



Broadcasting Public Notice CRTC 2006-143

Ottawa, 10 November 2006

Exemption order respecting certain network operations

The Commission exempts from regulation those network undertakings that provide programming originating from licensed radio or television stations, and broadcast simultaneously by one or more licensed or exempted radio stations.

Introduction

1. Section 9(4) of the *Broadcasting Act* (the Act) states:

The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

2. In *Call for comments on a proposed exemption order respecting certain network operations*, Broadcasting Public Notice CRTC 2006-40, 31 March 2006 (Public Notice 2006-40), the Commission sought comments on a proposed exemption order that would exempt from regulation network undertakings that provide programming that originates from licensed radio or television stations for simultaneous broadcast by one or more licensed or exempted radio stations.

Positions of parties

3. The Commission received one intervention from Rogers Broadcasting Ltd. supporting the proposed exemption order.
4. The Commission also received an intervention from Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) noting that the review of the commercial radio policy could change the regulatory regime applicable to radio stations and asking the Commission to cancel the present public process and to reconsider the proposed exemption order after the review of the commercial radio policy is complete. ADISQ was of the view that it was impossible to adequately evaluate the possible impact of the proposed exemption order without knowing what regulatory regime would govern the industry in the next few years.

Commission's analysis and determination

5. In *Policy regarding the use of exemption orders*, Public Notice CRTC 1996-59, 26 April 1996, the Commission stated that it would exempt persons carrying on classes of broadcasting undertakings only where it is evident that (i) the licensing and the regulation of the class of undertaking will not result in a significantly greater contribution to the Canadian broadcasting system, whether with respect to the Canadian programming carried by the undertakings of that class, or the expenditures on Canadian programming made by such undertakings and, (ii) undertakings operating under the exemption order will not have an undue impact on the ability of licensed undertakings to fulfil their regulatory requirements.
6. The Commission is of the view that both of these criteria are met in the context of the proposed network exemption order and, in particular, that the network undertakings operating under the exemption order will not have an undue impact on the ability of licensed undertakings to fulfil their regulatory requirements.
7. The Commission notes that under the proposed exemption order, the individual licensed radio stations forming part of the network would continue to be subject to the Commission's supervision and monitoring. These stations would also continue to be individually responsible for meeting the regulatory requirements, including any changes resulting from the commercial radio policy review.
8. In light of the above and pursuant to section 9(4) of the Act, the Commission exempts from regulation network undertakings that provide programming that originates from licensed radio or television stations for simultaneous broadcast by one or more licensed or exempted radio stations as proposed in Public Notice 2006-40. The exemption order is set out in the appendix to this notice.

Secretary General

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Appendix to Broadcasting Public Notice CRTC 2006-143

Exemption order respecting network operations

The Commission, pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), by this order, exempts from the requirements of Part II of the Act and any regulations made thereunder, those persons carrying on broadcasting undertakings of the class defined by the following criteria:

Purpose

The purpose of these network undertakings is to provide programming that originates from a licensed radio or television station for simultaneous broadcast by one or more licensed or exempted radio stations.

Description

1. The Commission would not be prohibited from licensing the undertaking by virtue of any direction to the Commission by the Governor in Council.
2. The undertaking meets all technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by the Department.
3. The undertaking does not involve any station operated by the Canadian Broadcasting Corporation.
4. The programming provided by the undertaking originates from a licensed radio or television station.
5. The operator of the undertaking is also the licensee of the originating radio or television station.
6. The undertaking provides programming in Canada only to licensed or exempted radio stations.
7. All stations involved in the undertaking broadcast the programming simultaneously.