



21 February 2025

Marc Morin
Secretary General
CRTC
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

Re: OUTtv Network Inc., Part 1 Application 2024-05380-1 (Vancouver, 15 October 2024); CRTC staff letter of 7 February 2025 – Intervention of the Forum for Research and Policy in Communications (FRPC)

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting. FRPC is intervening as provided by the CRTC staff's 7 February 2025 letter, noted above.

Background

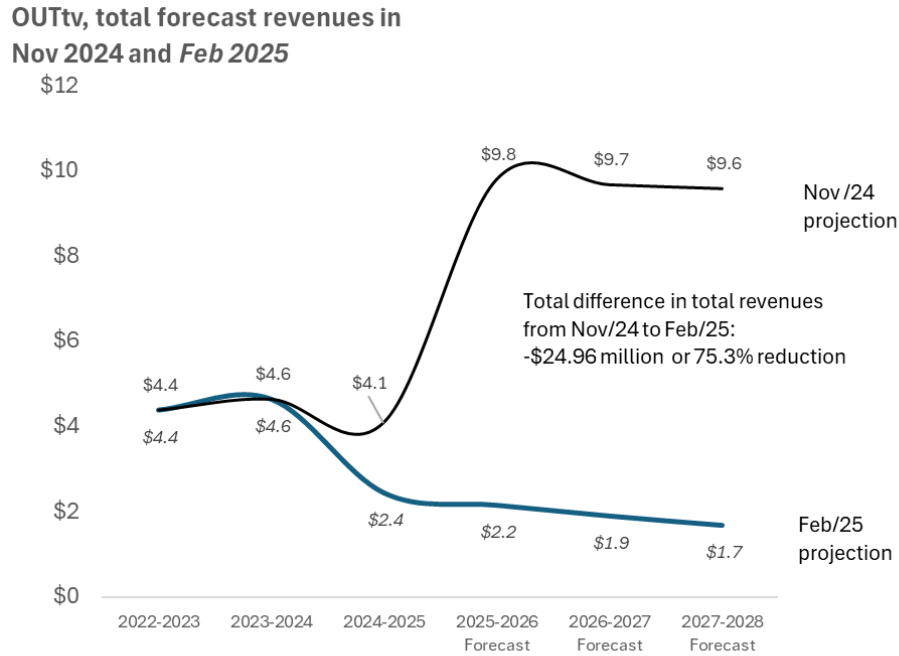
- 2 OUTtv submitted its Part 1 application on 15 October 2024, 129 days ago. The CRTC posted the application on 18 October 2024, and has published 54 interventions that it received by the intervention deadline of 18 November and which are part of the 2024-05380-1 public record. The majority of these supported OUTtv's application, as did the Forum.
- 3 On 29 January 2025 – just over two months (72 calendar days) after the intervention deadline – the CRTC's staff posed three questions to OUTtv. OUTtv replied by the CRTC's 6 February 2025 deadline, and the CRTC on 7 February 2025 reopened the public record "to allow any interested parties to provide their comments on the additional information provided by OUTtv."¹

The Forum's comments on the additional materials of the CRTC and OUTtv

- 4 The Forum notes a fundamental change in the applicant's financial outlook in the roughly four months since OUTtv submitted its Part 1 application: Figure 1. Specifically, OUTtv's February 2025 financial projections now forecast that its total revenues from 2024/25 to 2027/28 will decrease by 75%, or \$24.9 million.

¹ Analyst, English-language Television, CRTC, [Subject: Part 1 Application to amend OUTtv's broadcasting licence - Application 2024-0538-1](#) (Ottawa, 7 February 2025).

Figure 1



5 It seems clear that OUTtv’s existence is now imperilled due to events beyond its control. These appear to involve BDUs: OUTtv’s subscriber base decreased 62.2% in one year - from just over half a million (556,619) in 2023/24, to 210,351 this year (2024/25): Table 1. As the service’s availability to audiences decreased, its advertising revenues also decreased -- by 50.5%, from \$4.03 million in 2023/24 to \$1.99 million this year.

Table 1

Broadcast year	Subscribers	Revenue			Subscribers	Revenue		
		Subscrip'n	Advert'g	Total		Subscrip'n	Advert'g	Total
2022-2023	456,911	\$ 3.31	\$ 1.07	\$4.39	456,911	\$ 3.31	\$3.31	\$1.07
2023-2024	556,619	\$ 4.03	\$ 0.61	\$4.64	556,619	\$ 4.03	\$4.03	\$0.61
2024-2025	500,000	\$ 3.50	\$ 0.60	\$4.10	210,351	\$ 1.99	\$1.99	\$0.45
2025-2026 Forecast	6,305,000	\$ 9.08	\$ 0.72	\$9.80	189,316	\$ 1.80	\$1.80	\$0.36
2026-2027 Forecast	6,115,850	\$ 8.81	\$ 0.86	\$9.67	170,384	\$ 1.62	\$1.62	\$0.29
2027-2028 Forecast	5,932,374	\$ 8.54	\$ 1.04	\$9.58	153,346	\$ 1.45	\$1.45	\$0.23
Total 2024/25 to 2027/28	Not applic.	\$ 37.28	\$ 4.90	\$42.17	Not applic.	\$ 6.86	\$14.21	\$3.01
% change 2024/25 to 2027/28	Not applic.	144.1%	72.8%	133.6%	Not applic.	-56.1%	-56.1%	-78.5%

6 The Forum notes Rogers’ argument that the CRTC should not grant OUTtv’s application because, says Rogers, the only satellite-delivered programming service focussed on the general-entertainment and lifestyle programming needs and interests of Canadians in the

LGBTQ community, does not meet Rogers' definition of a 9.1(1)(h) service.² Accepting Rogers' argument, of course, is to replace the determinations of the independent, quasi-judicial tribunal that considers itself as serving the public interest, with that of a corporation with an adjusted EBITDA margin in 2023 of 44.4%³ which "paid over \$1 billion in dividends to" its shareholders in 2023,⁴ devoting 123.2% of its net income to these payments.⁵ Respectfully, it must be accepted that Rogers' core purpose is fundamentally different from its own and also from that of OUTtv.

7 Bearing in mind the difference in purpose of the Commission and the broadcast services it regulates, OUTtv's February 2025 evidence establishes that unexpected changes in its subscriber levels imperil its existence. Consequently, while Rogers' proposal that the CRTC simply develop and implement "a modernized policy framework that supports the creation and distribution of content by, and for, equity-deserving groups – including the 2SLGBTQIA+ community – on a system-wide basis"⁶ may seem reasonable, it ignores OUTtv's financial reality. It also ignores the reality that the CRTC licensed OUTtv 25 years ago to serve a community of people whose needs and interests were not otherwise being met.

8 To put this another way – people who enjoy sports today have the option of choosing from more than a dozen Canadian discretionary services devoted to sports;⁷ however many business profiles, scholarships and mentorships that a company such as Rogers offers including to people in the 2SLGBTQ+ community,⁸ the fact is that there is only one programming service in Canada that produces and provides programming focused on that community's audiovisual programming needs and interests. The CRTC decided to license the service now known as OUTtv 25 years ago and three years ago recognized "the important role that the service plays in the broadcasting system and its contributions to diversity in

² Rogers, *Re: Part 1 Application by OUTtv Network Inc. (No. 2024-0538-1) – Intervention by Rogers Communications Canada Inc.*, (Ottawa, 18 November 2024), ¶13: "More fundamentally, the Application must be denied because the Service does not meet the Commission's strict criteria for 9.1(1)(h) status. ..."

³ Rogers, [A record-breaking year.: 2023 Annual Report](#), at 34.

⁴ *Ibid.*, at 3.

⁵ *Ibid.*, at 17.

⁶ *Supra*, note 2, at ¶16.

⁷ CRTC, *INDIVIDUAL DISCRETIONARY AND ON-DEMAND SERVICES: STATISTICAL AND FINANCIAL SUMMARIES, 2019 – 2023*. The services listed therein which appear to offer sports programming are: ESPN Classic, Le Réseau des Sports (RDS), RDS info, The Sports Network (TSN), , Sportsman Canada, , TVA Sports, , Hockey Night in Canada, Sportsnet, Sportsnet 360, Sportsnet One, Sportsnet PPV, Fight Network, Game+ (formerly FNTSY Sports Network), GameTV (formerly CGTV Canada), EuroWorld SPORT (formerly RCS Television), Leafs TV and NBA TV (Canada) - (formerly Raptors NBA TV).

⁸ *Supra* note 3, at 163:

Key initiatives in support of our DEIB Strategy include:

...

- Rogers Sports & Media profiling hundreds of businesses owned by women, 2SLGBTQ+, Indigenous, Black, people of colour, and persons with disabilities, and awarding multiple BIPOC scholarships and mentorships across Sportsnet, Cityline, and OMNI Television.

programming”,⁹ consequently granting it mandatory status in Broadcasting Decision CRTC 2022-223. OUTtv’s February 2025 evidence, however, appears to confirm that BDUs consider themselves better placed than the Commission to make this determination.

- 9 At its most basic level the problem for the Commission is that while Parliament granted it the authority to implement its *Broadcasting Policy for Canada* in section 3, a tiny yet overly well-endowed oligopoly of BDUs – initially protected as an infant industry, then permitted by the CRTC to expand through the broadcasting sector on the theory that they would strengthen Canada’s broadcasting system – have irrupted to the point that they easily game the rules established by the Commission, stymying its decisions.
- 10 The evidence provided by OUTtv at the end of January 2025 leads FRPC to continue to support its application: denying the application will terminate the existence of an important and distinctive programming service whose programming is applauded both in Canada and abroad.
- 11 We look forward to reviewing the applicant’s reply if any. Should the CRTC decide to hold an appearing public hearing in this matter – and one hopes it does not as this would merely delay OUTtv’s obtaining a decision about its application – the Forum respectfully asks to participate in that process.



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⁹ 2022-223, at “Summary” and ¶144.