



Broadcasting Decision CRTC 2004-98

Ottawa, 26 February 2004

CHUM Limited

Edmonton and Red Deer; and Calgary, Alberta

Global Communications Limited

Red Deer, Coronation, Edmonton and Calgary, Alberta

Applications 2003-0167-2, 2003-0168-0 and 2003-0197-9

Public Hearing at Edmonton, Alberta

16 June 2003

Competing applications proposing the introduction of new, over-the-air television services at Edmonton and Calgary

*The Commission, for the reasons set out herein, **denies** the applications by CHUM Limited (CHUM) for broadcasting licences to carry on new television undertakings at Calgary and at Edmonton, with a transmitter of the Edmonton station at Red Deer.*

*In an application considered by the Commission as competing with those by CHUM, Global Communications Limited (Global) sought a licence amendment that would permit the disaffiliation from the Canadian Broadcasting Corporation (CBC) of its existing television station CKRD-TV Red Deer. Global also proposed to cease the operation of CKRD-TV's transmitter at Coronation (CKRD-TV-1), and to add new transmitters of CKRD-TV Red Deer at Edmonton and Calgary. The Commission **approves** that portion of Global's application requesting a licence amendment to disaffiliate CKRD-TV Red Deer from the CBC and to delete the authority for CKRD-TV-1 Coronation. Global may only disaffiliate from the CBC at such time as the CBC commences the operation of new transmitters in Coronation and Red Deer to rebroadcast the programming of CBXT Edmonton, as contemplated in CBXT Edmonton – New transmitters in Coronation and Red Deer, Broadcasting Decision CRTC 2004-100 of today's date. That portion of Global's application pertaining to the establishment of new transmitters of CKRD-TV at Edmonton and Calgary is **denied**.*

Introduction

1. In *Call for Applications for a Broadcasting Licence to carry on a Television Programming Undertaking to serve all or any one of Edmonton, Calgary, and Red Deer, Alberta*, Public Notice CRTC 2002-69, 7 November 2002 (Public Notice 2002-69), the Commission announced that it had received applications for broadcasting licences to carry on television programming undertakings to provide services to Calgary and Edmonton, with a transmitter of the latter in Red Deer. Consistent with the procedures generally followed by the Commission in such cases, the Commission called for

applications from other parties wishing to obtain broadcasting licences to provide television services to all or any one of Calgary, Edmonton, and Red Deer. Interested parties were directed to file their applications with the Commission by no later than 5 February 2003. CHUM Limited (CHUM), the party whose applications had initiated this process, filed revised applications in response to Public Notice 2002-69.

2. On 10 February 2003, Global Communications Limited (Global) submitted two applications, including one to amend its existing licence for CKRD-TV Red Deer by disaffiliating CKRD-TV from the Canadian Broadcasting Corporation (CBC), ceasing the operation of CKRD-TV's transmitter at Coronation (CKRD-TV-1), and adding new transmitters of CKRD-TV Red Deer at Edmonton and Calgary. Global planned to replace the CBC programming currently broadcast on the Red Deer station and its two new transmitters with programming now found on Global's stations CHCH-TV Hamilton and CHEK-TV Victoria, along with new ethnic and Aboriginal programming. In its application, Global said:

While this application does not seek to obtain a licence ... to carry on a new originating television programming undertaking to serve Edmonton, Calgary or Red Deer, Alberta, we are filing it at this time in order that the Commission may consider this proposal at the same proceeding at which it will consider proposals received in response to its call for applications in Public Notice CRTC 2002-69.

3. The Commission, however, determined that Global's application would effectively provide for the delivery of new conventional television services to each of Calgary and Edmonton through transmitters of a newly-disaffiliated, re-programmed CKRD-TV Red Deer. Accordingly, at the 16 June 2003 public hearing in Edmonton, the Commission treated the application by Global as competing with those by CHUM.
4. In its second application considered at the Edmonton hearing, Global proposed to amend the licence for CITV-TV-1 Red Deer in order to change the station's channel from channel 10 to channel 2. Global also proposed to change the station's authorized contour by decreasing its effective radiated power (ERP) from 180,000 to 15,930 watts. This application is approved in *CITV-TV-1 Red Deer – Technical changes*, Broadcasting Decision CRTC 2004-99 of today's date. As noted in that decision, the station's local programming will not be affected by this amendment.
5. In a non-appearing application that was also on the agenda of the Edmonton Public Hearing, the CBC applied to amend the licence of its English-language television station at Edmonton, CBXT, in order to add a transmitter in Red Deer and another in Coronation to broadcast the programming of CBXT in those communities. The CBC proposed to operate the Coronation transmitter on channel 10 with an ERP of 98,000 watts and the Red Deer transmitter on channel 10 with an ERP of 180,000 watts. This application is approved in *CBXT Edmonton – New transmitters in Coronation and Red Deer*, Broadcasting Decision CRTC 2004-100 (Decision 2004-100) of today's date. Implementation of these amendments would, for the first time, extend the full CBC schedule to viewers served by the Red Deer and Coronation transmitters.

6. Global stated that, contingent upon the approval of all of the amendments to its licence for CKRD-TV (the subject of this decision), and of the other two applications that are described above pertaining to CITV-TV-1 Red Deer and CBXT Edmonton, it would transfer to the CBC, without charge, ownership of the transmitting equipment Global now uses for the operation of CKRD-TV-1 Coronation and CITV-TV-1 Red Deer.
7. The following sections of this decision provide a description of the applicants, an overview of their proposals, a summary of the interventions, a discussion of the major issues raised by the applications and the analysis and conclusions of the Commission.

Description of the applicants

8. CHUM owns and operates six television stations in Ontario and two television stations in British Columbia. These include two stations in each of the Toronto/Barrie and Vancouver/Victoria markets. It also owns radio stations in five provinces and a number of analog and digital specialty television services. Further, CHUM owns 60% of Learning and Skills Television of Alberta Limited (Learning and Skills). Learning and Skills is the licensee of Alberta's privately owned and operated provincial educational television service, the satellite to cable programming undertaking known as ACCESS. Learning and Skills is a for-profit corporation designated by the Government of Alberta as the provincial educational broadcaster and as the provincial authority for purposes of the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*.
9. Global is a large multi-station television group that owns and operates television stations in every province across Canada, except Newfoundland and Labrador. These include two stations in each of the Vancouver/Victoria and Toronto/Hamilton markets. In Alberta, in addition to the CBC affiliate CKRD-TV Red Deer and its Coronation transmitter, Global owns CICT-TV Calgary, CISA-TV Lethbridge, CITV-TV Edmonton and CITV-TV-1 Red Deer. These latter four stations provide television services that include much of the same Canadian and non-Canadian programming offered on the regional Ontario service provided by Global's station CIII-TV Paris and its transmitters. Global also owns two radio stations and one analog specialty television service, and holds an ownership interest in a number of digital television specialty services. Global's parent company, CanWest Global Communications Corp. (CanWest), a public company, has an ownership interest in a variety of daily and weekly newspapers across Canada, including the *National Post*, the *Calgary Herald* and the *Edmonton Journal*.

Overview of the applications

CHUM

10. CHUM applied for a broadcasting licence to operate an English-language television station in Edmonton, with a transmitter at Red Deer, and for a second such licence to operate a station in Calgary. CHUM proposed to operate its new Edmonton station on channel 56C with an ERP of 810,000 watts, the Red Deer transmitter on channel 58C with an ERP of 720,000 watts, and the new Calgary station on channel 38C with an ERP of 340,000 watts.
11. CHUM's applications proposed new stations whose programming schedules would be modelled on those of CITY-TV Toronto and CKVU-TV Vancouver, with a focus on local and regional programs and talent, cultural diversity, independent production and Canadian drama. CHUM set out its local program proposals in a 10 Point Plan that would provide for a minimum of 20 hours per week of original local programming at each of Edmonton and Calgary. At least seven hours of this local programming would be dedicated to non-news, of which at least five hours would be devoted to cross-cultural or multicultural programs providing coverage of Aboriginal culture, entertainment, information and youth issues. CHUM also agreed to broadcast a minimum of two hours of original local and regional non-news reflection programming between the hours of 7:00 p.m. and 9:00 p.m. each week. CHUM added that it would establish a Red Deer storefront studio to ensure that the CHUM stations cover news and events from central Alberta.
12. Further, CHUM made a commitment to launch what it termed the "Alberta Indie Initiative". CHUM would fund this initiative with \$15 million that would be devoted to local Alberta projects. Half of the amount would be earmarked specifically for drama initiatives. CHUM indicated that the emphasis of the Alberta Indie Initiative would be on priority programming, and would specifically target the development and production of programs originating with small- and medium-sized independent producers in Alberta.

Global

13. Residents in Red Deer and Coronation currently receive a portion of the CBC's English-language television network service from the CBC-affiliated CKRD-TV Red Deer and its Coronation transmitter, CKRD-TV-1. Global applied for amendments to CKRD-TV's licence that would include disaffiliating the station from the CBC network, adding transmitters of CKRD-TV's service in Edmonton and Calgary, and deleting the current service provided by the transmitter in Coronation. Global proposed to operate its Edmonton transmitter on channel 23 with an ERP of 1,162,100 watts and the Calgary transmitter on channel 23 with an ERP of 652,200 watts.

14. According to Global, the existing local service to Red Deer would not be affected by approval of the proposed CKRD-TV licence amendments. The applicant stated that it would introduce new regional programming that would reflect Alberta's Aboriginal peoples, and would complement existing ethnic programming with new regional ethnic and cross-cultural programming. Specifically, Global's proposed local programming would include a three-hour weekly programming block that would be supplied by Aboriginal Peoples Television Network (APTN), daily six-minute newscast inserts on aboriginal issues, 39 original half-hours of *First Nations Report*, a half-hour cross-cultural program entitled *Neighbours*, a half-hour magazine program entitled *Go West*, one movie-of-the-week per year "commissioned out of Alberta", six documentaries per year reflecting cultural diversity and a variety of foreign-language ethnic programs, of which at least 50% would be produced in Alberta. The balance of the schedule would consist of Canadian and non-Canadian programming that would be similar to that offered by Global on its stations CHCH-TV Hamilton and CHEK-TV Victoria. Global said that it would not solicit local advertising in Edmonton and Calgary for broadcast on CKRD-TV, other than for advertising that would air during Aboriginal and ethnic programming periods. Global described the provision of the full CBC network service as an important benefit of this application.

Summary of the interventions

15. The interventions filed in respect of the applications under consideration in this decision included approximately 1,000 letters and petitions in support of CHUM's applications for new television licences, 11 comments, and 13 interventions in opposition to the proposals. Global's proposed licence amendments for CKRD-TV Red Deer were the subject of approximately 1,300 interventions in support, 11 comments and 8 opposing interventions. A total of 27 interested parties were invited to appear at the hearing to address the proposals of one or other or both applicants.
16. Those expressing support for CHUM's applications included the Association of Canadian Advertisers and various representatives of the television production community, such as the Alberta Motion Picture Industries Association (AMPPIA), the Canadian Film and Television Production Association (CFTPA) and various Alberta-based independent production companies. The interventions from the production community generally applauded the Canadian programming commitments in the CHUM applications and the potential impact of these commitments on the development, financing, production and broadcast of local and regional programs, including the Alberta Indie Initiative proposed by the applicant.
17. Global's applications received support from such organizations as APTN, who underlined the applicant's commitment to provide Aboriginal programming of relevance to Alberta Aboriginal communities under the terms of an agreement with APTN.

18. Interventions opposed to both applications included those by the Writers Guild of Canada (Writers Guild), the Directors Guild of Canada (Directors Guild), as well as by incumbent commercial television stations in the markets targeted by the applicants or adjacent to them. A number of these interventions, such as those by CTV Television Inc. (CTV), Craig Media Inc. (Craig) and Mid West Television Ltd. (Mid West), argued that, on the basis of the average profit before interest and tax (PBIT) margins earned in recent years by television stations in the markets affected, and taking into account the revenue projections filed for 2003 and years following, the new Edmonton and Calgary stations proposed by CHUM and the Edmonton and Calgary transmitters of an unaffiliated CKRD-TV proposed by Global would have an unduly negative impact on the advertising revenues earned by the incumbent stations.

Interveners' concerns regarding impact on advertising revenues

19. The licensees of several incumbent stations in the Alberta market expressed serious concern with regard to the ability of the market to sustain the introduction of a new service without unduly affecting their ability to fulfil current programming commitments.
20. CTV, licensee of CFCN-TV Calgary, CFCN-TV-5 Lethbridge, and CFRN-TV Edmonton, said that neither the Calgary nor the Edmonton television markets could support a new entrant at this time, and that the CHUM and Global applications should be denied. Referring to a market study prepared for CTV and forming part of its written intervention, CTV argued that the average profitability of the private television stations in Calgary and Edmonton decreased dramatically after launch of Craig's A-Channel stations CKEM-TV Edmonton and CKAL-TV Calgary in 1997, and that this situation had not changed. According to CTV, prospects for future growth were moderate at best, and approval of the CHUM or Global applications would place CTV at a significant competitive disadvantage and "distort the careful balance of the conventional television landscape".
21. To this, CHUM replied that a company's entire group of stations should be considered "when considering the impact of a potential new licensee in an area where there are no local, stand-alone operators." According to CHUM, the projected revenue for its proposed stations in year one would amount to about 3% of CTV's total national revenues. CHUM added that, even were all the revenue to come from existing stations (a postulate with which it did not agree), the total effect on CTV would be about 1% of its current gross revenues.
22. For its part, Global stated at the public hearing that it was "perplexed" as to why CTV, a part of Canada's largest media conglomerate, viewed Global's application to disaffiliate CKRD-TV Red Deer from the CBC as the vehicle that would "turn Global into a dominant force that will destroy CTV service in Alberta."

23. In its intervention concerning the CHUM applications, Craig, the licensee of CKEM-TV and CKAL-TV, said that the Commission's approval of the CHUM applications would create "a huge structural imbalance in the Canadian television broadcasting system" and that the applications should be denied. Referring to a market study prepared for Craig as part of its intervention, Craig argued that approval of CHUM's applications would result in CHUM acceding to the status of a large multi-station ownership group at the expense of Craig since the programming proposed by CHUM replicates programming that is already available in the market, particularly on Craig's A-Channel stations.
24. In reply, CHUM said that, over the last five years, Craig has licensed less and less programming from CHUM, and that only about 25% of the programming appearing elsewhere on CHUM television stations is currently carried by A-Channel. CHUM also argued that Craig is well established in Alberta and that its stations are profitable. CHUM added that, should its applications be approved, by the time it was prepared to launch, Craig's Alberta television stations would have had a full seven years in operation.
25. Craig opposed Global's application to add transmitters of CKRD-TV Red Deer in Edmonton and Calgary on the grounds that approval would give Global and its parent, CanWest, "an unprecedented competitive advantage in program acquisitions and sales and would further concentrate editorial diversity in its hands." According to Craig, the revenue benefits accruing to CanWest would be immense, and the negative impact on the incumbent broadcasters would be substantial. Craig concluded that the negative impact would outweigh the potential benefits of Global's application.
26. To Craig's arguments, Global acknowledged at the hearing that Craig is a smaller player in the industry, but added that it was Craig "who less than two years ago appeared before you and said they were ready to enter into the national game. There was an abundance of U.S. programming available to them, they stated, and they had the resources and know-how to compete in this increasingly fragmented marketplace."
27. In its written intervention, Mid West, the owner of CITL-TV Lloydminster and CKSA-TV Lloydminster, affiliates of CTV and CBC, respectively, also opposed the applications by Global and CHUM. Mid West argued that adding new competition in Edmonton and Calgary, as these applications proposed to do, would add new competition in adjacent markets, such as Lloydminster, because the national advertising efficiencies achievable through multiple market purchases cannot be duplicated by small, regional players.

Intervenors' concerns regarding the applicants' programming plans

28. According to the Directors Guild and the Writers Guild, Global's application proposed virtually no new programming, no new drama in particular, and made no commitment in support of the Canadian independent production sector or to script and concept development. With regard to the CHUM applications, the Directors Guild and the Writers Guild said that the applications, as filed, did not propose sufficient benefits to the Canadian broadcasting system to warrant their approval.

29. Global defended the amount of new programming proposed for CKRD-TV, arguing that its application to disaffiliate the Red Deer station from the CBC was not the same as a licence application for a new station. According to Global, its application “seeks to amend the licence of an existing station at the request of the CBC and in order that it may provide its full service to the residents of Red Deer and central Alberta.”
30. In CHUM’s reply to the Writers Guild and the Directors Guild interventions, CHUM said that the “vast majority of the expenditures” proposed as part of its Alberta Indie Initiative would be directed to drama, but that “our more flexible approach is consistent with the realities of the Alberta production community and with their expressed desires as evidenced by the positive interventions from the CFTPA and AMPIA.” According to CHUM, it “has long been the most significant broadcast supporter of long form drama – both financially and on the air. With the approval of these applications CHUM will, for the first time, acquire the critical mass to make a significant move into series drama.”

Commission’s analysis

31. In Public Notice 2002-69, the Commission stated that it had not reached a conclusion with respect to the licensing of any new service in the regions concerned, nor should it necessarily be construed that the Commission would, by virtue of having called for applications, authorize such a service at this time.
32. One of the issues that the Commission addresses in evaluating an application that proposes to introduce a new television service to a given market is the extent to which the service is likely to draw audiences and revenues away from the licensed services already operating in the market. In general, the Commission would not be prepared to license a new service where the expected impact of the new service may unduly affect the ability of existing services to meet their programming responsibilities.
33. The Commission notes that, in the 2002 broadcast year, the private conventional television stations in the Edmonton, Red Deer and Calgary markets, together, accounted for 85% of the advertising revenues earned by all television stations¹ in Alberta. The average PBIT margin for the private conventional television stations operating in these three markets declined from 19.9% in the 1997 broadcast year to 9.2% in the 1998 broadcast year, which included the launch of CKEM-TV Edmonton and CKAL-TV Calgary. In the 2002 broadcast year, the average PBIT margin for the private conventional television stations in the Edmonton, Calgary and Red Deer markets stood at only 9.3%². The conventional television advertising market has also been affected since 1997 by the overall transfer of audiences and revenues from conventional services to pay and specialty services. As a result, the total advertising revenues in the combined

¹ Includes private commercial stations, as well as those operated by the Canadian Broadcasting Corporation and by Learning and Skills Television of Alberta Limited.

² In 2002, CTV did not report network payments to its affiliates in a manner consistent with prior years in completing its CRTC financial annual returns. Accordingly, the Commission has adjusted upwards the revenues and PBIT margin for the combined markets presented in the Commission’s annual financial summary for 2002, to reflect a continuation of CTV network payments in a consistent manner.

Edmonton, Red Deer and Calgary markets increased by only 6.5% between the launch of Craig's Alberta television stations and the end of the 2002 broadcast year.

34. In its applications, CHUM projected that 50% of the \$105.6 million in incremental revenues that would accrue to its proposed new television stations would come from existing off-air stations. If it is assumed that the CHUM stations would have an equal impact on each of the four incumbents (CTV, Craig, Global and the CBC), this forecast, if realized, would translate into a revenue reduction for each incumbent of more than \$26 million over seven years. Based on such considerations as the age groups that CHUM would target, the proposed community ties and distinctive, local flavour that the stations would encourage, and their emphasis on feature films, it is reasonable to conclude that the entry of CHUM into the Alberta market would have a somewhat greater competitive impact on Craig than would approval of Global's applications, as filed. Indeed, CHUM predicted that its proposed stations would have an impact on the Craig stations ranging as high as \$36 million over seven years. According to Craig, this amount would equate to more than one half of Craig's projected operating income over this period, and that approval of CHUM's applications would thus unduly affect Craig's ability to carry out its programming obligations to television viewers in Alberta.
35. Although Global's projections of the overall impact of its proposals on the audiences and revenues of existing stations were lower than those contained in CHUM's applications, the expected consequences of Global's plans to establish transmitters of CKRD-TV at Edmonton and Calgary were nevertheless significant. In fact, CTV expressed the view that approval of the Global applications, as filed, would have a greater impact on CTV's Alberta operations than would the approval of CHUM's applications.

Commission's conclusions

36. The Commission recognizes the potential benefits to local viewers, and to the broadcasting system as a whole, of CHUM's comprehensive applications for its proposed new stations. In particular, the Commission acknowledges the value of CHUM's programming plans and commitments, including those for the production of new drama, and the reflection of Alberta's cultural diversity. Nevertheless, the Commission is concerned by the potential negative impact that approval of CHUM's applications, at this time, could have on the Edmonton and Calgary television markets, and finds that these concerns outweigh the potential benefits. Accordingly, the Commission **denies** the applications by CHUM.
37. Although the financial data now available for 2003 indicate substantial improvement in the performance of the Calgary and Edmonton markets, the Commission is not prepared to view the data for 2003 as conclusive evidence that the Calgary and Edmonton television markets could support the licensing of new stations at this time.

38. With respect to Global's applications, Global already owns television stations in Edmonton and Calgary. Approval of its proposal, as filed, would place Global in a position unique among Alberta television broadcasters by allowing Global to duplicate its coverage with alternative programming in these two markets. Approval would thus allow Global to increase its revenues by means of two program schedules and inventories for the sale of national advertising in Calgary and Edmonton. Both services would have full simulcasting privileges. In addition, Global would enjoy increased opportunities for cross-promotion and for counter programming against the schedules of its competitors. The Commission considers that approval of Global's proposal to extend the service of CKRD-TV to the Edmonton and Calgary markets via over-the-air transmitters could have a lasting and undue negative impact on the ability of the existing television stations in these markets to fulfil their operational plans and regulatory obligations.
39. Furthermore, Global's owner, CanWest, is already the leading media ownership group in Alberta. Global's stations earn more than 45% of conventional television advertising revenues and CanWest's newspapers are responsible for more than 60% of the daily newspaper circulation in the province. Approval of Global's applications, as submitted, would strengthen CanWest's presence in Edmonton and Calgary, and increase the level of concentration of ownership and of cross-media ownership in these markets.
40. For these reasons, the Commission **denies** that portion of Global's application for amendments to the licence for CKRD-TV Red Deer pertaining to the establishment of transmitters of that station in Edmonton and Calgary.

Disaffiliation of CKRD-TV

41. Notwithstanding the Commission's denial of Global's proposal to establish Edmonton and Calgary transmitters of CKRD-TV, the Commission **approves** the proposed licence amendments concerning the disaffiliation of the station from the CBC and the deletion of the authority for the operation of CKRD-TV-1 Coronation. These amendments, however, will take effect, and the authority may only be implemented by the licensee, at such time as the CBC commences operation of transmitters in Coronation and Red Deer to rebroadcast the programming of CBXT Edmonton, as contemplated in Decision 2004-100 also issued today.
42. There was some discussion at the hearing of the potential benefits that Global could derive from the disaffiliation of CKRD-TV Red Deer, even should its proposals for transmitters at Edmonton and Calgary be denied. Interveners offered suggestions as to possible alternative disaffiliation arrangements that Global might pursue with the CBC. The Commission also notes that there have been a number of scenarios in the past, under which private television broadcasters have disaffiliated from the CBC. The Commission therefore encourages Global and the CBC to implement the amendments approved today.

43. In Decision 2004-100, the Commission advised the CBC that the proposed new transmitters of CBXT Edmonton must be operational at the earliest possible date and, in any event, no later than 24 months from the date of that decision, unless a request for an extension of time is approved by the Commission before 26 February 2006. Accordingly, should the CBC fail to implement the authority granted in Decision 2004-100 within the deadline specified by the Commission, Global's licence for CKRD-TV will not be amended.
44. The current licence for CKRD-TV is subject to the conditions of licence specified in *Licence renewal for CKRD-TV*, Decision CRTC 2001-458-11, 2 August 2001, as well as those contained in *Licence renewals for the television stations controlled by Global*, Decision CRTC 2001-458, also dated 2 August 2001 (Decision 2001-458). The licence is scheduled to expire 31 August 2008. In Decision 2001-458, the Commission, by condition of licence, required all of the Global stations whose licences were being renewed, other than CBC affiliates, to caption 90% of all programming broadcast, including all news (category 1) programming, during the new licence period. As a CBC affiliate, CKRD-TV was expected by the Commission to provide captioning for at least 90% of all programming aired during the broadcast day, including 100% of all category 1 programming.
45. In keeping with the Commission's approach in Decision 2001-458, upon implementation of the authority to disaffiliate CKRD-TV from the CBC as contemplated in the present decision, the licence for CKRD-TV shall become subject, by **condition of licence**, to the requirement that Global caption 90% of all programming broadcast, including all category 1 programming.

Secretary General

This decision is to be appended to Global's licence. It is available in alternative format upon request, and may also be examined at the following Internet site:

<http://www.crtc.gc.ca>