CRTC, Robert Brehl, *Toronto Star*, 31 March 1995.

⁹ Evidence, Standing Committee on Canadian Heritage, Meeting No.84, 16 May 1995, p.84:16.

¹⁰ Cable TV firms get \$300m windfall, *Toronto Star*, Antonia Zerbisias, 9 July 1995.

25 August 1995: Rogers files motion for court to dismiss Mr. Mahar's case without first ruling on its merit, on jurisdictional grounds, argues CRTC has exclusive jurisdiction to rule on legal issue.

4 October 1995: Mr. Justice Sharpe makes precedent-setting decision on jurisdiction in favour of Rogers, concludes Parliament has assigned authority to rule on legal issue to CRTC, subject to review by Federal Court of Appeal. As a result case is dismissed by Mr. Justice Sharpe without decision on Mr. Mahar's legal right to refund by Rogers of \$2.52 per month from 1 January 1995.

30 October 1995: Mr. Mahar's pro bono legal team of Christopher K. Leafloor, Neil Milton and J.Blair Drummie win precedent-setting cost decision against Rogers, costing the corporation \$55,485. According to Mr. Justice Sharpe, Mr. Mahar's case was in public interest, "brought on a bona fide basis and ... raised a genuine issue of law of significance to the public at large."¹¹

Federal government does not act on precedent-setting ruling to determine legal right of millions of citizens to rate refunds.

28 November 1995: Mr. Mahar and Liberal MP Dan McTeague hold Parliament Hill press conference and announce official complaint filed against CRTC and cable television industry by Mr. Mahar (Cable Watch). Complaint includes evidence CRTC has acted unlawfully to unjustly enrich corporations. Mr. McTeague issues news release stating that the federal government has an obligation to investigate what has occurred between the CRTC and the cable television industry. Chrétien government does not act.

30 November 1995: Public Interest Advocacy Centre requests the Hon. Michel Dupuy, Minister of Canadian Heritage, to "swiftly" initiate an independent review of Mr. Mahar's complaints against the CRTC. The Minister refuses.

1 December 1995: Mr. Mahar requests the Hon. Michel Dupuy, Minister of Canadian Heritage, and the Hon. John Manley, Minister of Industry, to initiate a review of the CRTC. The Ministers refuse.

5 December 1995: Mr. Mahar notifies the Hon. Paul Martin, Minister of Finance, of the imposition of a type of hidden tax on cable subscribers and requests review of the CRTC. The Minister refuses.

25 March 1996: NDP Heritage Critic Simon de Jong issued press release addressing Mr. Mahar's campaign and states that the Liberal government is denying consumers their rights.

"The matters Mahar has raised have serious implications for cable subscribers and carriers, consumer advocates and government" says de Jong. "By continuing to pretend the CRTC - as it exists - is meeting contemporary market needs, this government is denying consumers their rights."

The Liberal government does not act on the information.

25 June 1996: In response to Mr. Mahar's 28 November 1995 complaint, the CRTC rules itself and the corporations benefiting from its corruption innocent after an unbalanced, closed door process by the quasi-judicial regulatory agency. The CRTC does not publish its decision.

¹¹ *Mahar and Rogers Cablesystems Limited* (1995), 25 O.R. (3d), 690 (Gen. Div.), per Sharpe J., p.705

October 1996: MP Dan McTeague and Mr. Mahar appear at CRTC hearing together to oppose the CRTC's proposed changes to its regulations, cite them to be unlawful, inequitable and permit cross subsidization. CRTC subsequently adopts the regulations.

1 January 1998: The Regulations repealed and the *Broadcasting Distribution Regulations* (hereinafter the existing Regulations) come into force. The Diversion Clause eliminated in name but not in cost or effect. The modified accounting system in the existing Regulations facilitates an increase in cross subsidization for selected corporations, such as Rogers.

February 1998: Mr. Mahar commissioned by MP Dan McTeague to research reforming CRTC.

19 April 1999: MP Dan McTeague and Mr. Mahar file joint submission to the Liberal Caucus Group on the CRTC. Submission includes information that the federal agency has permitted cable television companies to collect hundreds of millions of dollars from consumers under false pretence and the CRTC has misled the Standing Committee on Canadian Heritage on issue. No action taken by Liberal Government.

6 September 2004: Mr. Mahar submits evidence of ongoing corruption by CRTC to Prime Minister Paul Martin. No action taken by Martin government to address issue that has cost consumers more than \$1.2 billion, plus provincial sales tax and GST to date.