



## Broadcasting Decision CRTC 2005-85

Ottawa, 1 March 2005

**Global Television Network Inc.**  
Across Canada

*Application 2004-0402-0*  
*Public Hearing in the National Capital Region*  
*1 December 2004*

### **Lonestar II – Category 2 specialty service**

*In this decision, the Commission **approves** the application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

#### **The application**

1. The Commission received an application by Global Television Network Inc.<sup>1</sup> (Global) for a broadcasting licence to operate a national English-language Category 2<sup>2</sup> specialty programming undertaking to be known as Lonestar II.
2. The applicant proposed to offer a service that would build on and extend the Lonestar brand with a second channel dedicated exclusively to the broadcast of programs with a country and western theme. The applicant proposed to offer programming from the following categories:
  - 2 (b) Long-form documentary
  - 5 (b) Informal education/Recreation and leisure
  - 6 (a) Professional sports
  - (b) Amateur sports
  - 7 Drama and comedy
    - (a) Ongoing dramatic series
    - (b) Ongoing comedy series (sitcoms)
    - (c) Specials, mini-series or made-for-TV feature films
    - (d) Theatrical feature films aired on TV
    - (e) Animated television programs and films
    - (g) Other drama

---

<sup>1</sup> In its application, Global indicated that the applicant was Global Television Network Inc., on behalf of a corporation to be incorporated. In a letter dated 22 July 2004, Global notified the Commission that the application should have been submitted by Global Television Network Inc.

<sup>2</sup> The Category 2 services are defined in *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000.

- 8 (a) Music and dance other than music video programs or clips
- (b) Music video clips
- (c) Music video programs
- 9 Variety
- 11 General entertainment and human interest
- 12 Interstitials
- 13 Public service announcements
- 14 Infomercials, promotional and corporate videos

3. Global pointed out that the programming categories proposed for Lonestar II mirror the authorized programming categories of Stampede (previously The Western Channel), a Category 2 specialty service dedicated exclusively to the broadcast of programs with a country and western theme, and approved in *The Western Channel*, Decision CRTC 2001-700, 16 November 2001 (Decision 2001-700).
4. To ensure that the proposed service would not compete directly with existing Category 1 or analog pay and specialty services, Global stated that it was prepared to accept, as conditions of licence, that no more than 15% of all programming broadcast during the broadcast year would be drawn from category 6; that no more than 25% of all programming broadcast during each broadcast week would be drawn from category 7(d); and that no more than 10% of all programming broadcast during each broadcast week would be drawn from category 8.

### **The interventions**

5. The Commission received interventions both in support and in opposition to the application. The concerns raised by the opposing interveners, CTV Specialty Television Inc. (CTV Specialty) and The Score Television Network Ltd. (The Score), are discussed below.
6. CTV Specialty was of the view that, given that only a few programming categories (including categories 6(a) and 6(b)) distinguish the proposed service from the original Lonestar, sports programming would form an integral part of the proposed service's programming schedule.
7. CTV Specialty expressed concern that the proposed service's broad nature of service, combined with the ability to devote up to 15% of its annual schedule to professional and amateur sports programming, would allow it to offer programming events like rodeo, outdoor lumberjack and strongman competitions, auto racing and fishing programs, all of which are already well-represented in the program schedules of both the Outdoor Life Network (OLN) and The Sports Network (TSN). According to CTV Specialty, such programming could allow the proposed service to compete directly with key elements of sports programming already offered by TSN and, in particular, by OLN.

8. CTV Specialty added that, were the applicant to withdraw its request to offer programming drawn from categories 6(a) and 6(b), it would not object to the application.
9. The Score also expressed concern over the applicant's proposal to broadcast sports programming. It recommended that, in the absence of a clearer nature of service definition and of specific examples of the potential sports it intends to air, the applicant should be precluded from airing programs from category 6. The Score added however that it would not object to the broadcast of programming from category 6(b), provided that such programming does not consist of more than 5% of the licensee's quarterly broadcast schedule. Alternatively, The Score submitted that, if the proposed service were permitted to broadcast programming from categories 6(a) and 6(b), it should be subject to strict limitations. The Score recommended that, in this case, no more than 5% of the licensee's quarterly broadcast schedule should be drawn from categories 6(a) and 6(b) combined, and that 50% of all category 6 programs broadcast in prime time be Canadian. It added that the flexibility to air category 6 programming should not include stick and/or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis, nor should it include motor racing, including NASCAR, Indy Racing League, CART series, and Formula 1.
10. With respect to Global's reference to Decision 2001-700 as the precedent for a condition of licence allowing the service to draw 15% of its programming from category 6, The Score submitted that this decision was issued prior to OLN's licence renewal hearing in 2003, wherein the Commission and industry participants discussed certain issues related to OLN's proposal to air category 6(a) programming. "Given the intense scrutiny that occurred when OLN attempted to add category 6(a) [to the list from which it may draw programming]," The Score expressed concern over whether the approval of this application in 2004 should rely on the Commission's licensing of Stampede in 2001.

#### **The applicant's reply**

11. With respect to CTV Specialty's argument that events like rodeo, outdoor lumberjack and strongman competitions, auto racing and fishing programs are already well-represented in the program schedules of both OLN and TSN, Global argued that certain sporting events naturally lend themselves to a country and western theme.
12. Moreover, Global stated that the broadcast of category 6 programming would not place its proposed service in direct competition with TSN, OLN, or The Score. Global argued that since its application was based on the regulatory requirements of Stampede, which is permitted to draw 15% of its programming from category 6, it could see no policy reason for the Commission to deny its application.
13. Nevertheless, in order to address some of the interveners' concerns with regard to the broadcast of category 6 programming and the types of sports it intends to broadcast, in its reply, Global amended its application by reducing from 15% to 10% the amount of programming it would draw from category 6.

14. Although it would not accept The Score's prohibition on all stick and/or ball sports, Global agreed to accept a condition of licence prohibiting the proposed service from broadcasting hockey, baseball, football, basketball, golf, soccer, and tennis. It noted that there may be other stick and ball sports that would be appropriate for broadcast on a service with a country and western theme.
15. Finally, with respect to The Score's recommendation that 50% of all category 6 programs broadcast in prime time be Canadian, Global submitted that this level would not be appropriate, given that it exceeds the Commission's Canadian content requirements for Category 2 specialty services and given the Commission's open-entry approach to licensing Category 2 services as set out in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 (Public Notice 2000-6).

### **The Commission's analysis and determination**

16. In Public Notice 2000-6, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and Public Notice CRTC 2000-171-1, 6 March 2001 – *Corrected Appendix 2* (Public Notice 2000-171-1), the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an analog pay or specialty or existing Category 1 service, although not with an existing Category 2 service. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
17. The Commission acknowledges the interveners' concerns with regard to direct competition and the broadcast of programming from category 6. Although the Commission shares these concerns, it is of the view that the recommendations proposed by The Score are too restrictive overall. However, the Commission considers that the amendments that Global has brought to its application in response to the interventions alleviate any concerns that the service would become directly competitive with existing pay, specialty or Category 1 services, specifically OLN, TSN and The Score.
18. While the Commission is of the view that the amount of programming that Lonestar II is permitted to draw from category 6 should be limited, it considers the 5% limit proposed by The Score to be overly restrictive. It considers a 10% limit, as proposed by Global, to be more appropriate. The Commission further determines that the type of sports programming permitted on Lonestar II should be defined. Accordingly, the service will not be permitted to broadcast hockey, baseball, football, basketball, golf, soccer, or tennis. **Conditions of licence** with respect to the above are set out in the appendix to this decision. The Commission also reminds the applicant that all such programming must be consistent with its country and western theme.

19. In light of the above, and based on its examination of this application, the Commission is satisfied that it is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Global Television Network Inc. for a broadcasting licence to operate the national English-language Category 2 specialty programming undertaking, Lonestar II.
20. The licence will expire 31 August 2011, and will be subject to the conditions set out in Public Notice 2000-171-1, as well as to the **conditions of licence** set out in the appendix to this decision.

### **Issuance of the licence**

21. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
  - the applicant has entered into a distribution agreement with at least one licensed distributor; and
  - the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 36 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 1 March 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Appendix to Broadcasting Decision CRTC 2005-85

### Conditions of licence

1. The licence will be subject to the conditions set out in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001, as well as to the following conditions of licence:
2. The licensee shall provide a national English-language Category 2 specialty programming undertaking devoted exclusively to the broadcast of programs with a country and western theme.
3. The programming must be drawn exclusively from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
  - 2 (b) Long-form documentary
  - 5 (b) Informal education/Recreation and leisure
  - 6 (a) Professional sports
  - (b) Amateur sports
  - 7 Drama and comedy
    - (a) Ongoing dramatic series
    - (b) Ongoing comedy series (sitcoms)
    - (c) Specials, mini-series or made-for-TV feature films
    - (d) Theatrical feature films aired on TV
    - (e) Animated television programs and films
    - (g) Other drama
  - 8 (a) Music and dance other than music video programs or clips
  - (b) Music video clips
  - (c) Music video programs
  - 9 Variety
  - 11 General entertainment and human interest
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
4. No more than 10% of all programming broadcast during the broadcast year will be drawn from category 6 and such programming shall not include hockey, baseball, football, basketball, golf, soccer or tennis.
5. No more than 25% of all programming broadcast during each broadcast week will be drawn from category 7(d).

6. No more than 10% of all programming broadcast during each broadcast week will be drawn from category 8.

For the purposes of the conditions of this licence, including condition of licence no. 1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m., or any other period approved by the Commission.