

Reply by 616 to Star Choice's response dated April 12, 2005

APPENDIX 2

April 18, 2005

**EXCERPTS FROM SUPPLEMENTARY BRIEF OF 6166954 CANADA
INC.'S APPLICATION TO ACQUIRE PRIDEVISION**

(Emphasis added)

A Bridging Force in Broadcasting

PrideVision will meet the needs of millions of friends and family members of gay, lesbian, bisexual and transgendered persons. These viewers will be provided programming that accurately and fairly portrays the interests and lifestyles of their loved ones. It is important that an understanding and appreciation for the differences and the commonalities between the two communities occurs in a vibrant pluralistic and democratic Canada. PrideVision has the potential to be a "bridging" service, creating understanding and thereby reducing stereotyping. (Comment: How do you do this with limited distribution of only 23,000 homes caused by no package carriage?)

...

5. Acceptance by Canadians

... Canadian viewers have responded and demonstrated great acceptance of PrideVision.

The best evidence of acceptance is to look at PrideVision's ratings during the "free preview" during the inauguration of the Category 1 channels. However, an understanding of PrideVision's frustration in obtaining equitable distribution should also be appreciated. The Commission interceded on behalf of PrideVision in Decision CRTC 2001-612:

"The Commission considers that the requirement for subscribers to take active steps to receive the PrideVision preview amounts to substantially different treatment of the service on the part of Shaw Cable and Star Choice. ... Given the highly competitive and challenging environment in which these services are being launched, the Commission considers the initial preview period crucial to the long-term success of the new digital services. Further, in the Commission's view, the additional steps required to sample PrideVision will act as a

strong disincentive for subscribers to view the service during the preview period, which will be reflected in PrideVision's subscriber levels after the preview is over. Accordingly, the disadvantageous treatment afforded PrideVision, if continued, would have an unduly negative impact on the service relative to other digital services. Shaw Cable and Star Choice subscribers should therefore receive the PrideVision preview on the same basis as they receive all other Category 1 services. Taking into account all of the above, the Commission, by a majority vote, concludes that Shaw Cable and Star Choice are subjecting PrideVision to an undue disadvantage in relation to other Category 1 services and, thus, are in breach of section 9 of the Regulations."

Despite the Commission's efforts to end the disadvantageous treatment accorded to PrideVision, the Mediastats chart below illustrates the decline in access to BDU subscribers experienced by PrideVision following the "free preview" period, when BDU's began to offer PrideVision as a "stand alone" service, similar to a pay television channel despite its Category 1 status.

Even after the release of CRTC Decision 2001-612, BDU's distributed PrideVision in a manner similar to pay television channels or as an à la carte service. Despite the fact that, other Category 1 services enjoyed the benefits of being bundled/tiered with other broadly distributed services, PrideVision was denied such distribution. PrideVision started the first month after the 'free preview' with approximately 15,000 subscribers while the other Category 1 services enjoyed more than 20 times as many subscribers with an average of 376,672. This difference has continued to widen so that Mediastats reported in June 2003, 573,453 subscribers (average) for Category 1 services as contrasted with approximately 20,000 for PrideVision approximately a 25 fold difference.

Despite the Commission's efforts, during the initial preview period, PrideVision only had access to 1,418,295 homes where the average of the remaining Category 1 services had 2,157,407 -34% less access for PrideVision¹. Despite this handicap, PrideVision still achieved a relatively large audience. The following chart issued by PrideVision in December 2001, illustrates ratings for PrideVision compared with other Category 1 and Category 2 specialty services.

¹ Mediastats data for November, 2001

CHART 1. PRIDEVISION TV INITIAL RATINGS

DECEMBER 5, 2001-TORONTO, ON- PrideVision TV has announced ratings for the months of October and November, demonstrating growing audience.

For the period of October 1/01-November 18/01, PrideVision ranked 10th out of all new digital channels, represented in Figure 1:

Figure 1. Top 10 Digital Networks, By Average Daily Reach

Broadcaster	Reach Among Viewers Aged 2+
SEXTV: THE CHANNEL	309000
ANIMAL PLANET	260000
MEN TV	248000
SHOWCASE ACTION	215000
DEJA VIEW	170000
DISCOVERY CIVILIZATION	155000
SHOWCASE DIVA	143000
LONESTAR	139000
BIOGRAPHY CHANNEL	131000
PRIDEVISION	127000

Time Period: Mon-Sun 06:00AM - 06:00AM

Total Canada, 7 Week Sample Period: Oct 1 – Nov 18/01 (7 Wk Avg) Source: Nielsen Media Research

For the period of October 29th to November 18th, PrideVision ranked 8th out of all new digital channels, represented in Chart 2:

CHART 2. TOP 10 DIGITAL NETWORKS, BY AVERAGE DAILY REACH

Broadcaster	Reach Among Viewers Aged 2+
SEXTV: THE CHANNEL	293000
SHOWCASE ACTION	267000
MEN TV	259000
ANIMAL PLANET	250000
DEJA VIEW	178000
DISCOVERY CIVILIZATION	160000
LONESTAR	148000
PRIDEVISION	145000
SHOWCASE DIVA	142000
SCREAM	141000

Time Period: Mon-Sun 06:00AM - 06:00AM

Total Canada, 3 Week Sample Period: Oct 29 – Nov 18/01 (7 Wk Avg) Source: Nielsen Media Research

If one were to factor the disproportionately lower carriage of PrideVision as a result of the limited BDU distribution of the service during the free preview (Sept. 10, 2001 to Jan. 6, 2002) by proportionately increasing the PrideVision audience by 34% (per the Mediastats reports above), the following digital Average Audiences would have been reported by Nielsen. As you can see PrideVision would have tied 8th out of the top 50 digital channels for males 18+ and females 18-49.

Chart 3. Viewership Rankings Of Digital Specialty Services By Gender

Males 18+		Females 18-49	
Network/Station	AA (00)	Network/Station	AA (00)
LONESTAR	67	ANIMAL PLANET	28
SEXTV: THE CHANNEL	55	SHOWCASE ACTION	21
SHOWCASE ACTION	52	mentv	15
mentv	37	SCREAM	15
DejaView	30	SEXTV:THE CHANNEL	14
ANIMAL PLANET	22	TV Land	13
MSNBC	22	BBC CANADA	13
PRIDEVISION (factor .66)	20	PRIDEVISION (factor .66)	11
DISCOVERY CIVILIZATION	20	LONESTAR	11
SHOWCASE DIVA	19	MSNBC	11
TV Land	19	SHOWCASE DIVA	10
SCREAM	18	DejaView	8
BIOGRAPHY CHANNEL	17	DISCOVERY CIVILIZATION	8
BBC CANADA	16	MTV	8
PRIDEVISION	13	BIOGRAPHY CHANNEL	8
MYSTERY	13	PRIDEVISION	7
DOCUMENTARY Channel	11	COUNTRY CANADA	7
DRIVE-IN CLASSICS	11	EDGE TV	6
COUNTRY CANADA	10	MYSTERY	6
INDEPENDENT FILM CHANNEL	10	MUCHLOUD	5
MTV	10	DISCOVERY HEALTH NETWORK	4
NATIONAL GEOGRAPHIC	10	NATIONAL GEOGRAPHIC	3
NHL NETWORK	10	COURT TV CANADA	3
COURT TV CANADA	9	WTSN	3
ESPN CLASSIC	9	ESPN CLASSIC	3
TechTV	9	CTV TRAVEL	3
EDGE TV	8	DOCUMENTARY Channel	3
WTSN	8	INDEPENDENT FILM CHANNEL	3
CTV TRAVEL	7	NHL NETWORK	2
DISCOVERY HEALTH NETWORK	7	DRIVE-IN CLASSICS	2
Xtreme Sports	6	Xtreme Sports	2
BOOK TV	5	One: the Body, Mind & Spirit	2
Discovery Wings	5	FASHION TV: THE CHANNEL	2
FOX SPORTS	5	MUCH VIBE	2
MUCHLOUD	4	RAPTORS NBA TV	1
One: the Body, Mind & Spirit	4	FOX SPORTS	1
RAPTORS NBA TV	4	ichannel	1