



Broadcasting Decision CRTC 2005-35

Ottawa, 3 February 2005

Global Television Network Inc.
Across Canada

Application 2004-0447-6
Public Hearing in the National Capital Region
4 October 2004

Reality TV – 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. (Global) for a broadcasting licence to operate a national, English-language Category 2¹ specialty programming undertaking to be known as Reality TV.
2. Global stated that the proposed Reality TV service would be devoted exclusively to reality-based shows including do-it-yourself makeover programs.
3. In its proposed nature of service, Global stated:
Reality TV will focus exclusively on reality-based programming. From competition-based reality shows like *Survivor* and *The Apprentice* to do-it-yourself makeover shows like *House Wars* and *Monster Garage*, Reality TV will show ordinary people in extraordinary (but very real) situations.
4. The applicant requested authorization to broadcast programming from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*:
 - 2 (b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 6 (b) Amateur sports
 - 7 (a) Ongoing dramatic series
 - 7 (c) Specials, mini-series or made-for-TV feature films
 - 7 (g) Other drama
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials

¹ 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.

13 Public service announcements

14 Infomercials, promotional and corporate videos

5. Further, in order to ensure that Reality TV would not be directly competitive with analog pay or specialty or existing Category 1 services, the applicant proposed specific limitations on the programming to be broadcast by the service. The applicant stated that all of the programming broadcast by Reality TV would be reality-based programming, defined as follows:

Reality-based programming may include:

- (a) the presentation of contrived circumstance(s), which may be competitive or non-competitive in nature; and/or
 - (b) dramatizations and/or recreations of real situations or events.
6. The programming drawn from categories 7(a), 7(c) and 7(g) would be restricted to no more than 10% of the broadcast week. The applicant anticipated that the programming drawn from category 7 would typically include dramatizations and/or recreations of real events.
7. The programming drawn from category 6(b) would be limited to no more than 10% of the broadcast year. No live sports would be broadcast on Reality TV.
8. Global identified two specialty services that currently broadcast some home renovation programs, namely, the Life Network and Home and Garden Television Canada (HGTV).² In order to ensure that Reality TV would not be directly competitive with the Life Network or HGTV, the applicant proposed that no more than 10% of the programming broadcast in each broadcast week would be reality renovation shows.

The interventions

9. The Commission received five interventions in connection with this application: two in support, two in opposition and one comment.
10. The opposing interventions were filed by CTV Inc. (CTV), on behalf of CTV Television Inc. and CTV Specialty Television Inc., and by Alliance Atlantis Communications Inc. (Alliance Atlantis). The comment was filed by Corus Entertainment Inc. (Corus). These interveners have ownership interests in conventional television and/or analog specialty and Category 1 services. Among its broadcasting holdings, Alliance Atlantis is the parent company of the Life Network and HGTV.
11. The opposing interveners submitted that Reality TV's proposed nature of service, including the definition of reality-based programming, is too broad and could permit the proposed Category 2 service to compete directly with analog pay or specialty or existing Category 1 services. In CTV's view, the proposed service would offer a broad range of programming similar to that aired by conventional television stations and would be more accurately categorized as a general entertainment service.
12. Alliance Atlantis submitted that, because reality programming is not currently defined

² The Life Network is a specialty service devoted to providing programming that offers useful, reliable and entertaining information, and documentary programming. Home and Garden Television Canada is a specialty service devoted to providing programming that presents practical, hands-on advice and instruction about homes and gardens.

as a program category, any non-fiction program could be considered to be a reality show. The intervener further argued that the applicant's proposed definition of reality-based programming is vague and therefore it would be virtually impossible for the applicant to adhere to the stated intent of its proposal. Noting that all of the Life Network's programming is non-fiction, Alliance Atlantis expressed concern that, given the program categories proposed by the applicant and its proposed definition of reality-based programming, the service offered by Reality TV could duplicate that offered by the Life Network. With respect to the applicant's commitment to restrict reality renovation shows to 10% of the programming aired in each broadcast week, Alliance Atlantis noted that HGTV's programming is not limited to do-it-yourself renovation shows and contended that, based on the applicant's proposed definition of reality-based programming, most of the programs currently offered by HGTV could be aired on Reality TV.

13. Alliance Atlantis opposed the applicant's request for authorization to broadcast programming drawn from categories 7 (a) (Ongoing dramatic series), 7 (c) (Specials, mini-series or made-for-TV feature films), and 7(g) (Other drama). In Alliance Atlantis' view, the broadcast of drama programs would make the proposed Category 2 service more of a general interest service. For its part, Corus questioned why the applicant would broadcast programming drawn from categories 7(a) and 7(c) given that the drama to be broadcast by Reality TV would be "dramatizations and/or recreations of real events". Corus, however, submitted that the applicant should be permitted to broadcast programming from category 7(g), provided that such programming be limited to 10% of the broadcast week and be "dramatizations and/or recreations of real events".
14. Corus stated that the proposed definition of reality-based programming should be changed from "may include" to "will include" in order to make the description of Reality TV's nature of service "less open to interpretation by the licensee".
15. Corus noted that Global's application did not identify the intervener's service, W Network³, as a specialty service that broadcasts home renovation shows as well as image and style makeover shows, which could be considered to be reality-based programs. In Corus' view, the proposed Reality TV service would be partially competitive with W Network.

The applicant's reply

16. In response, Global proposed changes respecting its proposed service. Global agreed to change the wording of the definition of "reality-based programming" from "may include" to "will include" or "shall include". Global also withdrew its request to broadcast programming from categories 7(a) (Ongoing dramatic series), and 7(c) (Specials, mini-series or made-for-TV feature films). Further, it agreed to limit the amount of programming drawn from category 7(g) (Other drama) to 5% of the broadcast week. Additionally, Global proposed that reality renovation shows be defined as shows that deal primarily with home improvements and modifications to homes

³ W Network provides information and entertainment programming of particular interest to women.

and/or gardens.

17. Global further stated that it had conducted an extensive comparison of Reality TV's proposed program schedule with the program schedules of the Life Network, HGTV, and W Network, respectively. Global stated that, based on that examination, it determined that, in each case, less than 10% of the programming to be offered by Reality TV would duplicate the programming currently offered by the Life Network, HGTV or W Network.
18. In Global's view, the proposed restrictions on Reality TV's programming, as detailed in its application and its response to the interventions, would ensure that the proposed service would not be directly competitive with analog pay or specialty or existing Category 1 services. Global submitted that a service devoted to reality-based programming, which is a subgenre within category 11 (General entertainment and human interest), would be even more narrowly-defined than many of the specialty programming services owned and operated by CTV.
19. While Global acknowledged that some of programming to be offered by Reality TV would duplicate that currently broadcast by conventional television stations, the applicant argued that, under the Commission's licensing policy, such duplication is not only acceptable, but is acknowledged as a strength of the open approach to licensing Category 2 services.
20. Global also pointed out that Alliance Atlantis is itself the licensee of *Real TV*, a Category 2 service that offers reality-based programs⁴, and that, under the Commission's licensing policy, a Category 2 service may compete directly with other Category 2 services.

The Commission's analysis and determination

21. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, 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, 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 the Commission does not consider the impact that a new Category 2 service might have on an existing Category 2 service.
22. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
23. In the present case, the Commission has noted Global's attempt to provide a definition

⁴ *Real TV*, Decision CRTC 2000-486, 24 November 2000 and 14 December 2000.

of reality-based programming. However, the Commission is satisfied that the commitments made by Global in its application and in its response to the interventions to limit Reality TV's nature of service are sufficiently specific, without the proposed definition of reality-based programming, so as to ensure that the proposed service will not be directly competitive with any analog pay or specialty or existing Category 1 service. Reality TV will only broadcast reality-based programming. In each broadcast week, no more than 10% of the programming will be reality renovation shows, defined as shows that deal primarily with home improvements and modifications to homes and/or gardens, and no more than 5% of the programming will be drawn from category 7(g) (Other drama). No live sports will be broadcast on Reality TV, and in each broadcast year, no more than 10% of the programming will be drawn from category 6(b) (Amateur sports).

24. Based on its examination of this application, including the revisions and factors noted above, the Commission is satisfied that it is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Accordingly, the Commission **approves** the application by Global Television Network Inc. to operate the national, English-language Category 2 specialty programming undertaking, Reality TV.
25. 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

26. 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 3 February 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 at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2005-35

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 reality-based programming. Reality TV will show ordinary people in extraordinary, but very real, situations.
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
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 6 (b) Amateur sports
 - 7 (g) Other drama
 - 9 Variety
 - 10 Game shows
 - 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 week shall be devoted to reality renovation shows. Reality renovation shows deal primarily with home improvements and modifications to homes and/or gardens.
5. No more than 5% of all programming broadcast during the broadcast week shall be drawn from category 7(g).
6. No more than 10% of all programming broadcast during the broadcast year shall be drawn from category 6(b).
7. The licensee shall not broadcast any live sports.

For the purposes of the conditions of this licence, *broadcast day* refers to the 24-hour period beginning at 6:00 a.m. each day, or any other period approved by the Commission.