



Broadcasting Decision CRTC 2014-310

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Route reference: 2014-122

Ottawa, 10 June 2014

Bayshore Broadcasting Corporation

Owen Sound, Ontario

Application 2013-1633-1, received 15 November 2013

CFOS Owen Sound – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial AM radio station CFOS Owen Sound, Ontario, from 1 September 2014 to 31 August 2018. This short-term licence renewal will allow for an earlier review of the licensee's compliance with the Commission's regulatory requirements.*

Introduction

1. Bayshore Broadcasting Corporation (Bayshore) filed an application to renew the broadcasting licence for the English-language commercial AM radio station CFOS Owen Sound, Ontario, which expires 31 August 2014. The Commission did not receive any interventions in connection with this application.

Non-compliance

2. In Broadcasting Notice of Consultation 2014-122, the Commission stated that the licensee was in apparent non-compliance with sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations) regarding the broadcast of Canadian musical selections.
3. Sections 2.2.(8) and 2.2.(9) of the Regulations require licensees, except as otherwise provided under a condition of licence, to devote a minimum of 35% of its musical selections from content category 2 (Popular music) to Canadian selections during the broadcast week and between 6 a.m. and 6 p.m., Monday to Friday.
4. In the case of CFOS, the licensee is allowed, by condition of licence, to reduce the level of Canadian musical selections from content category 2 it broadcasts to a minimum of 30%, in any given week where at least 90% of the content category 2 musical selections broadcast are selections released before 1 January 1981. If the level of pre-1981 selections broadcast is below 90%, the licensee must then adhere to the 35% minimum set out in sections 2.2.(8) and 2.2.(9) of the Regulations.
5. The Commission's analysis of the programming broadcast during the broadcast week of 17 to 23 February 2013 revealed that the percentages of pre-1981

category 2 music broadcast was 82% for that broadcast week and 83% between 6 a.m. and 6 p.m., Monday to Friday of the same week. The station should have therefore broadcast a minimum of 35% of Canadian musical selections as required in sections 2.2(8) and 2.2(9) of the Regulations. However, the Commission's analysis revealed that 28.6% of the musical selections from content category 2 broadcast during that broadcast week were Canadian selections and 32.4% for the period between 6 a.m. to 6 p.m., Monday to Friday of the same week. This represents shortfalls of 6.4% and 2.6% respectively.

6. The licensee explained that due to internal computer calculation errors, the station did not broadcast the required 90% pre-1981 music that would have allowed it to reduce Canadian content levels to 30%, as is set out in its condition of licence. Bayshore stated that it has implemented a new monitoring regime that will ensure that Canadian content levels are measured accurately. This includes computer updates and thrice-weekly spot checks by senior programming staff. Further, Bayshore stated that it has changed its playlist in order to play more selections released after 1 January 1981 and that it now adheres to the 35% regulatory minimum for Canadian content.
7. In light of the above, the Commission finds Bayshore in non-compliance with sections 2.2(8) and 2.2(9) of the Regulations relating to the broadcast of Canadian musical selections.
8. In Broadcasting Decision 2010-641, the Commission renewed CFOS's broadcasting licence for a short term in light of the station's non-compliance with section 9(2) of the Regulations, which relates to the provision of annual returns and with section 15, which relates to Canadian content development contributions. This is therefore the second consecutive licence term in which the licensee has been found in non-compliance with regulatory requirements.

Regulatory measures

9. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.
10. The Commission notes the licensee's explanations and the measures it has put in place to address the situation of non-compliance and to ensure compliance in the future. However, given the seriousness of the non-compliance and the fact that it is a second licence term in which the licensee is in non-compliance, the Commission considers that a short-term licence renewal for CFOS is appropriate.

Conclusion

11. In light of the above, the Commission **renews** the broadcasting licence for the English-language commercial AM radio programming undertaking CFOS Owen Sound from 1 September 2014 to 31 August 2018. The licensee shall continue to adhere to the **conditions of licence** set out in Broadcasting Decision 2010-641.
12. The Commission emphasizes the importance it places on a licensee's fulfillment of the regulatory requirements. It is the licensee's responsibility to ensure that it is aware of and respects regulatory obligations at all times. The short-term renewal granted in this decision will allow for an earlier review of the licensee's compliance with the Commission's regulatory requirements.

Reminder

13. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Employment equity

14. 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 application received*, Broadcasting Notice of Consultation CRTC 2014-122, 18 March 2014
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CFOS Owen Sound – Licence renewal*, Broadcasting Decision CRTC 2010-641, 31 August 2010
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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