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Canadian Association of Broadcasters
Association canadienne des radiodiffuseurs

January 27, 2010 ***Via Epass***

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

Dear Mr. Morin:

Re: **Broadcasting Notice of Consultation CRTC 2009-803 - *Call for Comments re Application by MÉDIAdeNOVO (Application No: 2008-0203-4)***

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks, specialty, pay and pay-per-view services. The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country.

2. This submission is filed in response to the Commission's invitation in Broadcasting Notice of Consultation (BNC 2009-803) to comment on the merits of an application by MÉDIAdeNOVO Inc. (hereinafter MÉDIAdeNOVO) filed March 31, 2009 seeking a licence to operate a national English-language programming undertaking designated for mandatory distribution pursuant to section 9(1)(h) of the *Broadcasting Act*.[1]

1.0 Introduction

3. The CAB is in receipt of a copy of the joint submission filed January 8, 2010 by Cogeco Cable Inc., Eastlink, Rogers and Shaw (the Cable BDUs) as well as the joint submission filed January 11, 2010 by Bell Aliant and Bell Canada (Bell Canada). The CAB is also in receipt of MÉDIAdeNOVO's response dated January 14, 2010 and Bell's subsequent response dated January 18, 2010.

4. In their submissions, the Cable BDUs and Bell Canada argued that MÉDIAdeNOVO's application (the application) was premature and that, if considered, the application should be

[1] The CAB notes that the MÉDIAdeNOVO application is imprecise regarding its request for 9(1)(h) and this was not identified as a request by the Commission in its call for comments in BNC 2009-803.

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subject to a full public hearing. These interveners also questioned the eligibility of MÉDIAdeNOVO's proposed service as a programming undertaking.

5. On January 14, 2010, MÉDIAdeNOVO responded to the procedural arguments raised by the BDUs in their interventions, noting it would address the BDUs comments on the merits of its application in its response to comments received January 27, 2010.

6. Predictably, MÉDIAdeNOVO strongly opposed the BDUs' recommendation to delay consideration of the MÉDIAdeNOVO application pending decisions from the proceedings initiated by Broadcasting Notice of Consultation 2008-102 (BNC 2008-102), Broadcasting Notice of Public Hearing 2009-411(BNPH 2009-411) and Broadcasting Notice of Public Hearing 2009-614(BNPH 2009-614) (hereinafter the framework proceedings). MÉDIAdeNOVO suggested that its application needed to be considered in advance of the decisions so that the Commission is aware of all the options and so that the local avails can be exploited in a manner that will permit maximum benefits for the system.

7. In what follows, the CAB addresses both the procedural and substantive issues raised by MÉDIAdeNOVO in its application dated March 31, 2009 as updated June 24, 2009 and August 9, 2009.

2.0 Consideration of the MÉDIAdeNOVO application is procedurally premature

8. The CAB concurs with the BDUs that it is premature for the Commission to consider the merits of MÉDIAdeNOVO's application prior to releasing its determinations from the proceeding initiated by BNC 2008-102, BNPH 2009-411 and BNPH 2009-614.

9. The CAB respectfully notes that the fact that an issue "has been debated for years" does not render it ready for an implementation plan. Broadcasters raised a number of serious issues regarding opening local avails in the proceeding initiated by BNC 2008-102. Broadcasters have very credible concerns about the negative impact to broadcasters. Accordingly, broadcasters have a legitimate interest in the outcome of BNC 2008-102 and in particular the policy pronouncements regarding the net benefits to the system. The absence of a proper regulatory framework regarding local avails impedes the capacity of the public to properly and fully assess the merits of the application. It is incumbent on the Commission to set out its determinations with respect to the proceedings initiated by BNC 2008-102, BNPH 2009-411 and BNPH 2009-614 prior to considering any applications from parties who seek to exploit the sale of local avails.

10. Second, the CAB is concerned that the Commission would proceed to consider an application that may be adverse in interest to broadcasters at a time when broadcasters need regulatory redress in many forms including program deletion and integrity of signal and at a time when broadcasters are experiencing the steepest revenue declines in history. The CAB respectfully submits that the Commission should address the structural issues impacting Canadian broadcasters as reviewed in the proceedings initiated by BNPH 2009-411 and BNPH 2009-614 and establish the policy framework that will assist Canadian broadcasters before turning its

attention to the requests of BDUs and third parties. Evaluating the merits of an application before key policy positions are enunciated wastes the time and resources of the Commission and the industry and sets a dangerous precedent for other "would-be" applicants to follow.

11. Finally, as discussed in detail below, MÉDIAdeNOVO's application raises more questions than it answers. As discussed in further detail below, MÉDIAdeNOVO's application is deficient in many respects. For these reasons, the CAB believes that it is premature for the Commission to deal with the MÉDIAdeNOVO application at this time. The CAB therefore recommends that the application be removed from the list of items included in BNC 2009-803 and be considered at a later date, namely after the Commission has released its policy framework regarding the use of local avails. That said, should the Commission decide to proceed with this application, the CAB submits that the application should be denied for the reasons set out below.

3.0 MÉDIAdeNOVO's proposal fails to adequately assess the impact to the Broadcasting system

12. The MÉDIAdeNOVO application is suspiciously silent on the question of impact to the Canadian broadcasting system. Instead of filing an impact analysis, MÉDIAdeNOVO merely claims that:

> Innovative ideas designed to monetize under-utilized assets to support public policy solutions that are consumer neutral and <u>do not cause material market disruption</u> must be encouraged and facilitated to ensure the sustainability of the Canadian broadcasting system.[2]

13. The CAB respectfully disagrees. To illustrate the impact that the MÉDIAdeNOVO application would have on the advertising market in general and Canadian broadcasters in particular, the CAB commissioned a study by Armstrong Consulting. The objective of the Armstrong Study was to a) assess the reasonableness of the projected revenues proposed by MÉDIAdeNOVO; b) to project the impact on the profitability of existing television and radio broadcasting services and their ability to contribute to other broadcasting policy objectives; and c) to evaluate the extent to which these impacts may be offset by other initiatives proposed in the MÉDIAdeNOVO application. The Armstrong Consulting study is appended as Appendix 1 for the Commission's review and consideration.

14. Armstrong Consulting concluded, that based on the evidence evaluated:

    a) MÉDIAdeNOVO's revenue forecast somewhat underestimates the revenues that could be generated in the early years of' MÉDIAdeNOVO's operations. If the MÉDIAdeNOVO service had been in operation in 2008, it could have generated advertising revenues totaling \$56.4M, with \$50.6M of these revenues derived from the local availabilities in the 11 named services distributed on cable and \$5.8M derived from the local availabilities in the 11 named services distributed on DTH. If MÉDIAdeNOVO had been in operation in 2009, a year in

[2] Paragraph 33, Mediadenovo Inc. June 24, 2009 Supplemental Brief.

which English-language television advertising revenues decreased by 7.9%,[1] it would have generated advertising revenues of $54.2M, somewhat lower than in 2008.

b) MÉDIAdeNOVO assumes that the introduction of additional purchasable advertising inventory will attract incremental advertising revenues into the regulated Canadian broadcasting system. MÉDIAdeNOVO does not provide any evidence to support this claim. In fact, the evidence that is available suggests exactly the opposite: that the revenues that will accrue to MÉDIAdeNOVO will be sourced from existing Canadian broadcasting services. This will have a negative impact on the sustainability of Canadian broadcasting services and their capacity to contribute to the achievement of Canadian broadcasting policy objectives.

c) Armstrong Consulting estimates that 80% of the revenues that accrue to MDN will come from conventional television, with 10% coming from each of specialty and radio. In 2008 revenue terms this translates to a $45.2 million loss in advertising revenues for conventional television and a $5.6 million loss for both specialty and radio.

d) Even with payments from the proposed fund, the profitability (PBIT) of the major English Language private conventional television broadcasters would decrease by $5.9M in 2008 and $5.7M in 2009, with no increase in expenditures on local programming or the digital conversion. If payments from the proposed fund are intended to be devoted to incremental expenditures on local programming and digital conversion, the profitability of these broadcast services would plummet from -$35.5M to -$71.8M in 2008 and from -$155.3M to -$190.2M in 2009. This would further call into question the sustainability of these television services.

e) The proposal by MÉDIAdeNOVO that 5% of the local availabilities in non-Canadian programming services be used to promote independently-owned specialty television services, with the remaining 25% of the local availabilities available to BDUs to promote their products and services is a variation on the current policy. As such, while it may currently have, and continue to have, a positive economic impact for these specialty and BDU services, it should not be seen as a benefit arising from the approval of the MÉDIAdeNOVO application.

15. The CAB generally disagrees with the implicit assumption upon which the MÉDIAdeNOVO's application is built, namely that local avails "will grow the advertising pie." Such an assumption is not supported by the facts. The Association of Canadian Advertisers ("ACA") made similar claims at the hearing held in conjunction with BNPN 2009-411. Below is an excerpt of the CAB's response to the ACA.

The advertising pie is not growing

[1] TVB, Time Sales Survey, August 2009.

16. Advertising spend generally tracks GDP: as the economy grows, advertising spend generally grows proportionally. In other words, in real terms, advertising spend has not grown faster than the economy as a whole, despite the fact that additional advertising media have been introduced over the past few decades. Forty years ago, advertising spend in Canada represented slightly more than 1 % of GDP, which remained fairly constant into the late 1990s. More recently, however, advertising spend as a percentage of GDP has slipped to less than 1 %. In this sense, the "pie" is shrinking.

Relationship Between GDP and Ad Spend, Canada, 1968 – 2008

Year	GDP (current dollars) (In millions of dollars)	Ad Spend (In millions of dollars)	Ratio of Ad Spend to GDP (%)
1968	$76,131	$786	1.03%
1978	$244,877	$2,544	1.04%
1988	$613,094	$6,319	1.03%
1998	$914,973	$9,600	1.05%
2008	$1,600,081	$14,620	0.91%

Data sources: Statistics Canada (for income-based GDP in current dollars), TVB (for ad spend).

17. As the pie has become smaller, broadcast media's share of the pie has also become smaller. Unregulated media, including the Internet, print, direct mail, and other forms of advertising, account for about two-thirds of the total advertising spend in Canada. Regulated media account for about one-third, which is slightly less than five years ago. While conventional TV has lost share over the years, historically, specialty television enabled the TV's share of the overall advertising pie to remain fairly constant. In 2008, however, television's overall share (for both conventional and specialty TV) of the ad pie decreased. Radio's share has remained fairly constant. And Internet, of course, is capturing share at the expense of most other media.

18. In the US, growth in BDU sales of local avails has generated revenue that is exceeded, in broadcasting, only by growth in cable network ad revenue. Broadcast TV in the US has captured a decreasing share of advertising spend, while radio has been fairly stable and cable networks have increased share. However, the combination of conventional TV, cable TV networks and local avails (sold by BDUs) have not significantly increased television's share of the ad pie; in fact, television's share of the pie hasn't changed in the past 5 years. And when radio is added to the pie, the share of ad spend captured by broadcast media has been flat for the past 15 years.

19. Based on the above, it is clear that opening the local avails will not add more money to the system, it will merely redistribute the advertising revenue currently available and in a manner that does not amount to a net benefit to all participants. In fact, the only new benefactor in the system will be MÉDIAdeNOVO which stands to gain over ten million dollars in the first year of operation. Funds that would be clearly at the expense of the Canadian broadcasting system.

4.0 MÉDIAdeNOVO's application is substantively deficient

20. The CAB respectfully submits that MÉDIAdeNOVO has failed to do its due diligence. The application is substantively deficient in a number of material respects and for this reason it does not merit any proceeding until the deficiencies are addressed.

MÉDIAdeNOVO's Methodology is undefined and undefended

21. MÉDIAdeNOVO's application to exploit the local availabilities in non-Canadian programming is entirely silent on the methodology used to estimate the value of the local availabilities in non-Canadian programming services. In fact, the only information available is the revenue analysis by quarter that is set out in Appendix 4R that estimates the quarter over quarter value of advertising spots in the 6:00am to 6:00pm time slot and the value of advertising spots in the 6:00pm to 12:00am time slot.

22. MÉDIAdeNOVO provides no explanation of the assumptions underlying its estimates including audience numbers, the number of services considered or even the source of data. Further, it is not clear if the estimates denote the total increase to the system or the net increase to the system.

23. The CAB notes that MÉDIAdeNOVO revenue estimates over the next 7 years are considerably lower than those calculated by CAB and CTV in 2005 (about $60M-$75M) and accepted at the time by the CRTC, and by various parties in the 2009 local avails proceeding (from $20M to $109M). It is further unclear how many spots will be sold or at what rate, again making it impossible to determine whether MÉDIAdeNOVO's revenue projections are realistic.

24. Given that the methodology used to derive the estimated revenue value is in question, there is nothing that allows the industry or the Commission to adequately assess the validity of the MÉDIAdeNOVO proposal. As such, the application is glaringly deficient and for this reason, the CAB submits that the MÉDIAdeNOVO application should be rejected.

MÉDIAdeNOVO's application fails to address the deficiencies identified by the Commission in Decision 2007-169

25. Second, the MÉDIAdeNOVO application has failed to address the deficiencies set out by the Commission in Broadcasting Decision 2007-169 (Decision 2007-169) denying Only Imagine's application. The Commission denied Only Imagine's application on the grounds that approval of the application would require the Commission to involve itself in unduly intrusive regulatory measures[3] and that the proposed service would not produce sufficient net benefits to the Canadian broadcasting system[4]. The Commission expressed specific concerns about the potential for interference into the affiliation agreements that BDUs have with U.S. programming services and the complications that may arise from the need to render the proposal technically

[3] Paragraph 15 of Broadcasting Decision CRTC 2007-169.
[4] *Ibid*, Paragraph 16.

feasible. The Commission determined that absent willing BDU involvement, Only Imagine's proposed method for implementing the service may not be feasible without the Commission's ongoing supervision.[5]

26. On July 30, 2009 Commission staff forwarded to MÉDIAdeNOVO a list of questions of clarification regarding MÉDIAdeNOVO's application. Among the questions asked, the Commission sought clarification as to how the MÉDIAdeNOVO's application addresses the shortcomings of the Only Imagine application as identified by the Commission in Decision 2007-169. On August 9, 2009, MÉDIAdeNOVO filed its response wherein it stated the following:

    a) MÉDIAdeNOVO was developed to respond to the policy review process to consider changing the current use of the avails;
    b) The MÉDIAdeNOVO proposal will not impact the current affiliation agreements between BDUs and U.S. program service providers. BDUs will continue to be responsible for inserting advertising content in the local avails;
    c) The MÉDIAdeNOVO application will substantially increase the benefits for the system over all previous submissions;
    d) Approval of the application will not require any changes to the conditions of license for BDUs
    e) The operational model proposed by MÉDIAdeNOVO for the insertion of advertising content in the local avails eliminates the basis of any previous concerns while ensuring the integrity of foreign program services.

27. Based on a cursory read of MÉDIAdeNOVO's proposed operational model, it is evident that the successful implementation of MÉDIAdeNOVO's proposal relies on the BDUs providing MÉDIAdeNOVO access to their respective networks. It is also clear from reading the operational model closely that while the BDUs' equipment may insert the advertising content into the U.S. program it is the MÉDIAdeNOVO's Commercial Insertion System controlled by the MÉDIAdeNOVO Network Operations centre (NOC) that will control the insert of the local avails in the non-Canadian programming services. This, however, risks substantially impacting the integrity of the foreign program and hence the affiliation agreements BDUs have with foreign programming services. A better technical explanation of how the insertion is achieved and how this conforms to standard practices, was warranted.

28. The CAB is accordingly of the view that MÉDIAdeNOVO's proposed operational model for the insertion of advertising content in the local avails does not address the Commission's concerns regarding the integrity of foreign program services and that, contrary to what the applicant asserts, it could have an impact on the affiliation agreements BDUs have with foreign programmers. Specifically, MÉDIAdeNOVO has failed to adequately address the Commission's concern regarding the variety of contractual terms related to local availability and the privileges and limitations contained in those terms. Merely stating "some non-Canadian services customize the standard language of their affiliation agreements to show deference to the Commission" is insufficient, and may not fully represent the facts.

[5] *Ibid*, Paragraph 20.

29. Finally, the CAB notes that MÉDIAdeNOVO has failed to illustrate how its revised proposal addresses the legal question of a third party's right to use local avails, that is the right to alter and delete the U.S. programming service without the consent of the service. As noted by the Commission in paragraph 15 of Decision 2007-169, the right to use the local avails is not regarded as conveying an ownership right. The CAB interprets this statement to mean that consent to alter or delete the programming is still required from the foreign programming service.

30. For all the foregoing reasons, MÉDIAdeNOVO has failed to illustrate how its application is materially different from that filed by Only Imagine as denied by the Commission in Decision 2007-169. Moreover, MÉDIAdeNOVO has not addressed the deficiencies of the Only Imagine application identified by the Commission in Decision 2007-169 but merely restated the failed proposal. The CAB, therefore, recommends that the Commission deny the MÉDIAdeNOVO proposal.

MÉDIAdeNOVO has failed to demonstrate a net benefit to the Canadian Broadcasting System

31. The CAB is similarly unconvinced that, if approved, the MÉDIAdeNOVO service will result in a net benefit to the Canadian broadcasting system. While the CAB notes that this application is proposing a more robust and better targeted contribution to the Canadian broadcasting system than what was proposed in the Only Imagine application, MÉDIAdeNOVO proposal will still result in a net loss for the system. For example, based on the going-in formula, conventional TV broadcasters appear to temporarily benefit but in fact they will incur a net loss.[6] Radio broadcasters, whose revenues will be impacted by the commercial use of local avails, however, are all but ignored. Similarly, there is also no direct or discernible benefit to specialty service providers.

32. Second, because the allocation of funds for the second portion of the licence term (for years 4-7) are unspecified, it is difficult to assess what benefit, if any, "the system" will derive. The CAB, however, is similarly concerned that a "flexible funding entity designed to adapt and react to the changing circumstances in the Canadian broadcasting system" does not offer the best governance mechanism and oversight for a fund that, if approved, could contain substantial amounts of money. The CAB in particular is concerned with the proposed structure and composition of the fund board, and questions the claim that the fund board is "independent and unaffiliated" particularly when the chair of the fund board is directly employed by a BDU.

33. Third, although MÉDIAdeNOVO proposes to allocate 70% of the value of local avails to the Canadian broadcasting system, in fact, this amount is significantly reduced by the almost excessive, technical, administration and sales and promotion cost. In fact, in year one alone, MÉDIAdeNOVO proposes to retain over $11.6 million dollars to pay for the costs to run the fund, making it a significant benefactor.

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[6] As illustrated in the Armstrong Consulting Impact Study.

34. Finally, the term "net" benefit clearly implies that the system must gain in the aggregate and by consequence not incur any loss to implement the MÉDIAdeNOVO proposal. MÉDIAdeNOVO has entirely failed to adequately analyze the net benefit to the system and by consequence the impact to Canadian broadcasters. This is a conspicuous omission in the application and grounds for denying the application altogether. This omission is addressed in more detail below.

5.0 A Solution for the Use of Local Avails

35. The net benefit to the broadcasting system must be the preeminent objective for the use of the local avails. While it may be tempting for the Commission to consider proposals that monetize the use of the local avails, other solutions may exist that could extend even greater benefit to the system. Specifically, the CAB recommends that the local avails continue to be used to promote Canadian programming and Canadian television programming services.

36. The CAB respectfully submits that the use of local avails to promote Canadian programming services may become all the more necessary as the industry transitions to the new digital framework. New regulations that take effect on or before August 31, 2011 risk significantly changing the packaging of Canadian specialty television services. Among the changes include the removal of the linkage rules and changes to the packaging rules to allow smaller packages and pick and pay options. Further, packages of U.S. only services will be introduced into the system to the potential detriment of Canadian services. If ever there was a time when Canadian programming services needed a tool to facilitate their promotion, it is now.

37. Canadians have access to countless, mainly foreign, programming choices, from regulated and unregulated sources. Going back to this first principle and making local avails available at no cost on an equitable basis to promote Canadian programming services would strengthen the Canadian broadcasting system. What's more, such an approach disadvantages no one given that BDUs have already recovered their costs as it relates to inserting promotional material into the local avails. Therefore, such an approach clearly serves the public interest.

6.0 MÉDIAdeNOVO's distant signals proposal is irrelevant and unnecessary

38. MÉDIAdeNOVO also proposes to introduce a service to insert Canadian programming promotional material in the advertising spots of imported signals. The service, which is optional to broadcasters, is intended to signal to advertisers who benefit from a second showing of their spots in distant markets, that unless they pay higher rates or provide additional compensation to broadcasters to recognize the incremental value of the second showing, then MÉDIAdeNOVO will replace the spot with promotional material. According to MÉDIAdeNOVO's assessment, "broadcasters will finally be able to monetize those audiences, thus allowing them to recover the full value of their signals."

39. In response, obviously replacing advertisements with promotional material does not allow broadcasters to recover the full value of their signals. The full value of these signals will only be realized once BDUs are finally required to compensate broadcasters for the transmission of the signals in the first place. The CAB firmly believes that the solution to distant signals firmly rests on the broadcasters' ability to withhold their signal. As the CAB strongly advocated in the proceeding initiated by BNC 2009-411, the integrity of broadcasters' signals must be formally recognized by the Commission and the Commission must give broadcasters the right to withhold their signal or delete programs as necessary to ensure that the rights that they have paid are fully monetized.

40. MÉDIAdeNOVO recognizes this as the ultimate solution when in paragraph 50 of its submission it stated "broadcasters must have the power to withhold its signal."[7] The CAB strongly agrees and believes that all other solutions are irrelevant and immaterial.

7.0 Conclusion

41. The CAB respectfully submits that MÉDIAdeNOVO's application is procedurally premature and substantively deficient. To proceed with the MÉDIAdeNOVO application will remain premature until such time as the Commission releases its policy framework regarding local avails and its framework for group-based licensing.

42. In the event that the Commission chooses to review MÉDIAdeNOVO's application, the CAB submits that the circumstances that led to the denial of the Only Imagine application have not changed and that MÉDIAdeNOVO has failed to illustrate how its proposal is materially different from Only Imagine's proposal. Most importantly, MÉDIAdeNOVO has failed to illustrate how its proposal would result in a "net" benefit to the Canadian broadcasting system as opposed to a redistribution of advertising revenues.

43. Finally, the CAB supports the continued use of local avails as a vehicle to promote Canadian programming and Canadian services particularly at a time when the need to promote Canadian programming and services will be more pronounced than ever.

[7] Paragraph 50, page 12 of MÉDIAdeNOVO's June 24, 2009 supplemental brief.

44. Given the significant potential consequences that may result from approval, the CAB strongly recommends that the Commission reject MÉDIAdeNOVO's application.

All of which is respectfully submitted.

Sincerely,

Originally signed by:

Pierre-Louis Smith
Vice-President, Policy and Chief Regulatory Officer

c.c. Glenn O'Farrell - MÉDIAdeNOVO

PJ/ldg

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The Economic Impact of the Approval of the Média de Novo Application

The Impact on Canadian Conventional Television, Specialty and Private Radio Broadcasting Services

Armstrong Consulting
January 27 2010

A. Research Objectives

In Application No. 2008-0203-4, Média de Novo (“MDN”) is seeking a licence to operate an English-language programming undertaking to insert commercial advertising content into the local availabilities in non-Canadian programming services and promotional material into the distant Canadian television stations that are distributed by BDUs. The consultant was asked by the Canadian Association of Broadcasters (“CAB”) to provide an assessment of the economic impact of the approval of this application on Canadian conventional television, specialty television and private radio broadcasting services.

Specifically, the consultant was asked:

- to assess the reasonableness of the projected revenues for the proposed new MDN service;
- to assess the reasonableness of the assumption by MDN that this new service will attract new advertising revenues into the regulated Canadian broadcasting industry;
- to project the potential impact on the revenues and profitability of existing television and radio broadcasting services and their ability to contribute to broadcasting policy objectives; and
- to consider the extent to which these impacts may be offset by other initiatives proposed in the MDN application.

B. The Proposed Undertaking

MDN has filed an application for a new national English-language programming undertaking.

This proposed new undertaking will establish the technical infrastructure to insert national English-language commercial advertising content into the local availabilities in up to 17 non-Canadian programming services and Canadian programming promotional material into the distant Canadian television stations that are distributed by BDUs. These insertions will be undertaken at the BDU headend.

MDN proposes to sell 70% of the availabilities in non-Canadian programming services to advertisers and expects to generate advertising revenues of $39.9M in Year 1, increasing to $69.4M in Year 7. The new service is expected to achieve profitability at the operating income line in Year 1 and profitability at the PBIT line in Year 2 and thereafter. In Year 7, the MDN service is projected to achieve a PBIT of $7.4M (10.7%).[1]

[1] MDN, “Supplementary Brief”, June 24 2009, p. 7. MDN, “Revised Appendix 4G”.

Figure 1: MDN, Projected Revenues, Expenses and Profitability, Years 1 to 7								
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Revenues:		39,878,783	50,621,620	56,867,353	60,692,666	64,122,954	66,319,348	69,390,167
Expenses:	Fund	27,915,148	35,435,134	39,807,147	42,484,866	44,886,068	46,423,544	48,573,117
	Technical	7,603,500	7,758,570	7,913,681	8,071,895	8,233,273	8,397,878	8,565,776
	Sales	452,400	461,448	470,187	479,102	488,194	497,468	506,928
	Admin	2,855,845	3,039,115	3,161,732	3,252,057	3,337,753	3,407,383	3,489,742
	Total	38,826,894	46,694,268	51,352,749	54,287,921	56,945,288	58,726,274	61,135,564
Operating Income:		1,051,889	3,927,352	5,514,604	6,404,746	7,177,665	7,593,074	8,254,603
		2.6%	7.8%	9.7%	10.6%	11.2%	11.4%	11.9%
	deprec	1,494,795	1,554,795	1,704,275	1,859,754	2,030,181	721,362	864,380
PBIT:		(442,906)	2,372,557	3,810,329	4,544,992	5,147,484	6,871,712	7,390,223
		-1.1%	4.7%	6.7%	7.5%	8.0%	10.4%	10.7%
Source: MDN Application, Revised Appendix 4G								

70% of the revenues that MDN generates from the sale of advertising will be contributed to a fund. In Years 1 to 3, 99% of the fund will be distributed to English and French-language private conventional television broadcasters to "assist in the transition of their operations to HDTV" and to help them "maintain or augment the local programming offered to serve their respective communities". The remaining 1% will be used to support original research on evolving media models. At the end of the third year of operation, MDN will propose to the CRTC how it intends to distribute the fund over the remaining four years of the licence term.[2]

5% of the local availabilities in non-Canadian programming services will be used to promote independently-owned specialty television services, with the remaining 25% of the local availabilities available to BDUs to promote their products and services.[3]

MDN also proposes to enter into agreements with English and French-language conventional television broadcasters to allow it to remove advertising content from local Canadian television services when those services are distributed in distant markets by BDUs and to replace that advertising with material to promote Canadian television programming. MDN suggests that, based on studies previously filed with the CRTC by broadcasters, this initiative could increase television broadcast advertising revenues by at least $50M per year. This commercial replacement service will be offered to broadcasters on a cost-recovery basis.[4]

[2] MDN, "Supplementary Brief", June 24 2009, pp. 8 – 10. MDN, "Response to Deficiency Questions", August 5 2009.
[3] MDN, "Supplementary Brief", June 24 2009, p. 7.
[4] MDN, "Supplementary Brief", June 24 2009, p. 14. MDN, "Response to Deficiency Questions", August 5 2009.

C. Projected Advertising Revenues

As is set out in Figure 1, MDN is projecting that its proposed new service will attract $39.9M in advertising revenues from the sale of the local availabilities in up to 17 non-Canadian programming services distributed on cable and DTH BDUs in Year 1, increasing to $69.4M in Year 7. These projections are roughly comparable to the projections filed by its predecessor, Only Imagine Inc., in 2006 when it sought authority to sell the local availabilities in 10 non-Canadian programming services.[5] Only Imagine Inc. expected to achieve just under $30M in advertising revenues in Year 1, increasing to over $61M in Year 7.[6]

The MDN and the Only Imagine Inc. projections for the early years of operation are considerably lower than the projections that have been placed on the public record by other parties.[7]

For example, in Public Notice CRTC 2005-88, the Commission stated that, in its view, the revenues that could be generated from the sale of commercial advertising in the local availabilities on non-Canadian programming services could range from $43.6M to $52.0M.[8] This estimate appears to have been for Year 1 and included only the local availabilities in the non-Canadian programming services distributed by cable BDUs. As such, it did not include the additional advertising revenues that could have accrued from the sale of the availabilities in non-Canadian programming services distributed by DTH BDUs.

More recent estimates have included both cable and DTH BDUs and as such, have projected higher revenues.

The CAB estimated that the sale of the local availabilities in the non-Canadian programming services distributed by Canadian cable and DTH BDUs would have generated advertising revenues of $64.3M in 2007.[9] This estimate assumed that the availabilities would be sold at rates comparable to Canadian specialty television services.

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[5] MDN includes the original Only Imagine Inc. owners, plus an additional partner.

[6] cited in CAB, "Intervention with respect to Application # 2006-0699-9", January 18 2007, paragraph 22.

[7] The revenues projected by MDN for the latter years of the licence term seem more reasonable, based on the projections set out later in this study and assuming that the television advertising market as a whole increases over the period at the historical rate of approximately 3.4%. However, to achieve the projected revenues in Year 7, MDN has assumed a compound annual rate of growth of 9.7%. This rate of growth cannot be achieved by the projected increase in the sellout rate alone, even when combined with the historical rate of market growth. This suggests that MDN has applied significant discounts to its projected advertising rates in the early years. Given the established strength and proven track record of the services into which MDN is proposing to insert advertising material, it is unlikely that such discounts would in fact be required.

[8] Broadcasting Public Notice CRTC 2005-88, paragraph 46.

[9] CAB, "Research on the Impact of Local Avails in Canada and the US", pp. 22 and 23. This research was filed as Appendix C to the submission by Pelmorex in response to Broadcasting Public Notice CRTC 2008-142, dated February 26 2009.

A study by Armstrong Consulting found that the sale of the local availabilities in the non-Canadian programming services distributed by Canadian cable and DTH BDUs could have generated advertising revenues in the range of $73.3M to $81.4M in 2008.[10] At the lower end of this range, the study assumed that the availabilities in the services distributed by cable BDUs could have been sold into the higher valued conventional television advertising market, while the availabilities on the services distributed by DTH BDUs could have been sold at specialty rates.[11]

Figure 2 provides a revised estimate of the advertising revenues that could have accrued to MDN if its proposed new service had been in operation in 2008 and 2009. For this analysis, it is assumed that MDN is selling 70% of the local availabilities in only the 11 non-Canadian programming services that are named in the application. These services are: CNN, HLN, A&E, TLC, Peachtree TV, BET, Golf, AMC, CNBC, Speed and Spike.[12]

The analysis underlying this figure is confined to the English-language broadcasting market since MDN is proposing to sell only English-language advertising. It assumes that the viewing attracted by these services when they are distributed on cable could have been sold at the same rate as English-language conventional television advertising, subject to a 20% discount to remove the impact of premium pricing for Top 20 programming on conventional television advertising rates. In addition, it is assumed that the viewing attracted by these services when they are distributed on DTH could have been sold at the same rate as English-language specialty television advertising.[13]

The detailed data and analysis underlying Figure 2 are set out in Figures 1A, 2A and 3A in the appendix to this study.

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[10] Armstrong Consulting, "The Potential Impact of the Sale of Availabilities on US Specialty Services and Superstations by Canadian Cable and DTH BDUs", February 26 2009, p. 19. This study was filed as part of the submission by CTVgm and Canwest in response to Broadcasting Public Notice CRTC 2008-142.

[11] Cable BDUs are licensed to serve specific geographic areas and have the ability to offer separate and distinct programming streams in the various television markets that they serve. This means that individual cable companies or an undertaking such as MDN has proposed would be able to offer national advertisers an opportunity to buy the availabilities in non-Canadian programming services in specific television markets, comparable to the buy offered by conventional television stations. This type of national, market-specific advertising typically commands a higher price than the advertising sold by specialty services which is available in all markets across the country or in all markets within a region. DTH BDUs, on the other hand, have a national or regional satellite footprint. As such, the availabilities in the non-Canadian programming services that they distribute would be more likely to be sold on a network basis at rates comparable to Canadian specialty television advertising rates. For a more detailed description, see: Armstrong Consulting, The Potential Impact of the Sale of Availabilities on US Specialty Services and Superstations by Canadian Cable and DTH BDUs, February 26 2009, p.15.

[12] MDN, Supplementary Brief, June 24 2009, page 7. MDN states that it will sell availabilities in 17 non-Canadian services, but only names 11 of these services. Rather than speculate on other services in which local availabilities may be sold, the consultant has chosen to include only the named 11 services. This means that the results of this analysis may understate the full impact.

[13] For a detailed explanation of this methodology and the related assumptions, see: Armstrong Consulting, "The Potential Impact of the Sale of Availabilities on US Specialty Services and Superstations by Canadian Cable and DTH BDUs", February 26 2009, pp. 16 and 17.

Figure 2: Revised Estimate of the Advertising Revenues from the Sale of Local Availabilities in 11 Non-Canadian Services, 2008 and 2009, $ millions							
	Total	Cable	DTH		Total	Cable	DTH
2008	56.4	50.6	5.8	**2009**	54.2	48.8	5.3
Source: CRTC, TVB, BBM, Armstrong Consulting							

As Figure 2 shows, if 2008 had been the first year of operation, the MDN service could have generated advertising revenues totaling $56.4M, with $50.6M of these revenues derived from the local availabilities in the 11 named services distributed on cable and $5.8M derived from the local availabilities in the 11 named services distributed on DTH. If 2009 had been the first year of operation, a year in which television and radio advertising revenues decreased significantly, the MDN service could have generated advertising revenues of $54.2M, somewhat lower than in 2008.[14]

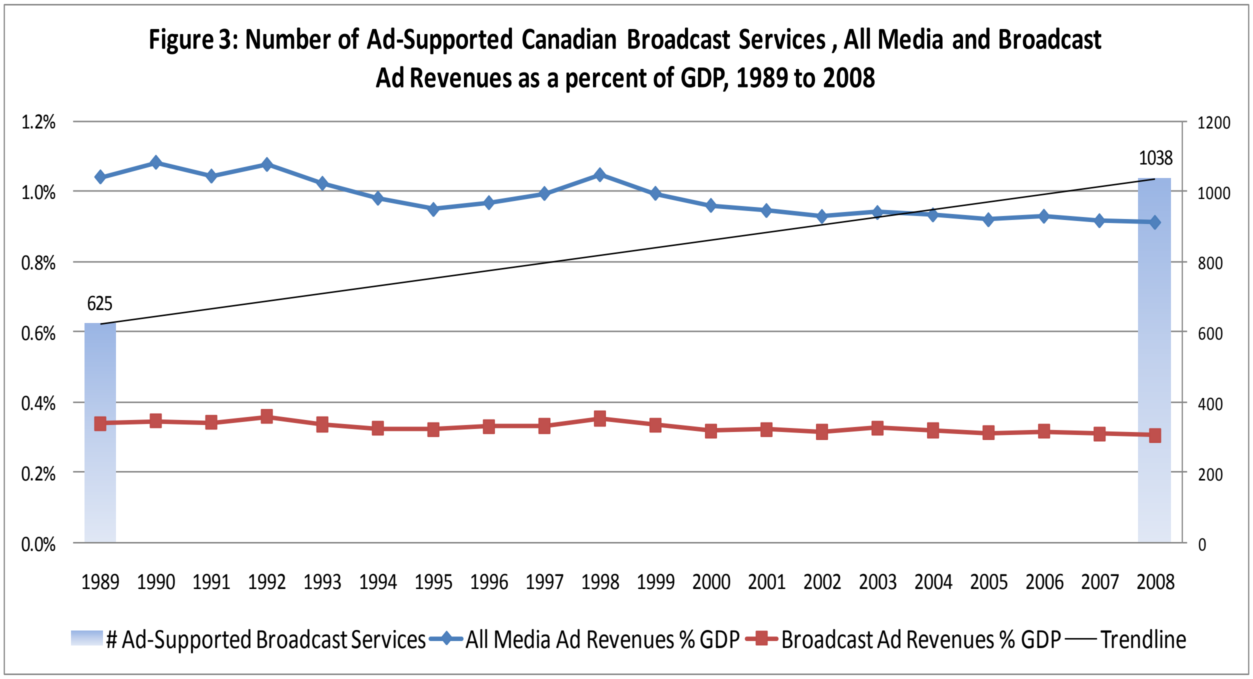
D. Source of Revenues

MDN assumes that the introduction of additional purchasable advertising inventory will attract incremental advertising revenues into the regulated Canadian broadcasting industry.[15] MDN does not provide any evidence to support this claim. In fact, the available evidence suggests exactly the opposite conclusion: the revenues that will accrue to MDN will be sourced from existing Canadian broadcasting services.

Figure 3 tracks all media advertising revenues and broadcast advertising revenues as a percent of GDP over the past twenty years. As this figure shows, both indicators have trended downwards over the period. This figure also shows that the number of ad-supported Canadian broadcasting services increased over the period by 66%, from 625 in 1989 to 1,038 in 2008. Clearly, the increased availability of advertising inventory resulting from the introduction of new broadcasting services has not increased advertising revenues relative to the growth of the economy as a whole.

[14] TVB reported that English-language television advertising revenues decreased by 8.2% in 2009 compared to 2008. (Source: TVB, Time Sales Survey, August 2009.). Radio advertising revenues were down by 7.0% over the same period. (RMB, TRAM, August 2009.).

[15] MDN, Supplementary Brief, June 24 2009, p. 5.



Source: TVB, CRTC, Statistics Canada

Instead, advertising revenues have been re-distributed between advertising media.

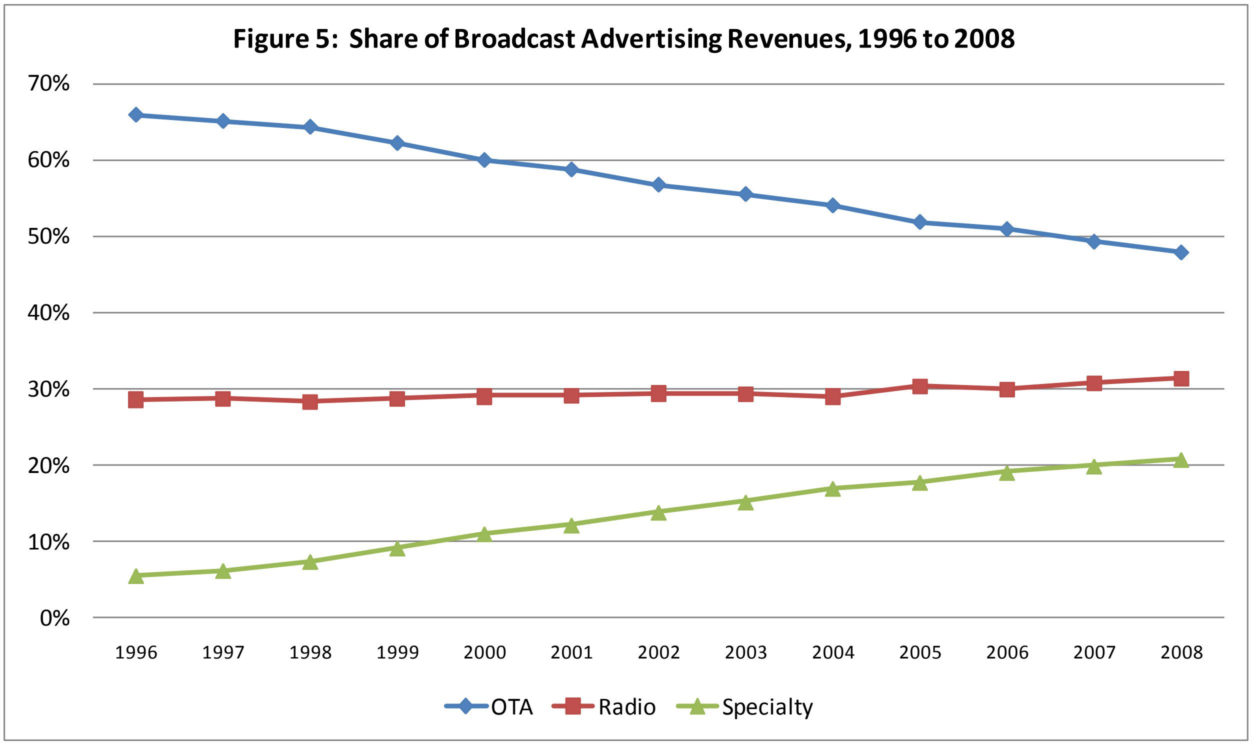
Figure 4 sets out the share of total advertising revenues that accrued to each ad-supported sector of the media over the period 1996, the year before the Internet began to have an impact as an advertising medium, to 2008. As this figure shows, traditional media such as newspapers and conventional television have lost a substantial amount of share to newer media, such as the Internet and specialty services. The share of total advertising revenues accruing to broadcast media as a whole (conventional television, specialty and radio) decreased somewhat over the period.

Figure 4: Share of Total Advertising Revenues, 1996 to 2008								
	1996	1998	2000	2002	2004	2006	2008	Change
All Media								
Decrease in Share:								
Newspaper	24.2%	24.8%	24.9%	23.4%	21.6%	19.5%	17.1%	-7.0
Conventional TV	22.7%	21.8%	20.0%	19.4%	18.7%	17.5%	16.2%	-6.5
Catalogue/Direct Mail	13.7%	13.0%	12.1%	12.0%	12.3%	11.9%	11.4%	-2.3
Yellow Pages	11.0%	9.7%	9.9%	9.9%	9.7%	9.3%	8.9%	-2.1
Miscellaneous	10.8%	11.4%	11.2%	11.1%	10.9%	10.5%	10.0%	-0.8
Total	82.3%	80.7%	78.2%	75.8%	73.2%	68.7%	63.5%	-18.8
Increase in Share:								
Internet	0.0%	0.3%	0.9%	1.6%	3.0%	6.7%	11.0%	11.0
Specialty	1.9%	2.5%	3.7%	4.7%	5.9%	6.5%	7.0%	5.1
Out-of-Home	2.0%	2.3%	2.5%	2.5%	2.5%	2.7%	3.2%	1.1
Magazines	3.9%	4.7%	5.0%	5.2%	5.4%	5.1%	4.7%	0.8
Radio	9.8%	9.6%	9.7%	10.1%	10.0%	10.3%	10.6%	0.8
Total	17.7%	19.3%	21.8%	24.2%	26.8%	31.3%	36.5%	18.8
Broadcast Media	34.4%	33.9%	33.3%	34.2%	34.6%	34.3%	33.8%	-0.6
Source: TVB								

The Technology, Media and Telecommunications Industry Group at Deloitte Canada is predicting that online, Internet-based advertising services will continue to take share from traditional media in 2010 and in addition, will further disrupt the advertising market by causing prices to fall for both traditional and online media.[16]

Figure 5 sets out the share of total broadcasting advertising revenues accruing to each broadcast sector from 1996 to 2008. As this figure shows, broadcast advertising revenue share has been re-distributed from over-the-air conventional television services to the increasing number of specialty television services and to a lesser extent to private radio. Over the period, the share of revenues accruing to conventional television fell by 18 points. The share accruing to specialty and radio increased by 15.2 and 2.8 points respectively.

[16] Deloitte Canada Technology, Media and Telecommunications Industry Group, "2010 TMT Predictions", press release dated January 19 2010.



Source: TVB

Based on these trends, it is clear that it should be assumed that all of the revenues that accrue to the MDN service will come from existing broadcasting services. It also would be reasonable, based on these trends, to assume that all of these revenues will come from conventional television. However, to be conservative, this study will assume that 80% of the revenues that accrue to MDN will come from conventional television, with 10% coming from each of specialty and radio.

Figure 6 summarizes the results of this revenue impact allocation.

Figure 6: Allocation of Advertising Revenue Impact, 2008 and 2009, $ millions

		2008		2009
Television:	OTA	45.2		43.3
	Specialty	5.6		5.4
	Total	50.8		48.8
Radio:		5.6		5.4
Total:		56.4		54.2

Source: TVB, Armstrong Consulting

E. Impact on Revenues, Profitability and Broadcasting Policy Objectives

Figure 7 on the next page sets out the impact of the MDN service on the revenues and profitability of the English-language conventional television stations operated by the major private television broadcast groups and the CBC. The Commission publishes revenue data for English-language conventional television as a whole, but does not publish full financial results. However, it has published financial data for the major English-language private conventional television groups[17] and CBC English-language conventional television in 2008 and 2009. The major English-language private television groups account for over 92% of the advertising revenues of English-language private conventional television. As such, the financial results for these groups can be used as a reasonable indicator for the English-language private conventional television sector as whole.

As Figure 7 shows, total revenues for the English-language conventional television stations operated by the major private television groups decreased by almost 6% in 2009 compared to 2008. These stations had losses at the PBIT line in 2008 and 2009 respectively of $35.5M (-2.2%) and $155.3M (-10.1%). PwC is projecting that conventional television advertising revenues will remain virtually flat over the period 2009 to 2013, increasing at a compound annual rate of only 0.3%.[18] This suggests that these television stations will continue to face substantial financial challenges for the foreseeable future.

If MDN had been in operation in 2008 and 2009, the advertising revenues for these television stations would have been reduced by $36.3M and $34.8M respectively, assuming that their share of the revenue impact would have been equal to their share of total English-language conventional television advertising revenues. These revenue losses would have been offset somewhat by their share of the MDN fund, which in 2008 and 2009 would have equaled $30.3M and $29.1M, assuming that their share of the fund would have equaled their share of total English and French-language conventional television advertising revenues.[19]

As a result, if the revenues that MDN proposes to provide private television broadcasters from its fund are intended as a subsidy, then the net impact would be an increase in the loss at the PBIT line of $5.9M in 2008 and $5.7M in 2009, with no increase in expenditures on local programming or the digital conversion.

[17] These groups are: CTVgm; Canwest; and Rogers.
[18] PwC, "Global Entertainment and Media Outlook: 2009 – 2013".
[19] The MDN fund to be distributed to all private conventional television broadcasters would have equaled $39.5M in 2008 and $37.9M in 2009 based on the application of the formula set out in the MDN application (70% of total advertising revenues x .99) to the projected advertising revenues for MDN in 2008 and 2009 as set out in Figure 2.

If, on the other hand, the revenues from the MDN fund are intended to be used as incremental expenditures on local programming and the digital conversion, then these expenditures would increase by $30.3M and $29.1M in 2008 and 2009 respectively. However, losses at the PBIT line would increase in 2008 to $71.8M (-4.4%) and to $190.2M (-12.4%) in 2009. This would further call into question the sustainability of these television services.

Figure 7: Impact of MDN on English-Language Conventional Over-the-Air Television

			Private Eng OTA Major Groups:		**Eng CBC OTA:**	
			2008	2009	2008	2009
Actual	**Revenues:**	Total	1,631,668,014	1,534,877,791	766,415,848	756,999,918
	Expenses:	Total	1,620,292,519	1,625,644,718	736,339,837	717,645,117
	Op Inc:	$	11,375,495	(90,766,927)	30,076,011	39,354,801
		%	0.7%	-5.9%	3.9%	5.2%
		Deprec	46,924,766	64,564,408	45,406,000	51,640,686
	PBIT:	$	(35,549,271)	(155,331,335)	(15,329,989)	(12,285,885)
		%	-2.2%	-10.1%	-2.0%	-1.6%
Revenue Impact						
	Revenues:	Actual	1,631,668,014	1,534,877,791	766,415,848	756,999,918
		Reduction	(36,270,801)	(34,820,185)	(5,917,203)	(5,680,550)
		Fund	30,339,586	29,126,183	-	-
		Revised	1,625,736,799	1,529,183,790	760,498,645	751,319,368
PBIT Impact						
Subsidy	**PBIT:**	$	(41,480,486)	(161,025,336)	(21,247,192)	(17,966,435)
		%	-2.6%	-10.5%	-2.8%	-2.4%
Incremental	**PBIT:**	$	(71,820,072)	(190,151,520)	(21,247,192)	(17,966,435)
		%	-4.4%	-12.4%	-2.8%	-2.4%

Source: CRTC, Armstrong Consulting

According to the MDN application, CBC conventional television stations would not be eligible to receive revenues from its proposed new fund.[20] As such, the impact of the MDN service on the CBC English-language conventional television stations would be to reduce their revenues in proportion to their share of total English-language conventional television advertising revenues and their profitability, as is set out in Figure 7.

[20] MDN, Supplementary Brief, June 24 2009, pp. 8 and 9.

Figure 8 sets out the impact of the MDN service on the revenues and profitability of the English-language radio stations operated by the major radio broadcast groups and on the English-language specialty services. The Commission has published financial data for English-language private radio in 2008, but not for 2009. However, it has published data for the largest English-language radio groups[21] in 2008 and 2009 and these data can be used as a proxy for the private English-language radio industry as a whole. These groups represent about 70% of English private radio. Total revenue and profitability data for English-language specialty services are not available for 2009. However, as is set out in Figure 9 and as was set out above in Figure 2, the impact of MDN on English-language specialty television advertising revenues can be estimated.

Figure 8: Impact of MDN on English-Language Private Radio and English-Language Specialty

			Eng Priv Radio Major Groups:		**English Specialty**	
			2008	2009	2008	2009
Actual	**Revenues:**	Total	907,054,731	871,443,456	1,834,974,000	n.a.
	Expenses:	Total	641,020,464	633,861,740		
	Op Inc:	$	266,034,267	237,581,716		
		%	29.3%	27.3%		
		Deprec	26,475,631	48,452,438		
	PBIT:	$	239,558,636	189,129,278	431,957,000	n.a.
		%	26.4%	21.7%	23.5%	
Revenue Impact						
	Revenues:	Actual	907,054,731	871,443,456	1,834,974,000	
		Reduction	(3,915,037)	(3,758,459)	(5,643,994)	(5,418,267)
		Fund	-	-	-	
		Revised	903,139,694	867,684,997	1,829,330,006	
PBIT Impact						
	PBIT:	$	235,643,599	185,370,819	426,313,006	
		%	26.1%	21.4%	23.3%	

Source: CRTC, Armstrong Consulting

As Figure 8 shows, revenues for these English-language radio stations decreased from $907.1M in 2008 to $871.4M in 2009, or by 4%. PBIT decreased from $239.6M (26.4%) to $189.1M (21.7%). Recovery in subsequent years is expected to be limited. PwC is projecting that radio advertising revenues will continue to decrease over the period 2009 to 2013, falling by a compound annual rate of -2.1% over the period.[22] Revenues and profitability would have been further reduced by $3.9M and $3.8M in 2008 and 2009 if MDN had been in operation, assuming that revenues for these stations were reduced in proportion to their share of total English-language radio advertising revenues.

[21] These groups are: Astral; Corus; CTVgm; Newcap; and Rogers.
[22] PwC, "Global Entertainment and Media Outlook: 2009 – 2013".

The revenues and profitability of the English-language specialty services would have been reduced by $5.6M and $5.4M in 2008 and 2009 if MDN had been in operation.

Figure 9 sets out the impact of the MDN service on French-language private conventional television broadcasters. The advertising revenues accruing to these broadcasters should not be negatively impacted by the proposed MDN service, since advertising on the MDN service will be directed towards the English-language market. These broadcasters will however be eligible to receive revenues from the MDN fund.

The Commission publishes revenue data for French-language conventional television as a whole, but does not publish full financial results. However, it has published financial data for the major French-language private conventional television groups in 2008 and 2009.[23] These groups account for almost 87% of the advertising revenues of French-language private conventional television. As such, the financial results for these groups can be used as a reasonable indicator for the French-language private conventional television sector as whole.

Figure 9: Impact of MDN on French-Language Private Conventional Over-the-Air Television

			Private Fr OTA Major Groups:	
			2008	2009
Actual	**Revenues:**	Total	346,116,059	315,346,134
	Expenses:	Total	297,789,723	270,296,228
	Op Inc:	$	48,326,336	45,049,906
		%	14.0%	14.3%
		Deprec	14,400,982	11,142,809
	PBIT:	$	33,925,354	33,907,097
		%	9.8%	10.8%
Revenue Impact				
	Revenues:	Actual	346,116,059	315,346,134
		Reduction	-	-
		Fund	5,456,964	5,238,718
		Revised	351,573,023	320,584,852
PBIT Impact				
Subsidy	**PBIT:**	$	39,382,318	39,145,815
		%	11.2%	12.2%
Incremental	**PBIT:**	$	33,925,354	33,907,097
		%	9.6%	10.6%

Source: CRTC, Armstrong Consulting

[23] These groups are: Quebecor; and Remstar.

As Figure 9 shows, these French-language private conventional television broadcasters would have received $5.5M and $5.2M from the MDN fund in 2008 and 2009. If the revenues that MDN proposes to provide private television broadcasters from its fund are intended as a subsidy, then the net impact would be an increase in the profitability of these broadcasters, with no increase in expenditures on local programming or the digital conversion. If, on the other hand, the revenues from the MDN fund are intended to be used as incremental expenditures on local programming and the digital conversion, then these expenditures would increase by $5.5M and $5.2M in 2008 and 2009, with no change in absolute profitability.

Figure 10 summarizes the projected revenue transfers if MDN had been in operation in 2008.

Figure 10: Summary of Projected Revenue Transfers, 2008

	English						
	Private Conv		**CBC Conv**	**Radio**		**Specialty**	**Total**
	Major Groups	Other		Major Groups	Other		
Current	1,552,161,809	126,838,191	253,219,000	892,805,466	394,280,236	833,549,166	4,052,853,868
Reduction/Increase	(36,270,801)	(2,963,945)	(5,917,203)	(3,915,037)	(1,728,956)	(5,643,994)	(56,439,936)
Fund	30,339,586	2,479,264	-	-	-	-	32,818,849
Revised	1,546,230,594	126,353,509	247,301,797	888,890,429	392,551,280	827,905,172	4,029,232,782
Net Change	(5,931,215)	(484,682)	(5,917,203)	(3,915,037)	(1,728,956)	(5,643,994)	(23,621,086)
	French			**Grand Total**	**Research**	**Total Fund**	**MDN**
	Private Conv		**Total**				
	Major Groups	Other					
Current	279,176,227	42,823,773	322,000,000	4,374,853,868	-		-
Reduction/Increase	-	-	-	(56,439,936)	-		56,439,936
Fund	5,456,964	837,062	6,294,026	39,112,875	395,080	39,507,955	(39,507,955)
Revised	284,633,191	43,660,835	328,294,026	4,357,526,808			16,931,981
Net Change	5,456,964	837,062	6,294,026	(17,327,060)			16,931,981

Source: Armstrong Consulting

As this figure shows, all of the advertising revenues accruing to MDN, totaling $56.4M, would have been transferred to it from Canadian English-language broadcasters. English-language private conventional television broadcasters would have received some, but not all, of their revenues back in the form of payments from the fund. CBC, private radio and specialty services would not receive any payments from the fund. As a result, there would be a net loss of revenues totaling $23.6M in the English-language broadcasting sector.

French-language private conventional television broadcasters would have received $6.3M in payments from the fund, thereby reducing the net loss of revenues by existing English and French-language broadcasters combined to $17.3M.

MDN would have received $56.4M in advertising revenues, leaving revenues of $16.9M after transfers to the fund. MDN is projecting expenses of $12.4M in Year 1, which would leave $4.5M in profit (PBIT), or 8.0%.

F. Other Initiatives

MDN has suggested that, based on a study filed with the Commission,[24] its proposal to replace commercial content with promotional material on distant Canadian television signals could generate an additional $50M in advertising revenues for private television broadcasters.[25]

This proposal assumes that it would be feasible for all BDUs to leave the commercial content in each local television station when it is distributed in its home market, but strip it out and replace it with promotional material when it is distributed in a distant market.

This may be possible in the case of cable BDUs, where the package of signals available to consumers is put together within each market. However, according to the above noted study, cable BDUs account for only a very small portion ($7.0M) of the total impact of distant Canadian television signals. DTH BDUs, on the other hand, will not likely be willing to undertake this initiative. Given the nature of their distribution system, it would require them to carry two versions of each local television station, effectively doubling the capacity that they have to devote to conventional television stations.[26] As such, since DTH BDUs account for the majority of the impact of distant Canadian television signals ($40.2M), this proposed initiative is unlikely to benefit private television broadcasters in any material way.

The proposal by MDN that 5% of the local availabilities in non-Canadian programming services be used to promote independently-owned specialty television services, with the remaining 25% of the local availabilities available to BDUs to promote their products and services is a variation on the current policy. As such, while it may currently have, and continue to have, a positive economic impact for these specialty and BDU services, it should not be seen as a benefit arising from the approval of the MDN application.

G. Conclusions

The evidence clearly shows that:

- MDN has under-estimated the advertising revenues that would be generated by its proposed new service in the early years of operation.

- All of the advertising revenues that would accrue to the MDN service are likely to be sourced from existing Canadian broadcasting services, principally from conventional television services.

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[24] See: Armstrong Consulting, “The Economic Impact on Canwest and CTVgm Conventional Television Stations from the Importation of Identical Programming on Distant Canadian and US Television Stations: 2006/07”, January 25 2008.
[25] MDN, Supplementary Brief, June 24 2009, p. 14.
[26] For a discussion of the difficulties that DTH services would face, see: David Keeble with Paul Hearty, “Substitution and Signal Integrity”, a study conducted for the CRTC, August 31 2009.

- There will be no significant benefits. The approval of the MDN application will merely transfer advertising revenues from existing Canadian programming services to MDN, without increasing the ability of private conventional television broadcasters to invest in local Canadian programming or the digital conversion within a sustainable financial framework.

- Other benefits, such as the recoupment of advertising revenues by minimizing the impact of distant Canadian signals, are very unlikely to materialize.

Appendix:

Figure 1A: Average Minute Audience, 2+, Total, Cable and Satellite Households, 6 am to 2 am, 2007/08 and 2008/09, 000s						
	2007/08:			**2008/09:**		
	total	cable	satellite	total	cable	satellite
Cdn Eng Comm Conv	1487	889	407	1402	841	382
Cdn Eng Comm Specialty	1361	1008	352	1458	1073	384
CNN	51	42	9	71	58	13
HLN	10	8	2	12	8	4
A&E	99	78	21	95	77	18
TLC	63	52	11	73	60	13
Peachtree TV	82	70	12	65	55	10
BET	6	5	1	7	6	1
Golf	8	4	4	9	5	4
AMC	35	33	2	32	30	2
CNBC	4	2	1	4	3	1
Speed	15	10	5	13	9	4
Spike	73	59	13	69	57	12
Total of 11 U.S. services	444	363	81	451	369	82
Source: BBM, CTV Research						

Figure 2A: Estimated MDN Ad Revenues if able to sell local availabilities in 11 US specialty services in 2007/08

		Canadian Eng Spec	**Canadian Eng Spec**	**Canadian Eng Spec**	**US Specialty**			**MDN Ad $ (000) from Avails on**		
		Viewers (000) 2+	**Ad $ (000)**	**Ad $ per viewers (000) 2+**	**Viewers (000) 2+**			**US Specialty**		
					Total	Cable	DTH	Total	Cable	DTH
Avails sold as Specialty:		1,361	$ 833,549	$ 613	444	363	81	$ 31,757	$ 25,965	$ 5,791
		Canadian Eng Conv	**Canadian Eng Conv**	**Canadian Eng Conv**	**US Specialty**			**MDN Ad $ (000) from Avails on**		
		Viewers (000) 2+	**Ad $ (000)**	**Ad $ per viewers (000) 2+**	**Viewers (000) 2+**			**US Specialty**		
					Total	Cable	DTH	Total	Cable	DTH
Avails sold as Conventional:	**full**	1,293	$ 1,932,000	$ 1,494	444	363	81	$ 77,432	$ 63,311	$ 14,121
	-20%							$ 61,945	$ 50,649	$ 11,297
								BDU Ad $ (000) from Avails on		
								US Specialty		
Avails sold as Conv on Cable										
(full and -20%) and as Specialty								Total	Cable	DTH
on DTH:	**full**							$ 69,102	$ 63,311	$ 5,791
	-20%							$ 56,440	$ 50,649	$ 5,791

Source: CRTC, BBM (2007/08, 2+, 6 am to 2 am), Armstrong Consulting

Notes:

1. The analysis assumes that there are two minutes of local availabilities per hour on each non-Canadian service and that MDN is selling commercial advertising in 70% of this time.

2. Total viewers for English-language commercial conventional television have been reduced by 13% to remove non-monetizable viewing of distant Canadian television stations from the revenue calculation. See: Armstrong Consulting, “The Economic Value of Simultaneous Signal Substitution for English-Language Private Television Broadcasters”, January 23 2008, p. 9., submitted by the CAB to the CRTC on January 25 2008.

3. The 6 am to 2 am viewing period was selected as the basis for the viewing data to recognize the fact that some broadcasters generate materially significant monetizable viewing outside the standard 6 am to midnight viewing period.

Figure 3A: Estimated MDN Ad Revenues if able to sell local availabilities in 11 US specialty services in 2008/09										
		Canadian Eng Spec Viewers (000) 2+	**Canadian Eng Spec Ad $ (000)**	**Canadian Eng Spec Ad $ per viewers (000) 2+**	**US Specialty Viewers (000) 2+**			**MDN Ad $ (000) from Avails on US Specialty**		
					Total	Cable	DTH	Total	Cable	DTH
Avails sold as Specialty:		1,458	$ 817,712	$ 561	450	369	82	$ 29,468	$ 24,125	$ 5,343
		Canadian Eng Conv Viewers (000) 2+	**Canadian Eng Conv Ad $ (000)**	**Canadian Eng Conv Ad $ per viewers (000) 2+**	**US Specialty Viewers (000) 2+**			**MDN Ad $ (000) from Avails on US Specialty**		
					Total	Cable	DTH	Total	Cable	DTH
Avails sold as Conventional:	**full**	1,220	$ 1,730,449	$ 1,419	450	369	82	$ 74,571	$ 61,049	$ 13,521
	-20%							$ 59,657	$ 48,839	$ 10,817
								MDN Ad $ (000) from Avails on US Specialty		
Avails sold as Conv on Cable (full and -20%) and as Specialty on DTH:								Total	Cable	DTH
	full							$ 66,393	$ 61,049	$ 5,343
	-20%							$ 54,183	$ 48,839	$ 5,343
Source: TVB (broadcast year 2008/09), BBM (2008/09, 2+, 6 am to 2 am), Armstrong Consulting										

Notes:

1. Advertising revenues for English-language specialty and conventional television services in 2008/09 are estimates based on TVB data.

2. The analysis assumes that there are two minutes of local availabilities per hour on each non-Canadian service and that MDN is selling commercial advertising in 70% of this time.

2. Total viewers for English-language commercial conventional television have been reduced by 13% to remove non-monetizable viewing of distant Canadian television stations from the revenue calculation. See: Armstrong Consulting, “The Economic Value of Simultaneous Signal Substitution for English-Language Private Television Broadcasters”, January 23 2008, p. 9., submitted by the CAB to the CRTC on January 25 2008.

3. The 6 am to 2 am viewing period was selected as the basis for the viewing data to recognize the fact that some broadcasters generate materially significant monetizable viewing outside the standard 6 am to midnight viewing period.