



Broadcasting Decision CRTC 2020-253

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Reference: Part 1 licence renewal application posted on 31 January 2020

Ottawa, 11 August 2020

The Miracle Channel Association
Lethbridge, Alberta

Public record for this application: 2019-1013-3

CJIL-DT Lethbridge – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language independent conventional television station CJIL-DT Lethbridge, Alberta, from 1 September 2020 to 31 August 2025.*

Application

1. The Commission has the authority, pursuant to section 9 of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-192, which listed the television services and stations for which the licences needed to be renewed in order to continue their operations. In that notice, the Commission requested that licensees of those services and stations submit renewal applications for their broadcasting licences.
3. In response, The Miracle Channel Association (Miracle Channel) submitted an application to renew the broadcasting licence for its English-language conventional television station CJIL-DT Lethbridge, Alberta, which expires 31 August 2020.
4. The licensee informed the Commission that it wished to delete the rebroadcasting transmitters CJIL-TV-1 Bow Island and CJIL-TV-2 Burmis from its broadcasting licence.
5. The licensee stated that it would adhere to the standard requirements for television stations set out in Appendix 1 to Broadcasting Regulatory Policy 2016-436.

Interventions

6. The Commission received an intervention in regard to the present application from the Forum for Research and Policy in Communications (FRPC). In its intervention, the FRPC submitted that the Part 1 process used by the Commission for the renewal

of the broadcasting licences for independent television stations is not appropriate given that a Part 1 proceeding does not give the public sufficient notice to consider and comment on licence renewal applications for stations in non-compliance.

7. With regards to Miracle Channel, the FRPC indicated that three of the last seven previous licence renewal proceedings disclosed non-compliance. It also suggested that Miracle Channel report on its compliance with the Commission's Public Notice 1993-78 (the Religious Broadcasting Policy). In the FRPC's view, the licence should be renewed for a short term of one year.
8. The Commission also received two interventions from individuals expressing concerns about excessive solicitation of funds on CJIL-DT.
9. Miracle Channel did not reply to the interventions.
10. The Commission notes that dealing with licence renewal applications under the Part 1 process is a long-standing practice that was first announced to the public and to the broadcasting industry in Broadcasting Information Bulletin 2015-116. Any party may comment on a Part 1 application and examine the licensee's correspondence with Commission staff regarding non-compliance. Moreover, this approach has served the Commission and the public well, as evidenced by the high level of compliance by licensees of television services.
11. In regard to interveners' concerns regarding an excessive solicitation of funds by Miracle Channel, the Commission notes that although the Religious Broadcasting Policy sets out provisions regarding the solicitation of funds (specifically, the wording of tone of any such solicitations), it does not set out any requirements relating to the amount of funding that may be solicited

Commission's analysis and decisions

12. After examining the record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
 - the licensee's apparent non-compliance relating to closed captioning;
 - the licensee's proposed Canadian programming expenditures (CPE) requirement;
 - broadcast of local programming and locally reflective news; and
 - other conditions of licence.

Apparent non-compliance relating to closed captioning

13. Among other things, section 3(1) of the Act declares that programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose (section 3(1)(p)). In accordance with this

aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence regarding the provision of closed captioning.

14. As set out in condition of licence 5 in the appendix to Broadcasting Regulatory Policy 2011-442, the licensee was required to caption 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in Broadcasting Public Notice 2007-54.
15. Based on its analysis of the program logs filed by the licensee and the results placed on the record of this proceeding, the Commission notes that this condition appears to have not been met during the 2013-2014 broadcast year. Miracle Channel indicated that this apparent non-compliance was due to the fact that certain programming was accurately closed captioned but not properly formatted for its logging equipment, thus resulting in incorrect logs. The formatting issues required coordinated efforts between the logging software programmers and the licensee to resolve, and the problem has not reoccurred. To ensure that all programming broadcast on CJIL-DT is closed captioned, Miracle Channel has put in place stricter guidelines for program formatting and purchased equipment to further enhance its closed captioning process.
16. The Commission notes that since the 2013-2014 broadcast year, there have been no further issues relating to the licensee's closed captioning requirement. Accordingly, the Commission considers that the non-compliance is not systemic and is satisfied that the licensee is operating in compliance in all other areas.
17. In light of the above, the Commission finds the licensee in compliance with this requirement and considers that no further remedial measures are required.

Canadian programming expenditures

18. Sections 3(1)(e) and 3(1)(s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing CPE requirements.
19. In Broadcasting Regulatory Policy 2015-86, the Commission announced that it would impose CPE requirements on all independent over-the-air television stations and that it would set the appropriate CPE levels at the time of licence renewal, based on historical expenditure levels.
20. The licensee proposed a CPE level of 45% of CJIL-DT's gross revenues from the previous broadcast year. Although this level is lower than what it has spent historically, the licensee stated a number of mitigating factors for the lowered

percentage proposed. In particular, Miracle Channel indicated that it is operating as a charity with approximately 30% of its revenues coming from donations and that it has experienced declining donations over the last years. In Miracle Channel's view, this situation made it difficult to predict the impact of the changes over the next five years and, therefore, it did not want to commit to the same levels of CPE for the next licence term. In addition, Miracle Channel specified that it did not have a CPE requirement in its previous licence terms and that the level proposed is consistent with similar services in comparable markets.

21. Since 2015, CJIL-DT has spent an average of 60% of its revenues from the previous broadcast year on Canadian programming. The Commission notes that CJIL-DT's revenues increased since 2016 and that this increase is attributed to the station's "other revenues", which consist of donations, rental income and broadcast airtime sales. In parallel, the revenue growth corresponds to an increase in programming, sales and promotion, as well as administrative expenses. In addition, the licensee stated that it received a large donation in the 2018-2019 broadcast year, which might not be repeated. However, despite its claims of declining donations, in its projections, the licensee indicated that it expected to maintain stable revenues through the next licence term and would like to maintain some flexibility regarding its CPE requirements.
22. The Commission notes that while the proposed CPE requirement of 45% is lower than what the station has spent historically, it remains significantly higher than the 30% CPE requirement imposed on the large English-language designated groups. Therefore, the Commission is satisfied by the licensee's proposal and considers that it will allow it flexibility while maintaining a high level of Canadian programming.
23. In light of the above, the Commission agrees with Miracle Channel's proposed CPE level of 45%. A **condition of licence** to that effect is set out in the appendix to this decision.
24. The broadcasting policy set out in section 3(1) of the Act also provides that the Canadian broadcasting system should reflect the linguistic duality of Canada and the special place of Indigenous peoples within Canadian society (section 3(1)(d)(iii)).
25. The Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples in the broadcasting system. Specifically, for each of their stations, licensees will receive a 50% credit towards its CPE requirements for expenditures on Canadian programming produced by Indigenous producers, up to a maximum (expenses plus credit) of 10% of that licensee's overall CPE requirement when combined with the credit discussed below regarding official language minority community (OLMC) reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.
26. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the broadcasting system. Consequently, each licensee will receive a 25% credit against its CPE requirements for expenditures on Canadian programming produced by OLMC producers, up to a maximum (expenses

plus credit) of 10% of that licensee's overall CPE requirement when combined with the credit discussed above regarding Indigenous reflection. Once again, only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit. Further, the OLMC producer must be an independent producer as defined by the Commission and (i) if in the province of Quebec, the original language of the production must be English or (ii) if outside of the province of Quebec, the original language of the production must be French.

27. **Conditions of licence** reflecting these determinations are set out in the appendix to this decision.

Broadcast of local programming and locally reflective news

28. In addition to the requirements to contribute to the creation and presentation of Canadian programming identified above, section 3(1) of the Act also requires programming provided by the Canadian programming system to be drawn from local, regional, national and international sources (section 3(1)(i)(ii)) as well as to be reflective of Canadian attitudes, opinions, ideas and values (section 3(1)(d)(ii)), and to serve the needs and interests, and reflect the circumstances and aspirations of all Canadians (section 3(1)(d)(iii)). In accordance with these aspects of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence regarding local programming on television stations.

29. In Broadcasting Regulatory Policy 2016-224, the Commission set out regulatory measures to ensure that Canadians continue to have access to local programming that reflects their needs and interests.

30. Specifically, the measures adopted in that policy included the following:

- requiring that local television stations maintain historical exhibition and expenditure levels for locally reflective news and information;
- commercial English-language stations would continue to be required to broadcast at least 7 hours of local programming per week in non-metropolitan markets;
- requiring that a minimum level of local programming be devoted to local news, to ensure that Canadians continue to benefit from local reflection in the form of local news; and
- requiring all licensees to broadcast a minimum level of local news and to allocate a percentage of their previous year's revenues to such programming, with the exhibition and expenditure levels to be determined at licence renewal based on historical levels.

Licensee's proposal

31. The licensee proposed to devote 7 hours per broadcast week to the broadcast of local programming. In addition, it proposed to broadcast a minimum of 7 hours of locally

reflective news in each broadcast week. It stated that the proposed number of hours of local programming is consistent with the exhibition requirement set out in Broadcasting Regulatory Policy 2016-224 for licensees operating within a non-metropolitan market.

32. The licensee initially proposed an expenditure requirement of \$812,000 per broadcast year on locally reflective news in its application. In response to the Commission's request for information, Miracle Channel submitted that it would adhere to a requirement to devote 26% of its gross revenues from the previous broadcast year, less donations, to locally reflective news. It specified that this amount is based on historical data and estimated data for the 2018-2019 broadcast year. The licensee wishes to exclude donations, as this type of revenue is subject to certain restrictions in its use, due to conditions imposed by donors.

Commission's analysis and decision

33. The Commission notes that, as set out in the standard condition of licence set out in Broadcasting Regulatory Policy 2016-224, as well as in Appendix 1 to Broadcasting Regulatory Policy 2016-436, if the licensee is operating an English-language television station in a non-metropolitan market, it shall broadcast no less than 7 hours of local programming in each broadcast week. The licensee's proposal to devote 7 hours per broadcast week to the broadcast of local programming aligns with the standard condition of licence.
34. Moreover, during the 2017-2018 broadcast year, the licensee devoted an average of 7 hours per broadcast week to locally reflective news and projected an average of 7 hours per broadcast week for the 2018-2019 broadcast year. Therefore, the Commission considers that Miracle Channel's proposal of 7 hours of locally reflective news per broadcast week is consistent with the station's historical results and consistent with the Broadcasting Regulatory Policy 2016-224. A **condition of licence** to that effect is set out in the appendix to this decision.
35. With respect to expenditure requirements on locally reflective news, the Commission considers that donations are a stream of revenues and should be included in the calculation of the locally reflective news requirements. The Commission notes that the licensee's proposal to devote 26% of its revenues from the previous year to locally reflective news, not including donations, would be equal to approximately 18% when donations are included. The licensee submitted data for revenue allocated to locally reflective news programming for the 2017-2018 and 2018-2019 broadcast years. Although the licensee submitted that it has spent 23% of the previous broadcast year's revenue towards locally reflective news for the 2017-2018 and 2018-2019 broadcast years, these numbers differ from the data contained in the station's annual returns filed with the Commission, which identified an average expenditure of 17.9%.
36. The Commission further notes that the licensee's initial proposal to devote \$812,000 to locally reflective news per broadcast year constitutes approximately 17% of its projected revenue and is consistent with its historical expenditure levels.

37. The Commission considers it appropriate to base CJIL-DT's expenditure requirement for locally reflective news on its historical expenditure level. As a result and in light of the above, the Commission imposes an expenditure requirement of 17% of the licensee's gross revenue from the previous year to locally reflective news. A **condition of licence** to that effect is set out in the appendix to this decision.

Other conditions of licence

38. The licensee proposed to maintain all other conditions of licence set out in Broadcasting Decision 2013-467 relating to religious programming. The Commission notes that these requirements align with the Religious Broadcasting Policy and therefore approves this request. **Conditions of licence** to that effect are set out in the appendix to this decision.

Conclusion

39. In light of all the above, the Commission **renews** the broadcasting licence for the English-language independent conventional television programming undertaking CJIL-DT Lethbridge, Alberta, from 1 September 2020 to 31 August 2025. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-192, 3 June 2019
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *New procedures for licence renewal applications*, Broadcasting Information Bulletin CRTC 2015-116, 31 March 2015
- *Let's Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Various independent conventional and community-based television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-467, 30 August 2013
- *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011

- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-253

Terms, conditions of licence, expectations and encouragements for the conventional television programming undertaking CJIL-DT Lethbridge, Alberta

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee shall, in each broadcast year, devote not less than 45% of the previous year's gross annual revenues of the undertaking to the acquisition of or investment in Canadian programming.
3. Subject to condition 4, the licensee may claim, in addition to its expenditures on Canadian programming:
 - a) a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;
 - b) a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:
 - i. the programming is produced in the province of Quebec and the original language of production is English; or
 - ii. the programming is produced outside the province of Quebec and the original language of production is French.
4. The licensee may claim the credits calculated in accordance with condition 3 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a combined maximum of 10% of the Canadian programming expenditure requirement for the undertaking.

5. In regard to expenditures on Canadian programming:
 - a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with condition of licence 2; in such case the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
 - b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
 - c) Notwithstanding paragraphs a) and b) above, during the licence term, the licensee shall expend on Canadian programming, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 2.
6. In the two years following the end of the licence term ending 31 August 2020, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming made by the licensee for that term.
7. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming that occurred during the licence term ending 31 August 2020.
8. In accordance with *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016, the licensee shall devote, in each broadcast year, not less than 17% of the station's previous broadcast year's gross revenues to investments in locally reflective news or on acquisition thereof.
9. In each broadcast year of the licence term, excluding the final year,
 - a) the licensee may expend an amount on locally reflective news that is up to 5% less than the minimum required expenditure for that year.
 - b) where the licensee expends an amount for that year on locally reflective news that is greater than the minimum required, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.

- c) the licensee shall ensure that the television station, during each licence term, expends on locally reflective news the total of the minimum required expenditures calculated in accordance with condition 8.
10. The licensee shall broadcast at least 7 hours of locally reflective news each broadcast week.
11. During each broadcast week, the licensee shall broadcast, at a minimum, 14 hours of programming that presents differing views on religion and matters of general concern, including four hours of such programming between 6:00 p.m. and midnight.
12. The licensee shall adhere to the guidelines on ethics and the provision of balance in religious programming as set out in sections III.B.2a) and IV of the Commission's *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993.

Definitions

For purposes of these conditions:

Broadcast day means a period of 18 consecutive hours, beginning each day at six o'clock in the morning.

"Evening broadcast period," "broadcast month" and "broadcast year" shall have the same meaning as set out in the *Television Broadcasting Regulations, 1987*.

Indigenous producer means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. In regard to the definition of "independent production company," "Canadian" includes a person who self-identifies as Indigenous and resides in Canada, whereas "Canadian company" includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

Official language minority community producer (OLMC) means a company that meets the definition of "independent production company" and that, if operating in the province of Quebec, produces original English-language programming or, if operating outside of the province of Quebec, produces original French-language programming.

Clarification for OLMC producer:

To be considered an OLMC producer in Canada, a production company must:

- a) if it produces original programs in English, have its head office in Quebec and be owned and operated by a resident of Quebec; or
- b) if it produces original programs in French, have its head office outside Quebec and be owned and operated by a resident outside of Quebec.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016