



# Broadcasting Decision CRTC 2010-641

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Route reference: 2010-334

Ottawa, 31 August 2010

**Bayshore Broadcasting Corporation**  
Owen Sound, Ontario

*Application 2010-0248-5, received 12 February 2010*

## CFOS Owen Sound – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CFOS Owen Sound from 1 September 2010 to 31 August 2014. This short-term licence renewal will enable the Commission to review, at an earlier date, the licensee's compliance with the Radio Regulations, 1986.*

*The Commission **directs** the licensee to fulfill the shortfall in its basic Canadian content development contributions for the 2009 broadcast year by no later than 60 days from the date of this decision.*

## Introduction

1. The Commission received an application by Bayshore Broadcasting Corporation (Bayshore) to renew the broadcasting licence for the English-language commercial radio programming undertaking CFOS Owen Sound, which expires 31 August 2010. The Commission did not receive any interventions in connection with this application.
2. In Broadcasting Notice of Consultation 2010-334, the Commission stated that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations), which relates to the provision of annual returns, for the 2005 broadcast year. The Commission also stated that the licensee may have failed to comply with section 15(2) of the Regulations, which relates to contributions to Canadian content development (CCD), for the 2009 broadcast year.

## Commission's analysis and determinations

3. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations relate to the following:
  - the provision of annual returns; and
  - contributions to CCD.

## Provision of annual returns

4. As set out in section 9(2) of the Regulations, licensees are required to file, before 30 November of each year, their annual return for the broadcast year ending the previous 31 August. According to the Commission's records, for the 2005 broadcast year, the licensee's annual return was filed on 20 December 2005, after the 30 November deadline.
5. When asked to comment on the matter, the licensee indicated that it could not account for the late filing of its 2005 annual return as it was delivered by its accountant's office. Bayshore provided the Commission with a letter from its chartered accounting firm which stated that, to the best of its knowledge, the annual return was completed and couriered to the Commission on 29 November 2005. As noted, the Commission's records nevertheless indicate otherwise.
6. The licensee further indicated that its General Manager will continue to have final signing authority on annual financial returns to the Commission. It added, however, that it will now submit these annual returns personally to the Commission rather than relying upon the company's chartered accountants.

## Contributions to Canadian content development

7. The Commission notes that, for the 2009 broadcast year, the licensee had a shortfall in its basic CCD contribution as prescribed under section 15 of the Regulations.
8. In a letter dated 12 March 2010, Bayshore stated that any potential shortfall may have been a result of confusion over internal accounting methods used to calculate CCD contributions under the new regime. It indicated that it has contacted Commission staff to determine an immediate course of action to rectify any shortfalls. Bayshore further indicated that it is in the process of reviewing its group-wide CCD payment schedules and that it will ensure that all CCD expenditures continue to be made within the parameters set out both in the Regulations and in Broadcasting Public Notice 2006-158.
9. Section 15 of the Regulations set out the amounts that licensees are required to contribute annually to eligible CCD initiatives. The Commission notes the measures put in place to rectify the licensee's non-compliance in this regard, and **directs** the licensee to fulfill the shortfall for the 2009 broadcast year by no later than 60 days from the date of this decision.

## Conclusion

10. In light of all of the above, in accordance with its practice regarding radio non-compliance set out in Circular No. 444, the Commission considers that a short-term renewal period for CFOS would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFOS Owen Sound from 1 September 2010 to 31 August 2014. This short-term renewal will enable the Commission to assess, at an earlier date, the licensee's compliance with the Regulations. The licence will be subject to the **conditions** set out in the appendix to this decision.

## Employment equity

11. In accordance with Public Notice 1992-59, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

### Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2010-334, 1 June 2010
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

*\* This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2010-641

### Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), in any broadcast week where at least 90% of musical selections from content category 2 (Popular Music) that it broadcasts are selections released before 1 January 1981:
  - in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
  - between 6 a.m. and 6 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee shall specify, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

For purposes of this condition, the terms “broadcast week,” “content category” and “musical selection” shall have the meaning set out in section 2 of the Regulations.