



Broadcasting Information Bulletin CRTC 2011-795

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Filing annual returns for radio programming undertakings

In the past, many radio station licensees have filed their annual returns late and/or with missing or inaccurate information. This has resulted in serious difficulties for the Commission in performing its timely assessment of broadcasters' Canadian content development contributions, among other things. It has also created the need for additional communication with licensees as well as the extra filing of information by licensees with the Commission. Moreover, it has led to licensees often being found in non-compliance with the Radio Regulations, 1986 (the Regulations), and/or their conditions of licence, making it necessary in certain cases for the licensees to appear before the Commission at licence renewal hearings to address their non-compliance.

In this information bulletin, for the benefit of existing and future radio station licensees, the Commission sets out the responsibilities of licensees relating to the compilation and filing of complete annual returns.

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

Introduction

1. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) provides that, on or before 30 November of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the broadcast year ending the previous 31 August.
2. The Commission requires these reports in order to review compliance by licensees of radio programming undertakings with the Regulations and with each of their stations' conditions of licence. These reports are also key components of the Commission's ongoing monitoring plan and an authoritative source of statistics on the Canadian broadcasting industry for use by all stakeholders. Therefore, timely compliance with reporting requirements not only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the radio broadcasting industry.
3. The Commission notes that these annual returns are frequently filed late with information missing, and/or cover the licensee's financial year, not the broadcast year as required by the Regulations. Further, in certain cases, annual returns submitted to the Commission have been presented either in a manner that is

incomprehensible or with many errors. The above has resulted in time consuming and costly reviews of licensees' compliance with their regulatory obligations.

4. In light of the above, in the present information bulletin, for the benefit of existing and future radio station licensees, the Commission sets out the responsibilities of licensees relating to the compilation and filing of complete annual returns.

Obtaining annual return forms

5. In January 2004, as a means of reducing the regulatory burden on the industry, the Commission introduced its web-based Data Collection System (DCS). The DCS employs a secure, encrypted connection between the entity submitting data and the Commission, thereby improving the accuracy and timeliness of the data submitted. The 2010-2011 broadcast year was the first broadcast year for which all broadcasting licensees were required to file annual returns using the DCS.
6. Each licensee that is required to submit financial data via the DCS must nominate a Response Manager within its organization. The Response Manager is the single point of contact for the Commission in managing the form completion process on behalf of the applicable licensee. Details concerning how to appoint or replace a Response Manager can be found on the [DCS page](#) on the Commission's website.
7. Licensees are notified in mid-October, via e-mail and via post mail, with instructions on how to access the DCS. They must then access the DCS to obtain the annual return forms. It is the responsibility of the licensee to ensure that the contact information on file with the Commission is up to date. If a licensee does not receive a notification via e-mail or via post mail, that licensee is nevertheless responsible for contacting the Commission to obtain further direction.

Period covered by the annual return

8. In the past, the Commission has received annual returns for yearly periods corresponding to a licensee's accounting or taxation year. The Commission notes that annual returns must cover the broadcast year, which begins on 1 September and ends on 31 August of the following calendar year, irrespective of the accounting or taxation year-end of the licensee.
9. In accordance with section 9(2) of the Regulations, annual returns for a particular broadcast year must be submitted to the Commission on or before the 30 November following that broadcast year.

Filing annual returns

10. Annual returns must be submitted for each licensed radio programming undertaking. As conditions of licence are imposed on an individual station basis, annual returns must be submitted separately for each station, thereby allowing for an accurate review of the station's compliance with its conditions of licence.

11. Annual returns are not to be submitted for a group of stations, even if the stations are accounted for as a group by the licensee, unless otherwise required by the Commission. In accordance with Broadcasting Regulatory Policy 2009-560, the Commission will identify the ownership groups that will be required to file the confidential and public aggregated annual return forms. This is a separate process from that for the submission of annual returns, which are required to be filed for each licensed undertaking.
12. For licensees that are required to file aggregate returns, the individual undertaking returns must agree in total with the aggregate. Where this is not the case, a reconciliation is required.

Forms to be submitted with the annual return

13. In addition to being required to file annual returns using the DCS, licensees are required to submit other forms as specified by the Commission.
14. The annual return forms outline specific documentation that is required, dependent on the type of undertaking and its conditions of licence. Licensees are reminded that it is their responsibility to ensure that all appropriate forms and documentation are included with the submission of their annual returns. If further clarification is required, it is the licensee's responsibility to contact the Commission to obtain further direction.

Financial statements

15. Financial statements are reports on the financial condition of an entity. These statements must be submitted with the annual return as per the requirements set out in Circular No. 404.

Canadian content development forms

16. The Canadian content development (CCD) forms, which can be accessed from the DCS, must be included with the annual return. Links between all supporting documentation and the payments made, as identified in the CCD form, should be clearly set out in the CCD summary sheet.¹ Supporting documentation must clearly indicate the name of the recipient of the CCD payment, the amount paid and the cheque and/or invoice number, and include copies of cancelled cheques or receipts, as well as documentation supporting the eligibility of the supported initiative.

¹ A summary sheet is a document that reconciles all CCD payments, including cases where a payment made by the licensee is allocated to several radio stations in order to meet the CCD obligations of those stations. If payments are being allocated to more than one station, the summary sheet should show all of the licensee's stations and the allocation of all CCD payments within the group. The summary sheet must clearly distinguish between basic CCD contributions, over-and-above CCD contributions, and tangible benefits payments. All supporting documents should be provided in such a fashion that they are easy to understand and audit.

17. If payments are made by a corporate group for undertakings that are owned by a group of licensees, the summary sheet must contain information relating to all CCD contributions (basic, over-and-above, tangible benefits) for all undertakings owned by that group of licensees.
18. In regard to eligible initiatives, the Commission specified in Broadcasting Public Notice 2006-158 (the 2006 Commercial Radio Policy) that radio station licensees should ensure that contributions are spent only on Canadian resources, with certain rare exceptions, such as foreign touring or showcasing, where the promotion of Canadian talent necessarily entails some costs incurred outside the country. Licensees are required to provide in their annual returns details about the CCD projects funded by their stations.
19. When submitting documentation for expenditures relating to organizations other than FACTOR or MUSICACTION, licensees must provide sufficient details to clearly show how a particular initiative contributes to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists, as well as how the initiative meets the criteria for an eligible initiative set out in the 2006 Commercial Radio Policy. Documentation must demonstrate the eligibility of the initiative and must directly show the desired purpose of the funds and how the funds are actually used, as well as include proof of payment.
20. As an example, supporting documentation for payments made to a music festival should include the following items to support the expenditure: a brochure from the event sponsored indicating that the event took place, a letter from the recipient organization confirming the uses of the fund, and a brief summary of how the event meets the criteria for an eligible initiative. The documentation should always include information regarding revenues generated by the event, the organization that retained the revenues, the manner in which tickets were distributed to the public, the artists that were sponsored with the funds, and proof of the licensee's independence from the recipient organization.

Failure to meet requirements relating to the filing of annual returns

21. In Broadcasting Information Bulletin 2011-347, the Commission set out its revised approach for dealing with non-compliance by radio stations with the requirements of the *Broadcasting Act*, the Regulations and radio stations' conditions of licence, in the context of an application for a licence renewal or licence amendment.
22. The failure by a licensee to meet the above-noted requirements by the required deadline may result in a situation of non-compliance. A finding of non-compliance by the Commission may result in either a denial of a requested licence amendment or the granting of a short-term licence period at the time of licence renewal. Further, a licensee may be called to a public hearing to discuss the apparent non-compliance, based on the circumstances of that apparent non-

compliance. Licensees may also be required to re-file the information in the manner and form required by the Commission.

Secretary General

Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Public disclosure of aggregate financial data for owners of large broadcasting distribution undertakings, multi-system operators and conventional television and radio ownership groups*, Broadcasting Regulatory Policy CRTC 2009-560, 4 September 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Requirements for the Filing of Financial Statements with the Broadcasting Annual Return*, Circular No. 404, 23 August 1994