



Broadcasting Circular CRTC 2008-7

Ottawa, 21 November 2008

Information bulletin

Implementation of the Broadcasting Ownership Information Annual Filing

In this document, the Commission issues its determination on the annual filing proposal set out in Broadcasting Public Notice 2007-64 to provide greater flexibility in the filing of ownership information and documents and to ease the related administrative burden on both the broadcasters and the Commission. In keeping with its commitment to introduce new streamlining measures and to establish regular reporting mechanisms, the Commission has determined that it will proceed with the implementation of the proposed reporting mechanism in two phases, beginning with Phase I with the selected corporations listed in Appendix 1 to this circular.

The Commission wishes to reiterate that the Broadcasting Ownership Information Annual Filing is not to be viewed as an additional reporting mechanism imposed on broadcasting licensees but rather as a replacement to the systematic filing of ownership information through the application process. Once all related ownership information is filed and/or confirmed on a yearly basis, broadcasting licensees will only be required, when filing an application, to attest that such information is still accurate, thus facilitating the process related to the filing of ownership information and documents for such licensees.

Introduction

1. In early 2006, during an industry consultation initiated by the Commission, certain stakeholders expressed their concerns over the current process regarding the filing of broadcasting ownership information, which is viewed as cumbersome. Stakeholders suggested that an annual filing requirement would alleviate these concerns.
2. Accordingly, in Broadcasting Public Notice 2007-64, the Commission called for comments on its proposal to implement a Broadcasting Ownership Information Management System, now referred to as the Broadcasting Ownership Information Annual Filing (BOIAF),¹ which would contribute to the timely examination of all broadcasting applications by reducing the systematic filing and duplication of ownership information and related documents already on file with the Commission, as well as ensure regular updates of ownership information. The overall objective of the proposed BOIAF is to provide greater flexibility in the furnishing of ownership information and

¹ In Broadcasting Public Notice 2007-64, the BOIAF was referred to as the Broadcasting Ownership Information Management System (BOIMS). The name has since been changed to reflect more properly the nature of the proposal and eliminate any confusion as to its effect.

documents and to ease the administrative burden on both the broadcasters and the Commission related to the filing and the management of such items through an application process.

The current system

3. Broadcasting licensees currently have to submit the necessary ownership information and documents through an application process or pursuant to a notification requirement to ensure their compliance with the *Direction to the CRTC (Ineligibility of non-Canadians)*, SOR/97-192, dated 8 April 1997, as amended by SOR/98-1268, dated 15 July 1998, and the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*, SOR/85-627, dated 27 June 1985, as amended by SOR/97-231, dated 22 April 1997, as well as with the *Broadcasting Distribution Regulations*, the *Radio Regulations, 1986*, the *Television Broadcasting Regulations, 1987*, the *Pay Television Regulations, 1990* and the *Specialty Services Regulations, 1990* (the Regulations).
4. The Commission's current application process requires the filing of ownership details through an application for a new licence, for a licence renewal, or for a change in ownership and/or control (shares or assets) of a broadcasting undertaking. Applicants complete a shareholding table, a directors and officers table, and a control statement (ownership information), for the licensee/proposed licensee and for the shareholder corporations that form part of its ownership chain (holdings). If the ownership information is already in the Commission's records, applicants may refer to the application through which this information was last supplied and confirm that this information is still accurate. As support for the ownership information, applicants are also required to provide related corporate and ownership documents (ownership documents) that are not already on file with the Commission.
5. Once an application is published, the information filed in the context of the application becomes accessible for consultation on the Commission's website and at any of the Commission's documentation centres and offices.
6. Under the Commission's notification requirements, licensees are required, pursuant to the Regulations and the policies in place, to notify the Commission of certain ownership changes within 30 days of such changes.
7. The ownership information is registered in the Commission's Broadcasting Ownership System (BOS). The ownership structure of various licensees in the BOS is available in chart format (ownership charts) on the Commission's website.

The proposed BOIAF

8. The new BOIAF proposed by the Commission would eventually replace the current ownership filings submitted by existing broadcasting licensees with a single annual filing of ownership information and related documents. Additionally, it would provide the public and the licensees with access to an on-line ownership summary report on each

licensee and its holdings similar to what is currently available through the application process. In other words, only information that would have otherwise been made public through the application process would be part of the on-line ownership summary report. Once the proposal is fully implemented, licensees would also have access at all times to their complete ownership filing.

9. With the exception of new applicants for which the ownership information is not already in the Commission's records and of certain licensees and their holdings that would not be subject to the annual filing, applicants would no longer be required to provide ownership information for each application for a new licence or for licence renewal. Instead, applicants would be asked to confirm in their application that the ownership information on the Commission's website is accurate and up-to-date.
10. For applications concerning a change in ownership and/or control (shares or assets), applicants would only be required to file any "new" ownership information where a change is being effected. In the context of these applications, applicants would be asked to confirm that all other ownership information relating to the applicant's structure on the Commission's website is accurate and up-to-date.

Interventions

11. The Commission received a total of nine interventions in response to its public notice, three in opposition and six offering their support and/or comments. The interventions are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
12. The opposing interveners were of the view that there is no evidence that the current reporting system represents a burden or significant costs to the licensees. These interveners also submitted that the proposed mechanism would actually reduce Canadians' access to an already limited ownership information base. Finally, these interveners were concerned that the proposal could have an impact on licensees that are not filing an application during their licence term or on those requesting a change in effective control subject to the Commission's prior approval during the year, given that these licensees would still be required to file the required information at the annual set date.
13. One intervener did not agree that the entire process as proposed represents the most efficient means of reporting ownership information. It submitted that the existing information should be deemed accurate until such time as the broadcaster files another application or files changes to its ownership information. According to the intervener, the one-time filing of full ownership information should not be required. An attestation should suffice. Further, no annual report attesting the accuracy of the currently filed information should be required.
14. Other interveners provided their support for and/or comments on the proposed mechanism. They were of the view that the proposal would provide for an integration of ownership information and documents that would reduce the administrative burden of the broadcasters. They also suggested that some kind of

harmonization between filings for companies that operate both in the telecommunications and in the broadcasting fields be considered.

15. These interveners indicated that the current confidentiality procedure set out in section 20 of the *CRTC Rules of Procedure* (the Rules) and Circular No. 429 should apply and that a summary report should be made available to the public.
16. In the event of non-compliance in the filing of ownership information, the interveners suggested that incoming applications should be returned until the licensee complies with the annual filing requirement. They also suggested possible timeframes for the annual filing and indicated that a complete review of the process should be conducted within 24 months following its implementation.

Commission's analysis and determinations

17. The Commission wishes to reiterate that the BOIAF is not to be viewed as an additional reporting mechanism imposed on broadcasting licensees but rather as a replacement to the systematic filing of ownership information through the application process. As such, once all related ownership information is filed and/or confirmed on a yearly basis (refer to paragraph 9), broadcasting licensees will only be required, when filing an application, to attest that such information is still accurate, thus facilitating the process related to the filing of ownership information and documents for such licensees.
18. Licensees filing an application for authority to effect a change of ownership and/or control during a given year or filing information subject to a notification requirement will only be required to attest at the annual filing date that the ownership information is still accurate and up to date or to file "new" ownership information if minor changes have occurred since the filing through the application or notification.
19. In light of the above and in keeping with its commitment to introduce new streamlining measures and to establish regular reporting mechanisms, the Commission has determined that it will proceed with the implementation of the BOIAF. The Commission is satisfied that this mechanism will be in the public and the industry's best interest.
20. The Commission has determined that it will proceed with the implementation of the proposed reporting mechanism in two phases, beginning with Phase I over a 12-month period with the selected corporate groups listed in Appendix 1. Commission staff will offer assistance to the selected groups and will fix with them an appropriate filing date between 1 January and 31 December 2009. During the first 12 months, the Commission will monitor the process and will make adjustments where necessary. Commission staff will work diligently with the licensees to ensure a successful implementation process.

21. At the time of the first filing, Commission staff will provide the selected groups with an inventory report including a complete list of the corporate documents and ownership information available in its records for each licensee and the holdings that are part of its ownership structure. All licensees will be required to confirm or update this information. In subsequent years, licensees will be required, on a predetermined filing date (refer to paragraph 20), to either attest that the ownership information on file is still accurate or supply the necessary updates.
22. A list of items to be provided in a licensee's ownership annual filing is set out in Appendix 2 to this circular.
23. The Commission has determined that all commercial broadcasting undertakings should be subject to the BOIAF. Following the 12-month period of Phase I, the Commission will assess whether all licensees (commercial and non-commercial) should be subject to the annual filing requirement and will investigate its potential impact for the non-commercial licensees.
24. Further, in line with the convergence trend of both Telecommunications and Broadcasting, the Commission will also assess during Phase I how to best integrate the Telecom and Broadcasting ownership information requirements through the same filing process to the satisfaction of both the industry and the Commission and whether it is feasible to implement this integration at the same time as the full implementation of the BOIAF.
25. By 31 March 2010 (Phase II), all broadcasting licensees identified by the Commission will be subject to this annual filing requirement.

Ownership information summary report

26. In order to facilitate access to the ownership information on file with the Commission, as well as for public consultation purposes, the Commission will make available on its website an online ownership summary report for each licensee and its holdings once the licensee has submitted its annual ownership information. A list of the information that will be made available is set out in Appendix 3.

Confidentiality

27. Section 20 of the Rules sets out a mechanism by which applicants may request that specific information be treated as confidential. The Commission will continue to apply the same principles and procedures under the BOIAF. As is the case in an ongoing application, the onus will be on the licensee to request confidentiality for the information or material and to clearly demonstrate that the public interest will best be served by treating the information as confidential. For further information, refer to Circular No. 429.

Secretary General

Related documents

- *Call for comments on a proposed Broadcasting Ownership Information Management System*, Broadcasting Public Notice CRTC 2007-64, 15 June 2007
- *Guidelines respecting the confidential treatment of annual returns and material or information filed in support of a broadcasting application before the Commission*, Circular No. 429, 19 August 1998

This document is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.

Appendix 1 to Broadcasting Circular CRTC 2008-7

List of the corporate groups that have been selected to be part of Phase I

- Astral Media
- BCE
- Canadian Broadcasting Corporation
- Canwest Media
- Corus Entertainment
- CTVglobemedia
- Eastlink
- Evanov
- Jim Pattison
- MTS Allstream
- Newcap
- Quebecor Media
- RNC Media
- Rogers Communications
- Shaw Communications

Appendix 2 to Broadcasting Circular CRTC 2008-7

Information and documents to be addressed by licensees at the time of their annual reporting, either by a confirmation statement or through an update of the information

- the share structure and shareholding details for the licensee and each entity that is part of its ownership structure, including any entity holding, alone, or together with an associate,² 10% or more of the voting interest of:
 - the licensee;
 - the licensee's parent corporation; and
 - all other entities that form part of the licensee's ownership structure
- a complete list of the directors/officers for each of the above-mentioned entities
- citizenship and complete home address of each shareholder, director or officer
- corporate and ownership documents – including, for example, any new documents that amend the authorized capital of a corporation, a new by-law, or a revised or amended voting trust or shareholders agreement – that are not already on file with the Commission
- a control statement

² Associate: as defined in the *Broadcasting Distribution Regulations*, section 4(1); the *Radio Regulations*, 1986, section 11(1); the *Specialty Services Regulations*, section 10(1); the *Pay Television Regulations*, section 6(1); and the *Television Broadcasting Regulations*, section 14(1).

Appendix 3 to Broadcasting Circular CRTC 2008-7

List of information that will be part of the online ownership summary report available on the Commission's website for consultation

- Name of the company/partnership
- Authorized capital structure: class of shares/units, voting rights, participating privileges, number authorized, number issued
- Shareholding Table: each shareholder's name, number of shares/units held by class of shares/units, percentage of voting rights held
- Board of Directors/Management Committee Table: each Director's name and position
- Identification of individuals' citizenship and residency (Canadian or non-Canadian)
- Control Determination
- Voting Structure
- Date the information was fully completed
- Date the next report is expected