



Broadcasting Information Bulletin CRTC 2011-347

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Revised approach to non-compliance by radio stations

This information bulletin explains the Commission's revised approach for dealing with non-compliance by radio stations with the requirements of the Broadcasting Act, the Radio Regulations, 1986 and their conditions of licence in the context of an application for licence renewal or amendment. This information bulletin replaces Practices regarding radio non-compliance, Circular No. 444, 7 May 2001.

The Commission reminds radio station licensees that they must comply at all times with the requirements set out in the Broadcasting Act, the Radio Regulations, 1986 and their conditions of licence.

Introduction

1. The Commission's assessment of a radio licensee's compliance is based on complaints received, monitoring of programming, contributions to Canadian content development (CCD) and the filing of annual returns. The compliance record of each station during a licence term is usually reviewed when the Commission considers the renewal of the station's licence.
2. The compliance of licensees with requirements governing the filing of annual returns and CCD contributions is also reviewed when the Commission considers applications for licence amendments.

Past Commission practice under Circular No. 444

3. *Practices regarding radio non-compliance, Circular No. 444, 7 May 2001 (Circular No. 444)* provided that, when the Commission investigated instances of apparent non-compliance, it would afford each licensee the opportunity to comment in writing on its preliminary findings. The non-compliance was noted in the Notice of Consultation calling for public comment on the licence renewal of the station in question. Circular No. 444 also stated that, when a licensee was found in apparent non-compliance for the first time, the station would normally be granted a short-term licence renewal – generally for four years. Where a licensee was already operating under a short-term renewal due to non-compliance during the previous licence term and was found in apparent non-compliance during the current licence term, or where a licensee was found in apparent non-compliance twice during a single licence term, the licensee would generally be called to appear at a public hearing to discuss the problem. The Commission could then issue a mandatory order requiring full compliance and renew the licence for a maximum term of two years.

4. The Commission's general practice in considering applications for licence amendments has been to deny such applications in cases where the station was found in non-compliance.

Revised approach

5. Under its revised approach, the Commission will continue to require licensees of radio stations to comply at all times with the requirements set out in the *Broadcasting Act*, the *Radio Regulations, 1986* (the Regulations) and their conditions of licence. The Commission reminds licensees that, when applying for licence renewal or amendments, it will be their responsibility to demonstrate that they are in full compliance with their regulatory obligations and conditions of licence.
6. Licensees will continue to have the opportunity to comment in writing on the Commission's preliminary findings concerning instances of apparent non-compliance. When considering applications for licence renewal or amendments, the Commission will question the licensees on the circumstances related to the non-compliance and the action that they have taken to remedy the situation.
7. Following the public proceeding, the Commission will impose sanctions according to the nature of the non-compliance. Each instance of non-compliance will be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. For example, a licensee can expect harsher sanctions for failing to file an annual return than it would for filing a return a few weeks late. The Commission will also consider the circumstances, the arguments provided by the licensee, as well as the measures taken to rectify the situation.
8. In the case of licence renewals, possible sanctions will include the following: short-term licence renewal, imposition of conditions of licence, mandatory orders, non-renewal, suspension, or revocation of the licence. Accordingly, the sanction could be stronger than a short-term renewal for major instances of non-compliance.
9. When considering applications for licence amendments, the Commission will no longer automatically deny the amendment but will take into account the criteria set out above, i.e., the quantity, the recurrence and the seriousness of the non-compliance, as well as the relationship between the application for amendment and any instance of non-compliance. For example, the Commission could deny an application for an amendment to programming requirements by a licensee that is in non-compliance with its level of Canadian content.
10. The need to call a licensee to a public hearing will also be determined based on the circumstances and the above-mentioned criteria. It should be noted that, at any time during a licence term, the Commission can call a licensee to a hearing following a complaint received during the licence term, or on its own motion. The Commission could then impose the above-mentioned sanctions on the licensee as it deems appropriate.

11. The Commission also reminds licensees that annual returns, which are due on 30 November of each broadcast year, must be submitted in proper form and must include the necessary supporting documentation.

Additional consideration

12. The Commission notes that the notion of grading the level of seriousness of non-compliance is consistent with the eventual implementation of more relevant and timely regulatory tools related to compliance. Should there be an amendment to the *Canadian Radio-television and Telecommunications Commission Act*, the new model could be applied to possible imposition of administrative monetary penalties on undertakings found in non-compliance.

Secretary General