



January 27, 2010

Mr. Robert A. Morin  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

**CRTC Broadcasting Notice of Consultation: 2009-803**  
***Application No. 2008-0203-4 – Application by Média de Novo Inc. for a broadcasting licence to operate a national, English-language programming undertaking.***

Dear Mr. Morin,

1. The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) welcomes the opportunity to **comment** on the above-mentioned application on behalf of our 21,000 members and will bring to it the particular perspective of professional performers working in the English-language recorded media in Canada.
2. Média de Novo Inc.'s (MDN) application is the latest in a string of quests to exploit the potential value of local avails. Noting the keen interest the industry has in the issue, the Commission wisely sought input in the development of a policy framework for local avails in Broadcasting Public Notice CRTC 2008-102. The Commission has yet to release a decision on that process since it concluded April 2, 2009. ACTRA finds it unfortunate that the Commission has chosen to consider this application in the absence of a policy and suggests that it might serve the system better if the matter were set aside until a regulatory framework is released and then launch a competitive bid process under that framework.
3. We also anxiously await the Commission's new *Television Policy* in the hopes that a new model for broadcasting will create new opportunities for Canadian programming and alleviate some of the current pressures on our system. It might make more sense to look at the issues raised in the applications after the new Television Policy is released, as it will surely have a significant impact on the landscape of Canada's broadcasting system.
4. ACTRA will not take a position in respect to the specific business model being proposed by Média de Novo Inc (MDN). We will also not comment on the technological implications or practicality of the MDN application. While ACTRA has previously

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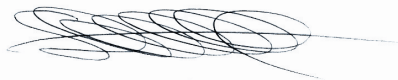
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supported the renewal of an existing licence if certain conditions are met, we have not historically supported a specific applicant for an initial licence. The fact that MDN is a for-profit corporation makes us especially reticent to comment on the specifics on this application.

5. ACTRA's primary regulatory objective is making sure that Canada has an independent, robust domestic television, film and new media production, distribution and exhibition system. Specifically we are motivated by the need to ensure that Canadian creative resources are predominantly used on the public airwaves; and there is a reasonable supply of high-quality English-language drama, and scripted comedy programs and series in every medium. ACTRA will therefore restrict our comments to the principle of local avails.
6. In the meantime, we applaud MDN's attempt to find creative and innovative ways to help bring vitality to Canada's broadcasting system by addressing some of the challenges facing private broadcasters.
7. In response to PN 2008-102, ACTRA asked the CRTC to maintain the current restrictions on the sale of local availabilities commercial advertising by Broadcast Distributing Undertakings (BDUs). Our opposition to opening up local avails at that time was based on the specific proposal and the failure of BDUs to make a convincing case that the change was required, explain what they would do with additional revenue or how the proposal would provide a net benefit to Canada's broadcasting system as a whole.
8. In assessing this application, we therefore ask ourselves the same questions: Is there a convincing case that change is required with respect to the Commission's policy on local avails? Is there a convincing case that new revenues generated would present a net benefit to Canada's broadcasting system as a whole?
9. On the first question, as whether change is required, ACTRA determines that while the system isn't broken, if change can bring benefits to the system as a whole then it is a positive step. ACTRA is satisfied that in principle, allowing the sale of local avails would not necessarily harm the system as a whole. We are generally reticent of any regulatory changes that would further fragment the advertising market. However, we are satisfied by the Association of Canadian Advertisers' assertion in their reply to BN 2009-411 that opening local availabilities to advertisers will in fact grow the advertising pie by repatriating some of the lost Canadian audiences and slowing down the erosion of television advertising revenues to other platforms. At best, opening local avails will have little impact; at best it may well inject much-needed resources into the system.
10. ACTRA's major concern with the current application remains whether any new revenues generated would present a net benefit to Canada's broadcasting system as a whole as opposed to benefiting one particular party(ies).
11. To be clear, ACTRA supports **in principle**, the proposal to insert advertising in local avails provided that the majority of new monies is directed into the production of original Canadian dramatic programming. Canadian drama is still vastly underrepresented and underfunded. ACTRA believes that any new monies generated by innovations such as the sale of local avails must be directly applied to funding this critical and culturally imperative form of production.

12. It is unfortunate that MDN, fails to acknowledge the urgent need for more support for Canadian dramatic programming in its application. It's especially surprising given that MDN's predecessor, Only Imagine, was prepared to allocate 50% of gross revenues to an independent fund for Canadian drama in its application to form an undertaking to exploit local avails. MDN has abandoned this approach and instead proposes that new monies would assist private conventional broadcasters with their digital transition and obligations to produce local programming, with one per cent going towards annual studies on "World Economic Media Models."
13. ACTRA does not think this is the right approach. The Commission has justly taken several steps to address some of the challenges facing local programming including harmonizing news requirements and creating the Local Programming Improvement Fund (LPIF). ACTRA also feels it is not appropriate to use monies from the sale of local avails to assist broadcasters with tier transitional to digital. These are direct corporate costs of 'doing business' and do not directly support the system as a whole.
14. In a press release dated January 13, 2010, MDN announced that if it receives regulatory approval it will also introduce a new "Non-Simultaneous Substitution Strategy." ACTRA reminds the Commission of our previous observation that in 'practice', it is unworkable. A second broadcast in Canada would trigger additional payments due to rights issues with the U.S. unions and guilds resulting in higher and unfeasible broadcast rights for Canadian broadcasters. Canadian broadcasters already spend an obscene amount of money acquiring the rights to U.S. programming, hiking those prices up even further would be disastrous.
15. Should the Commission determine that the timing of this process is appropriate and conclude that MDN is best suited to conduct this business, ACTRA asks that the Commission consider our request to ensure that as much of the revenues as possible are directed towards producing original, Canadian dramatic programming.
16. ACTRA thanks the Commission for the opportunity to provide comment on this important issue.

Thank you



Stephen Waddell  
National Executive Director  
ACTRA

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