



April 6, 2009

Mr. Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

On-line: <http://support.crtc.gc.ca>

Dear Mr. Morin,

Broadcasting Notice of Consultation CRTC 2009-104
Application by Rogers Broadcasting Limited to amend the broadcasting licence for
Outdoor Life Network

1. This is the submission of ACTRA (Alliance of Canadian Cinema Television and Radio Artists) in the matter of BN CRTC 2009-104 – Application by Rogers Broadcasting Limited (“RBL”) to amend the broadcasting licence for Outdoor Life Network (“OLN”).
2. ACTRA brings to this submission the unique perspective of professional performers working in the English-language recorded media in Canada and the interests of thousands of singers and musicians through the work of ACTRA Performers’ Rights Society. ACTRA’s submission also represents the views of more than 17,000 members of the American Federation of Musicians, Canada.
3. We support the principle in the *Broadcasting Act* that Canadian creative resources be predominantly used on the public airwaves. We also believe the *Act’s* objectives require that there be a reasonable supply of high-quality English-language drama and scripted comedy programs and series in every medium.
4. When OLN’s licence was renewed in 2004, the Commission saw it appropriate to increase its contributions to the Canadian broadcasting system, noting the channel’s “positive financial performance” and historical profit margins of between 25-29%. As a condition of licence, OLN was required to expend 41% of gross revenues on Canadian programming and its Canadian content requirements were brought up to 50% during the day and 40% in the evening broadcast period. We note that the time quota is

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lower than the quota applied to conventional broadcasters.

5. In 2004, the Commission also granted OLN's request that it be permitted to add Category 7 (a), (c), (d) and (g) programming providing "that such programming is consistent with the nature of service and that it is exclusively Canadian programming." Further, the Commission limited such programming to 5% of the total schedule.
6. ACTRA has serious concerns with RBL's new requests for licence amendments to OLN. Specifically, the requests to increase the sub-categories of Category 7 it can air and to expand the limit on Category 7 programming to 25%. Perhaps most alarming is the applicant's request "that the requirement that all Category 7 programming is Canadian be removed."
7. If RBL wishes to increase the time allotment for Category 7 programming, and broaden its programming offering by introducing more programs from Category 7, OLN should be permitted to do so only if *all* of the Category 7 programs are Canadian; this is the only way the change would help to achieve the objectives of the *Broadcasting Act*.
8. RBL has requested these radical changes in the name of "the ability to provide a more well-rounded programming offering". Perhaps RBL failed in its due diligence obligation when it acquired OLN because it seems unaware that being a 'specialty channel' OLN has a very specific mandate: "The licensee shall provide a national English-language specialty television service devoted exclusively to programs that deal with outdoor recreation, conservation, wilderness and adventure."¹
9. In its argument that it is unfairly hampered in its programming options, RBL seeks to compare OLN to Space. We find this comparison unacceptable since Space is a science fiction channel. OLN has thrived precisely because of its unique mandate. Canadians do not need further access to programs that are offered to them through Space, as well as many other services both Canadian and non-Canadian.
10. ACTRA also notes that RBL offers no evidence to support its extraordinary requests; the rationale seems to be 'because we want to'. It appears that RBL is making this application merely to enable it to jack up OLN's profit margin even further by filling its schedule with inexpensive U.S. reruns. By all accounts OLN continues to thrive. It was among the specialty channels recently reported by the Commission to have record revenues of \$2.3 billion, up 6.5% from the previous year (Category 2 channels had revenues of \$189.7 million, up 19.9% from 2007).²
11. Acceding to RBL's request would not increase Canadians' access to programming that is relevant to them and would not increase the amount of Canadian drama on our airwaves. It would bring no benefit to the Canadian broadcasting system as a whole nor would it benefit Canadian audiences who don't need yet another rerun of *Lost*. It would serve no end except beefing up RBL's bottom line.
12. This application seems to be part of a pattern of RBL making a concerted effort on every front to ease Canadian content requirements. In its recent application to renew

¹ Broadcasting Decision CRTC 2004-9

² CRTC, *Pay television, pay-per-view, video-on-demand and specialty services – Statistical and financial summaries 2004–2008*.

the licence of CityTV, RBL proposed eliminating priority programming rules altogether and spending \$0 on Canadian drama in 2010. The private broadcasters' campaign to remove themselves from the very regulations that have served them so profitably in the past is outrageous and unacceptable.

13. We urge the Commission to deny RBLs request to amend the OLN licence. It must send a strong signal to broadcasters that Conditions of Licence and Terms of Service are **obligations**; they are not 'optional guidelines' that can be stretched or eliminated at the whim of private broadcasters or to enrich their shareholders.

Thank You.

A handwritten signature in black ink, appearing to read 'Stephen Waddell', with a horizontal line extending to the right.

Stephen Waddell
National Executive Director
ACTRA

c.c.: Susan Wheeler, Vice-President, Regulatory Affairs, Rogers Broadcasting Limited

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