



Broadcasting Circular CRTC 2008-8

Ottawa, 21 November 2008

Information bulletin

A guide to the CRTC application process for changes in effective control and certain transfers of shares of broadcasting undertakings as well as for the acquisition of assets of broadcasting undertakings

In this circular, the Commission sets out the criteria by which it determines the most appropriate route to process transactions that give rise to a change in effective control or that involve a transfer of shares that must be approved by the Commission. The Commission also sets out the criteria that it uses to determine the most appropriate public process related to transactions resulting in an acquisition of assets.

Introduction

1. There are a number of processes available to the Commission to deal with applications for changes in effective control or certain transfers of shares of broadcasting undertakings and for applications resulting in an acquisition of assets. However, the basis on which the Commission determines which process is most appropriate is not always clear to the industry or the general public.
2. In making determinations on the best processing route for any application, the Commission's objective is to ensure fairness and transparency at all times while dealing with applications in the most efficient and timely manner.
3. The Commission is always concerned with changes in the effective control of broadcasting undertakings and, as such, has the discretion to decide for any application the route that will best serve the public interest.
4. In this circular, the Commission sets out the criteria for processing applications for changes in effective control or certain transfers of shares and for applications resulting in an acquisition of assets.
5. This circular should be read in conjunction with Broadcasting Circulars 2006-1 and 2007-4.

Processing guidelines for applications

Share transfers

6. The processing routes for applications for changes in effective control or certain transfers of shares of broadcasting undertakings (share transfer applications) are:

- the administrative route;
- the public notice route; and
- the public hearing route.

7. These processes apply to transactions that are described in section 11(4) of the *Radio Regulations, 1986*; section 14(4) of the *Television Broadcasting Regulations, 1987*; section 10(4) of the *Specialty Services Regulations, 1990*; section 6(4) of the *Pay Television Regulations, 1990* and section 4(4) of the *Broadcasting Distribution Regulations*.

8. As a general rule, the Commission undertakes to process share transfer applications as set out below.

Administrative route

9. Share transfer applications will be reviewed using the administrative route where:

a) the application meets one of the following criteria:

- it involves an intra-corporate reorganization;
- effective control of the licence is passed between family members or to a family estate;
- effective control is subject to a temporary trust arrangement; or
- there is no change in effective control.

OR

b) the application falls below one of the following quantitative thresholds:

- **Radio:** The value of the transaction, as determined by the Commission, is less than \$15 million per station;
- **Broadcasting Distribution Undertakings:** the change in control involves a single system or a group of systems serving fewer than 100,000 subscribers in total;
- **Conventional television stations:** the value of the transaction, as determined by the Commission, is less than \$30 million per station; or
- **Discretionary television services:** the value of the transaction, as determined by the Commission, is less than \$15 million per service.

AND

- c) the application does not raise any concerns with respect to Commission policies or regulations, including conditions of licence.

Public Notice route

- 10. Share transfer applications will be reviewed using the public notice route where the application:
 - a) does not meet the requirements to be reviewed using the administrative route; or
 - b) the importance of the transaction is such that, in the Commission's opinion, it warrants the issuance of a public notice.

Public Hearing route

- 11. Share transfer applications will be reviewed using the public hearing route where the application:
 - a) has been dealt with via public notice and generates interventions that raise substantive concerns as determined by the Commission and which warrant further discussion in an oral public hearing; or
 - b) the importance of the transaction is such that, in the Commission's opinion, it warrants further discussion in an oral public hearing.

Acquisition of assets

- 12. A transaction resulting in an acquisition of assets requires the issuance of a new licence. Section 18 of the *Broadcasting Act* requires that such an application be considered at a public hearing.
- 13. Applications for acquisition of assets will generally be reviewed as *non-appearing items* where:
 - a) the application would be reviewed using the administrative route if it were a share transfer; or
 - b) no interventions are received or, if received, do not, in the Commission's opinion, warrant further discussion in an oral public hearing.
- 14. However, consistent with its approach for share transfer applications, the Commission may determine that such an application be scheduled as an appearing item if the importance of the transaction so warrants.

Conclusion

15. The procedures set out above are designed to ensure that the Commission's processes are conducted with fairness, transparency, predictability and timeliness. The procedures apply equally to all parties and opportunities are provided for all those interested to comment to ensure fairness. Applications, related correspondence, interventions, notices and decisions are all made public in order to ensure transparency, subject to the confidentiality exceptions set out in the *CRTC Rules of Procedure*. The Commission reminds applicants that they should submit replies to interventions to their applications.
16. The *CRTC Rules of Procedure*, the Commission's regulations, and its various policy statements and decisions allow the regulated industries to predict and anticipate the issues that must be addressed in their applications and to know what is required of them as broadcasting licensees. This will also assist the Commission in dealing with applications in a timely manner. Finally, these procedures are designed to ensure that the Commission is in a position to regulate and supervise the Canadian broadcasting system in a manner that serves to implement the broadcasting policy for Canada set out in the *Broadcasting Act*.

Secretary General

Related documents

- *Diversity of voices* – Regulatory policy, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *A guide to the CRTC processes for broadcasting applications and policy reviews*; Broadcasting Circular CRTC 2007-4, 7 June 2007
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Streamlined processes for certain broadcasting applications*, Broadcasting Circular CRTC 2006-1, 27 March 2006

- *Application of the Benefits Test at the Time of Transfers of Ownership or Control of Broadcasting Undertakings*, Public Notice CRTC 1993-68, 26 May 1993

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<http://www.crtc.gc.ca>.