



Broadcasting Information Bulletin CRTC 2010-220

Ottawa, 19 April 2010

Revised criteria for the application of the licence trafficking policy

Introduction

1. In *Diversity of Voices* – Regulatory policy, Broadcasting Public Notice CRTC 2008-4, 15 January 2008, the Commission stated that the control of a broadcasting licence was a privilege and, in order to ensure the integrity of the licensing process, it reaffirmed the need for the licence trafficking policy (the Policy). Currently, the Policy applies to any sale of a newly licensed broadcasting undertaking within the first licence term and sales of broadcasting undertakings shortly following a decision authorizing a change in effective control. The Policy provides that the Commission will examine several factors before allowing a transfer, including the extent to which a licensee has attempted to implement its authority, including financial expenditures and commitments made; whether the undertaking is being operated in accordance with its commitments and its promise of performance; and the extent to which the vendor will profit from the sale. Further, any Commission decision to allow a change in effective control is based on the resulting benefit to the Canadian broadcasting system as a whole.
2. In order to ensure greater predictability and efficiency for the broadcasting system as a whole, the Commission has established new guidelines for the types of transactions that fall within the scope of the Policy and the measures that the Policy requires of licensees. These changes to the Policy are meant to reduce the regulatory burden on both broadcasters and the Commission, while ensuring the integrity of the licensing process.

Guidelines for the application of the Policy

3. The Commission reiterates its position that the sale of a newly authorized broadcasting undertaking brings into question the basis for the Commission's original decision when the licence has been issued following a competitive process. Consequently, during the first two years following the launch of a service, any transaction involving the licence will be normally denied, except where the applicant can demonstrate the necessity of the transaction as a result of a *force majeure* event. The Commission is of the view that this approach will ensure that the community benefits from the service as approved for a period of at least two years.
4. The Commission is of the view that transactions involving a licence granted through a non-competitive process do not undermine the integrity of the licensing process since the Commission did not have to choose among competing applications when approving the original application. Consequently, any transaction involving a licence that was granted through a non-competitive process will be excluded from the application of the Policy. Similarly, any transaction involving a licence issued following a decision authorizing a change in effective control will also be excluded.

5. The Commission reminds licensees that it is their responsibility to provide the Commission with the exact date of the launch of the service. This date will allow the Commission to determine the date from which the two-year period referred to above will commence to run for that licensee.

Conclusion

6. The Commission is of the view that the revised scope and application of the Policy will have a positive impact on the Canadian broadcasting system. The Policy will decrease the regulatory burden for licensees whose licenses were not granted through a competitive process. Further, by requiring the operation of the service for a period of at least two years following the launch of the service, the Commission will continue to preserve the integrity of the licensing process while ensuring greater predictability and efficiency.

Secretary General

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