



Broadcasting Decision CRTC 2006-561

Ottawa, 28 September 2006

The Miracle Channel Association

Lethbridge, Bow Island and Burmis, Alberta

Application 2006-0381-2

Broadcasting Public Notice CRTC 2006-58

8 May 2006

CJIL-TV Lethbridge – Licence amendment

*The Commission **approves** the application to amend the licence for CJIL-TV Lethbridge and its transmitters CJIL-TV-1 Bow Island and CJIL-TV-2 Burmis by replacing the existing condition of licence that prohibits the broadcast of advertising with one that prohibits the broadcast of advertising material other than material that promotes religious goods and services.*

Background

1. In *New Over-the-Air Television Station Devoted to Religious Programming – Approved*, Decision CRTC 95-129, 4 April 1995 (Decision 95-129), the Commission approved an application by Victory Christian Fellowship of Lethbridge (1983) Inc., on behalf of a society subsequently incorporated as The Miracle Channel Association (Miracle Channel), for a broadcasting licence to carry on an English-language television programming undertaking at Lethbridge to broadcast religious programming. In its decision, the Commission imposed a condition of licence prohibiting the broadcast of advertising.
2. In April 2006, Miracle Channel applied for a licence amendment whereby that condition of licence would be replaced by one specifying that the licensee not broadcast advertising material other than material that promotes religious goods and services.

Interventions

3. The Commission received two interventions regarding this application, one in support of, and one opposed to, its approval. The opposing intervention was filed by Mr. Tim Thibault. In his intervention, Mr. Thibault referred to, among other things, numerous complaints that he had filed with the Commission, alleging that Miracle Channel was in contravention of its condition of licence prohibiting the broadcast of advertising. In fact, the Commission had received eight complaints from Mr. Thibault and his wife over the seven-month period that preceded the Commission's announcement of the application on 8 May 2006. Miracle Channel did not respond to Mr. Thibault's intervention.

4. An investigation of Mr. Thibault's complaints conducted prior to the Commission's announcement of this current application led Commission staff to conclude that the licensee was, indeed, in non-compliance with its condition of licence. This conclusion was conveyed to Miracle Channel on 13 February 2006. In response, the licensee stated that it always had and would continue to adhere to the commitment it gave the Commission at the June 1994 public hearing of its original licence application, namely that it would not sell commercial spots to third parties. Miracle Channel added, however, that it planned to file a licence amendment application and that, pending the Commission's consideration of that application, the licensee intended to continue to promote the sale of religious books, audio and visual recordings, and other materials over the air, as it could not continue to operate without this significant income stream.
5. The Commission subsequently informed the licensee that it could not continue to operate in violation of its condition of licence, even pending the processing of any application it might submit to amend its condition of licence. Accordingly, it directed Miracle Channel to confirm that it was in compliance with its condition of licence. On 31 March 2006, Miracle Channel confirmed to the Commission that it had taken immediate action to ensure that its promotional spots did not violate its present condition of licence and, on that basis, considering the matter to be resolved, the Commission closed all of the active complaints regarding this issue.

The application

6. In its licence amendment application, Miracle Channel argued that there was a distinction to be drawn between what it originally agreed to at the 1994 public hearing as a condition of licence and the actual wording used in the condition of licence that was subsequently imposed on CJIL-TV in Decision 95-129. In support of its position, Miracle Channel noted that the specific question asked of it by the Commission, as recorded in the transcript of the public hearing, was whether it would be "selling any... commercial spots." The licensee also noted that the transcript reflected its affirmative response to a further Commission question regarding whether it would be willing to accept a condition of licence that would prohibit it from doing so.
7. In the licensee's view, the distinction between its agreement not to sell commercial spots and its current condition of licence that it not broadcast advertising is open to interpretation. It stated that the distinction had not been an issue, despite two licence renewals, the most recent of which was for a seven-year term. It also indicated that it had structured its operation to exclude the sale of any commercial spots to third parties, but confirmed that it has been promoting the sale of religious teaching and educational material over the air.
8. The licensee argued further that the revenues associated with the sale of advertising promoting the availability of religious resource material and services are important to the continued operation of the station. It added that, since this advertising is restricted in nature and does not include the sale of commercial spots sold to third parties, it has no adverse impact on other local broadcasters. The licensee also stated that the advertising is

for products that are a staple of all religious broadcast ministries, and that it should be permitted to broadcast such advertising, as its viewers expect to be informed regarding the availability of religious goods and services and how to obtain them.

Commission's analysis and determinations

9. The Commission has taken account of the matters addressed in the complaints and in the intervention filed by Mr. Thibault. It has also considered the serious matter of Miracle Channel's failure to meet its responsibilities as a broadcasting licensee to ensure that it is in full compliance with its conditions of licence at all times. With respect to the licensee's argument that its actions have been consistent with the commitment it gave in response to Commission questioning at the June 1994 public hearing, the Commission finds that the licensee should not have interpreted its condition of licence in light of its commitment at that time, but should, instead, have applied the definition of advertising, as set out in the *Television Broadcasting Regulations, 1987*, in adhering to the condition of its licence.
10. Nevertheless, the Commission acknowledges that Miracle Channel is the only religious television licensee whose conditions of licence include a prohibition against the broadcast of advertising. The Commission also notes, to the extent that concerns regarding the potential impact of CJIL-TV's advertising activities on existing local broadcasters may have been an issue during the 1994 public hearing, that no interventions were filed by local broadcasters with respect to the present application by Miracle Channel. As the licensee argued, this would indicate that the specific and limited nature of the advertising revenues targeted by its advertising is of little or no consequence to local broadcasters.
11. For these reasons, the Commission **approves** the application, and amends the licence issued to The Miracle Channel Association for CJIL-TV Lethbridge and its transmitters CJIL-TV-1 Bow Island and CJIL-TV-2 Burmis by replacing the existing condition of licence that prohibits the broadcast of advertising with the following condition of licence:

The licensee is prohibited from broadcasting advertising material other than material that promotes religious goods and services.

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>