

The CRTC could use Big Chicken for CASL

Morgan Spurlock is back! You'll remember Spurlock from his 2004 documentary *Supersize Me*, where he combined sharp film-making skills with performance art in eating nothing but food off the McDonald's menu for a month. His dramatic weight gain and precarious decline in health over a mere 30 days of fast food offered a shocking real-world commentary on our everyday lives.

Now he's back, with *Supersize Me2: Holy Chicken* which premiered at the Toronto International Film Festival this week. This time, his work looks at the chicken industry, and more particularly, the words used by "Big Chicken" to convince the public that it's healthy to eat fried chicken and reformulated chicken bits.

Big Chicken's marketing approach is based on its use of language to change our behavior. Health-conscious consumers now avoid "deep fried chicken", so instead they call it "crispy" or "grilled", because that sounds healthier. A crispy chicken sandwich is just deep fried chicken in a sandwich, but it sounds so much healthier now. Big Chicken uses "free range" to conjure up images of blissed-out chickens clucking through natural fields of abundant food; in reality all it means is that a door was left open on the enclosure to give the chickens the option of going into another small enclosure, even if none of the chickens actually left the crowded living area.

Have you heard any advertisements that chicken is "hormone free". Of course it is! The use of hormones is illegal in the industry so all chicken you eat is hormone free, but again, the language is meant to shape our behaviour.

I wish someone in the Big Chicken industry would go to work for the CRTC.

The CRTC is Canada's Radio-Television and Telecommunications Commission. It was created in 1976 to regulate broadcasting and telecommunications, and its jurisdiction has crept into the enforcement of internet-related regulatory issues, which means the CRTC is the primary body enforcing *Canada's AntiSpam Legislation* (CASL).

The CRTC has been enforcing CASL since CASL came into force in July, 2014. Throughout the transition periods the CRTC did a good job of communicating with the public. It educated us as to what was expected to be in compliance, toured across the country to meet with stakeholders, gave some idea of what the penalties would be for non-compliance, and followed through with enforcement activity. The CASL enforcement division of the CRTC was generally a responsive public-friendly group, with a useful informative website.

The CRTC then named the violators, punished them, and advertised the results so as to shape the behaviour of everyone subject to the law.

The system was working.

Then the CRTC got blindsided by Navdeep Bains. Mr. Bains, who is Canada's Minister of Innovation, Science and Economic Development, gutted the CRTC's CASL process, in response to pressure from self-interested lobby groups. For a full explanation of what he did and why it was a disappointing failure of leadership, [click here](#).

Since then, we've heard nothing from the CRTC on its CASL approach. The usually public-friendly department has gone radio silent, not even responding to my telephone and email requests for guidance on future compliance.

Whether you approve of CASL or you hate it (and I recognize

the haters far outnumber the approvers), it is the law of the land and it must be obeyed. The CRTC is the primary regulatory charged with its enforcement, both within Canada and internationally. As people subject to that law, we have the right to know the CRTC's interpretations of some of the murkier sections, how it will enforce breaches, how it will integrate CASL with the new privacy and data laws in Canada and abroad, and what is its overall theme on CASL.

To not give this guidance is unfair to everyone subject to the law (that is, everyone who sends email), to the lawyers who are trying to advise on it, to the auditors trying to assess risk related to it, to Human Resources trying to build employee compliance, and to third parties who have built businesses on CASL compliance.

Big Chicken has figured out that the language used can be more important than the substance of the thing being discussed, and that how we describe things can change behaviour. The CRTC needs to return to its public-friendly approach so that we know how to behave to stay within the law. Crispy chicken, anyone?