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Client Procedures Circular

Canadian Ownership and Control

Note: Appendix A was corrected in February 2010 to reflect the definition of radiocommunication carrier contained in the *Radiocommunication Regulations*.

Preface

Client Procedures Circulars describe the various procedures or processes to be followed by the public when dealing with Industry Canada. The information contained in these circulars is subject to change without notice. It is therefore suggested that interested persons consult the nearest district office of Industry Canada for additional details. While every reasonable effort has been made to ensure accuracy, no warranty is expressed or implied. As well, these circulars have no status in law.

Comments and suggestions may be directed to the following address:

Industry Canada
Radiocommunications and
Broadcasting Regulatory Branch
300 Slater Street
Ottawa, Ontario
K1A 0C8

Attention: DOSP

E-mail: spectrum_pubs@ic.gc.ca

All Spectrum Management and Telecommunications publications are available on the following website: <http://strategis.gc.ca/spectrum>.

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1. Principle

The Minister of Industry, through the *Department of Industry Act*, the *Radiocommunication Act* and the *Radiocommunication Regulations*, with due regard to the objectives of the *Telecommunications Act*, is responsible for spectrum management in Canada. As such, the Minister oversees the development of national policies and goals for spectrum resource use and ensures effective management of the radio frequency spectrum.

It is a regulatory requirement that radiocommunication carriers be Canadian-owned and controlled.

2. Mandate

Section 5 of the *Radiocommunication Act*¹ (the Act) states that the Minister may issue radio licences in respect of radio apparatus and spectrum licences in respect of the utilization of specified radio frequencies within a defined geographical area. The Minister of Industry in exercising these powers may have regard to the objectives of the Canadian telecommunications policy set out at section 7 of the *Telecommunications Act*.² Further, when exercising this authority the Minister is subject to the regulations made by the Governor in Council under section 6 of the Act.³

The Governor in Council has made regulations prescribing the eligibility of persons to whom radio licences may be issued as radiocommunication users or radiocommunication service providers (subsection 9(1) of the *Radiocommunication Regulations*⁴, hereafter referred to as the Regulations). The Regulations also prescribe the eligibility of persons to whom radio licences may be issued as radiocommunication carriers, including Canadian ownership and control of a corporation, and the citizenship or permanent residence status and residence requirements of an individual.⁵ These eligibility criteria are prescribed under section 10 of the Regulations and refer to certain definitions found at section 2 of the *Canadian Telecommunications Common Carrier Ownership and Control Regulations* (CTCCOCR).⁶

3. Intent

This document has been developed to provide general information on elements commonly considered in an ownership and control reviews conducted by Industry Canada. An assessment of compliance with eligibility requirements by a radiocommunication carrier is carried out on a case-by-case basis, as each situation is unique and raises particular issues and concerns.

Entities operating as radiocommunication users or radiocommunication service providers are not subject to Canadian ownership and control requirements but they must comply on an ongoing basis with the eligibility criteria outlined in subsection 9(1) of the Regulations.⁷

4. Policy

The Regulations establish Canadian ownership and control requirements for applicants applying for radio licences to operate as radiocommunication carriers. These requirements also apply by policy to those applicants applying for spectrum licences so that they may operate as radiocommunication carriers.

Section 10.1 of the Regulations⁸ specifies that Canadian ownership and control requirements do not apply to radiocommunication carriers that only operate earth stations.

Examples showing different types of licensees are provided in Appendix A.

5. Compliance with the Canadian Ownership and Control Requirements

It is the responsibility of applicants to demonstrate that they are eligible to hold a licence and it is the responsibility of licensees to maintain that eligibility on an ongoing basis. Licensees are also responsible for notifying the Minister of any changes which would have a material effect on their ownership or control. The Department of Industry does not provide legal guidance with respect to compliance with the ownership and control requirements set out in the Regulations. However, in the course of an assessment, the Department will identify any missing information, areas of concerns or issues pertaining to Canadian ownership and control and will provide a reasonable opportunity to resolve issues and bring ownership and control structures into compliance. However, should it be determined that an applicant or licensee is not in compliance with the requirements and, as such, not eligible to hold a licence, a licence will not be issued or may be suspended or revoked under the authority of the Act.

Situations may arise where there is doubt that an applicant, or a licensee who has been issued a radio licence or a spectrum licence as a radiocommunication carrier, meets the Canadian ownership and control requirements. Under such circumstances, the Department may initiate a review to assess compliance and proceed as discussed above.

In the ownership and control review of a corporation, Industry Canada will examine the corporate documentation and the relevant agreements of the corporation itself as well as those of its Canadian parent corporations or entities. The documentation typically requested from an applicant for a review is listed in Appendix B. It is understood that these documents may not be those that are executed, as they may need to be finalized during the course of the review or amendments may be required to bring the ownership and control structure into compliance. However, prior to issuing a licence, the Department will need to review the final executed corporate documentation and agreements.

6. Determining Canadian Ownership and Control

The determination of the Canadian ownership and control is comprised of a number of objective elements. In the case of a corporation, an assessment will require a review of the following elements of the applicant's corporate structure:

- Is it incorporated or continued under the laws of Canada or a province?
- Are no less than 80% of the members of the board of directors of the corporation individual Canadians?
- Are no less than 80% of “voting shares” (defined in section 2 of the CTCCOCR) beneficially owned, directly or indirectly, by Canadians?

Canadian owners may be individuals, qualified corporations or any entities listed in the definition of “Canadian” in section 2 of the CTCCOCR.⁹ It is important for an applicant to consider that owners have criteria of their own to meet in accordance with the Regulations and the definitions found at section 2 of the CTCCOCR (see, for example, the definition of a qualified corporation, a qualified trust or a qualified partnership¹⁰).

If the corporations and entities of the corporate structure do not meet the criteria, the applicant must undertake the necessary steps or changes to bring the ownership structure into compliance with the regulatory requirements.

In the case of an individual, Industry Canada reviews whether the individual is:

- a citizen within the meaning of subsection 2(1) of the *Citizenship Act*¹¹ who is ordinarily resident in Canada; or
- a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*¹² who is ordinarily resident in Canada, and who has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship.

7. Control in Fact

As part of a review, the Department will consider whether *control in any manner results in control in fact, whether directly through the ownership of securities or indirectly through a trust, agreement or arrangement, the ownership of any body corporate or otherwise*.¹³ An assessment of control in fact of an applicant is a complex matter. It is done against the general test of whether it “...is not otherwise controlled by persons that are not Canadians”.¹⁴ One often cited decision states:

“There is no one standard definition of control in fact but generally, it can be viewed as the ongoing power or ability, whether exercised or not, to determine or decide the strategic decision-making activities of an enterprise. It can also be viewed as the ability to manage and run the day-to-day operations of an enterprise. Minority shareholders and their designated directors normally have the ability to influence a company as do others such as bankers and employees. The influence, which can be exercised either positively or negatively by way of veto rights, needs to be dominant or determining, however, for it to translate into control in fact”.¹⁵

Therefore, the determination of control in fact is based on the particular facts of each case.¹⁶ The approach the Department takes is to examine the documentation submitted by the applicant to ascertain if there are elements that, when considered as part of the whole structure, would indicate control in fact by non-Canadians or provide non-Canadians with the ability to exercise control. The review considers, but is not restricted to, the following elements:

- The percentage of share holdings held by Canadians and non-Canadians;
- The rights of Canadians and non-Canadians in shareholders' agreements, including dividend rights, veto rights and the process and right to elect directors;
- The experience and strength of the shareholders and directors, their relationship;
- Board governance that is independent of non-Canadians, including composition of the board and board committees, quorum requirements and scope of authority;
- Nationality, selection and responsibilities of members of the senior management;
- The scope and exclusivity of management and services agreements;
- Source of debt and equity financing.

If the Department concludes that the applicant meets the Canadian ownership and control requirements, it will be eligible to hold a licence as a radiocommunication carrier. If not, then the applicant must take the necessary steps and bring the necessary changes to the corporate structure to comply with the requirements in order to be eligible to hold a licence as a radiocommunication carrier.

8. Telecommunications Act¹⁷ and Canadian Ownership and Control

The Regulations provide that a corporation is eligible to be licensed as a radiocommunication carrier if it is:

“a Canadian carrier that meets the eligibility criteria set out in subsection 16(1) or (2) of the *Telecommunications Act*, whether or not the carrier is exempt from the application of that Act or that Act does not otherwise apply to the corporation”.¹⁸

Applicants are reminded that the CRTC has its own mandate under the *Telecommunications Act* in relation to Canadian ownership and control requirements for Canadian carriers.

9. Contact

All questions concerning Canadian ownership and control should be directed to the office of:

Manager, Wireless Networks
Spectrum Management Operations
Industry Canada
300 Slater Street
Ottawa, Ontario
K1A 0C8

Appendix A – Examples of Types of Licensees

A *radiocommunication carrier* is defined in the *Radiocommunication Regulations* as “a person who operates an interconnected radio-based transmission facility used by that person or another person to provide radiocommunication services for compensation.” This means that any radio apparatus in the facility may be used for the transmission or reception of intelligence to or from anywhere on a public switched network (PSN).

Example 1:

Cellular Radio Telephone Licensees

The radio apparatus in the facility of a cellular radio telephone licensee may be used for the transmission or reception of intelligence to or from anywhere on a PSN. The operators of such facilities are therefore considered radiocommunication carriers.

Example 2:

Dispatch Licensees

The radio apparatus in the facility of dispatch radio systems may allow for the transmission or reception of intelligence to or from anywhere on a PSN. The operators who have an interconnected radio-based transmission facility are therefore considered radiocommunication carriers. Operators who do not allow for this capability are considered radiocommunication service providers.

Example 3:

Security Alarm and Data Type Radiocommunication Service Provider Licensees

These radio systems are interconnected to a central controller through a PSN by using radio linking or wireline facilities. Generally speaking, access to a PSN is used only to facilitate message routing and is available only to the master station. Therefore, such systems are not normally interconnected radio-based transmission facilities, as subscriber access to a PSN is available on a restrictive basis. Operators of such facilities are considered radiocommunication service providers and not radiocommunication carriers.

Example 4:

Paging Radiocommunication Service Provider Licensees

Traditional paging systems with operator interface do not allow subscriber dial-up access to or from anywhere on a PSN. Operators of such facilities are considered radiocommunication service providers and not radiocommunication carriers. Enhanced paging systems allowing dial-up access by the public through a PSN are interconnected radio-based transmission facilities and their operators are considered radiocommunication carriers.

Appendix B – Information Requested Relating to Ownership and Control

1. General

- 1.1 A narrative and a chart explaining the corporation's Canadian ownership and control structure.

2. Incorporation Documents

- 2.1 The incorporating documents, including any by-laws, addendums and appendices.
- 2.2 All agreements between or among any operating corporation, holding corporation and any other affiliated corporation related to the governance or management of these corporations.

3. Shareholdings

- 3.1 Certified copies of the current Register of Shareholders, for all classes and series of shares, stating the citizenship and ordinary residency of each shareholder, for the corporation and holding corporation(s).
- 3.2 The details of the rights, privileges, restrictions and conditions of each class of shares for the corporation and any related holding corporation.
- 3.3 For each shareholder who is an individual and identified as "Canadian" (as defined in the *Canadian Telecommunications Common Carrier Ownership and Control Regulations*), an affidavit (oath) or statutory declaration (solemn declaration), taken before a commissioner or other person authorized to take affidavits attesting to each shareholder's citizenship or permanent residence and ordinary residence in Canada. Alternatively, a letter from a member in good standing with a Bar of one of the provinces or territories or the Order of Notaries of the Province of Quebec confirming that the member has examined the appropriate documentation and is satisfied that the individual meets the definition of Canadian (as defined in the *Canadian Telecommunications Common Carrier Ownership and Control Regulations*).
- 3.4 For each shareholder who is an entity listed in the definition of "Canadian" in section 2 of the CTCCOCR (e.g. a "qualified corporation" or a "qualified trust", documentation demonstrating that the entity is qualified under the relevant definition of the CTCCOCR, including with respect to beneficial ownership and control).
- 3.5 Any other document identifying the details of the beneficial ownership by Canadians, and by non-Canadians, of each class of shares for the corporation and any related holding corporation.
- 3.6 However, where shares of the corporation are widely held, and where the Register or the books or records of the corporation include the address of each registered shareholder (other than a depositary or intermediary), a certified copy of the register or records will be sufficient.
- 3.7 Copies of all shareholder or partnership agreements for the corporation and any related holding corporation.

4. Directors

- 4.1 Certified copies of the current Register of Directors for the corporation and any related holding corporation, indicating citizenship and ordinary residency.
- 4.2 If there is a relationship between a director and a non-Canadian shareholder, information regarding the nature of that relationship (e.g. employee, officer, director, shareholder, significant contract; or spouse of employee, officer, director, shareholder).
- 4.3 The details of any agreements or arrangements related to the nomination, designation or election of directors of the corporation and any related holding corporation.
- 4.4 An affidavit or statutory declaration, taken before a commissioner or other person authorized to take affidavits attesting to each director's citizenship or permanent residence and ordinary residence in Canada. Alternatively, a letter from a member in good standing with the Bar of one of the provinces or territories or the Order of Notaries of the Province of Quebec confirming that the member has examined the appropriate documentation and is satisfied that the individual meets the definition of Canadian (as defined in the CTCCOCR).

5. Officers

- 5.1 The name and citizenship of each officer, and office held, of each officer of the corporation and any related holding corporation, and the details of any relationship between the officers and non-Canadian shareholders.
- 5.2 The details of any agreements or arrangements related to the appointment of officers of the corporation and any related holding corporation.

6. Financing

- 6.1 The complete details of the financial structure of the corporation and any related holding corporation, including the source of debt and equity financing. This includes details on the share structure, sources' of financing (banks, shareholders, passive investors, etc.), and copies of any agreement related to current or future Canadian or non-Canadian equity (voting and non-voting).

7. Agreements

- 7.1 Copies of any agreements or covenants between the corporation and any non-Canadian shareholder partner or affiliate. This includes agreements or arrangements for the provision of management services, licensing agreements, or instruments granting current or future rights in the corporation's radiocommunication operations and assets.
- 7.2 The details of any other agreement or arrangement that may relate to control in fact of the corporation or any related holding corporation.

Endnotes

¹ ***Radiocommunication Act, R.S.C., 1985, c. R-2, as amended***
(<http://laws.justice.gc.ca/en/R-2/index.html>)

- 5.(1) Subject to any regulations made under section 6, the Minister may, taking into account all matters that the Minister considers relevant for ensuring the orderly establishment or modification of radio stations and the orderly development and efficient operation of radiocommunication in Canada,
- (a) issue
- (i) radio licences in respect of radio apparatus,
- (i.1) spectrum licences in respect of the utilization of specified radio frequencies within a defined geographic area.
- 5.(1.1) In exercising the powers conferred by subsection (1), the Minister may have regard to the objectives of the Canadian telecommunications policy set out in section 7 of the Telecommunications Act.

² ***Telecommunications Act (1993, c. 38), as amended***
(<http://laws.justice.gc.ca/en/T-3.4/>)

Canadian Telecommunications Policy

Objectives

- 7.** It is hereby affirmed that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty and that the Canadian telecommunications policy has as its objectives
- (a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
- (b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;
- (c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;
- (d) to promote the ownership and control of Canadian carriers by Canadians;
- (e) to promote the use of Canadian transmission facilities for telecommunications within Canada and between Canada and points outside Canada;
- (f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;
- (g) to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services;
- (h) to respond to the economic and social requirements of users of telecommunications services; and
- (i) to contribute to the protection of the privacy of persons.

³ ***Radiocommunication Act, R.S.C., 1985, c. R-2, as amended***

6. (1) The Governor in Council may make regulations

- (b) prescribing the eligibility of persons to whom radio authorizations, or any class thereof, may be issued, including eligibility criteria based on
 - (i) in the case of an individual, citizenship or permanent residence, or
 - (ii) in the case of a corporation, residence, ownership or control of the corporation, and the citizenship or permanent residence status of the directors and officers of the corporation.

⁴ ***Radiocommunication Regulations***

<http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01265e.html>

9. (1) The following persons are eligible to be issued radio licences as radiocommunication users or radiocommunication service providers other than radiocommunication carriers in all services except the amateur radio service:

- (a) an individual who is
 - (i) a citizen within the meaning of subsection 2(1) of the *Citizenship Act*,
 - (ii) a permanent resident within the meaning of subsection 2(1) of the *Immigration Act*,
or
 - (iii) a non-resident who has been issued an employment authorization under the *Immigration Act*;
- (b) a corporation that is incorporated or continued under the laws of Canada or a province;
- (c) a partnership or joint venture where each partner or co-venturer is eligible to be issued a radio licence under this subsection;
- (d) a Canadian government, whether federal, provincial or local, or an agency thereof;
- (e) the Government of a country other than Canada, which is a signatory to the *Vienna Convention on Diplomatic Relations*, done at Vienna, April 18, 1961;
- (f) any person who is the registered owner of an aircraft that is registered in Canada, for the establishment and operation of a station on board the aircraft;
- (g) any person who is the registered or licensed owner of a ship or vessel that is registered under the *Canada Shipping Act* or licensed under the *Coasting Trade Act*, for the establishment and operation of a station on board the ship or vessel; and
- (h) any person who is a resident of a country other than Canada, who
 - (i) seeks to establish and operate a radio station designed for interconnection with a public switched network, or
 - (ii) requires a radio licence for radio apparatus used for a special event of a limited duration.

⁵ ***Radiocommunication Regulations***

10.(1) For purposes of this section, “Canadian” has the same meaning as in the *Canadian Telecommunications Common Carrier Ownership and Control Regulations*; “Canadian-owned and controlled” means, in respect of a corporation, that

- (a) not less than 80 per cent of the members of the board of directors of the corporation are individual Canadians,
- (b) Canadians beneficially own, directly or indirectly, in the aggregate and otherwise than by way of security only, not less than 80 per cent of the corporation’s voting shares issued and outstanding, and
- (c) the corporation is not otherwise controlled by persons who are not Canadians;

“control” means control in any manner that results in control in fact, whether directly through the ownership of securities or indirectly through a trust, agreement or arrangement, the ownership of any body corporate or otherwise;

“voting share” has the same meaning as in the *Canadian Telecommunications Common Carrier Ownership and Control Regulations*.

(2) The following persons or entities are eligible to be issued radio licences as radiocommunication carriers:

- (a) an individual who is
 - (i) a citizen within the meaning of subsection 2(1) of the *Citizenship Act* who is ordinarily resident in Canada, or
 - (ii) a permanent resident within the meaning of subsection 2(1) of the *Immigration Act* who is ordinarily resident in Canada, and who has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship;
- (b) a partnership or joint venture where each partner or co-venturer is eligible to be issued a radio licence under this subsection;
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof; and
- (d) a corporation that is
 - (i) Canadian-owned and controlled and is incorporated or continued under the laws of Canada or a province, or
 - (ii) a Canadian carrier that meets the eligibility criteria set out in subsection 16(1) or (2) of the *Telecommunications Act*, whether or not the carrier is exempt from the application of that Act or that Act does not otherwise apply to the corporation.

⁶ ***Canadian Telecommunications Common Carrier Ownership and Control Regulations***
(<http://laws.justice.gc.ca/en/T-3.4/SOR-94-667/index.html>)

“Canadian” means

- (a) a citizen within the meaning of subsection 2(1) of the *Citizenship Act* who is ordinarily resident in Canada,

- (b) a permanent resident within the meaning of subsection 2(1) of the *Immigration Act* who is ordinarily resident in Canada, and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship,
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof,
- (d) a corporation without share capital, where a majority of its directors or officers, as the case may be, are appointed or designated, either by their personal names or by their names of office, by one or more of
 - (i) a federal or provincial statute or regulations made under a federal or provincial statute,
 - (ii) the Governor in Council or the lieutenant governor in Council of a province, or
 - (iii) a minister of the Crown in right of Canada or of a province,
- (e) a qualified corporation,
- (f) a qualified trust,
- (g) a qualified mutual insurance company,
- (h) a qualified partnership, or
- (i) a qualified pension fund society.

“non-Canadian” means a person or entity that is not a Canadian;

“qualified corporation” means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66 2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians;

“voting share” means a share of any class of shares of a corporation carrying voting rights under all circumstances or by reason of an event that has occurred and is continuing or by reason of a condition that has been fulfilled, and includes

- (a) a security that is convertible into such a share at the time a calculation of the percentage of shares owned and controlled by Canadians is made, and
- (b) an option or a right to acquire such a share, or the security referred to in paragraph (a), that is exercisable at the time the calculation referred to in that paragraph is made.

⁷ Ibid 4.

⁸ Ibid 5.

⁹ Ibid 6.

¹⁰ Qualified corporation as defined under the *Canadian Telecommunications Common Carrier Ownership and Control Regulations* means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66 2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians.

¹¹ *Citizenship Act* (R.S., 1985, c. C-29), as amended

(<http://laws.justice.gc.ca/en/showdoc/cs/C-29/index.html>)

2.(1) In this Act,
...“citizen” means a Canadian citizen...

¹² ***Immigration and Refugee Protection Act (2001, c. 27)***, as amended

(<http://laws.justice.gc.ca/en/showdoc/cs/I-2.5/index.html>)

2.(1) The definitions in this subsection apply in this Act.
...“permanent resident” means a person who has acquired permanent resident status and has not subsequently lost that status under section 46....

¹³ See definition of “control” in Endnote 5 (*Radiocommunication Regulations* s.10(1)).

¹⁴ *Ibid* 5.

¹⁵ National Transportation Agency, Decision No.297-A-1993, Proposed Acquisition of an Interest in Canadian Airlines International Ltd. by Aurora Investments, Inc. and proposed Acquisition of an Interest in Air Atlantic Ltd., Calm Air International Ltd. and Inter-Canadian (1991) Inc. by Canadian International Ltd., File Nos. D-2715-1 and D-2715-2.

¹⁶ See the Determination of the Canadian Radio-television and Telecommunications Commission, in the Matter of Unitel’s Eligibility to Operate in Canada as a Telecommunications Common Carrier Pursuant to Section 16 of the *Telecommunications Act*, October 16, 1996.

¹⁷ *Telecommunications Act*, S.C., 1993, c.38, as amended

(<http://laws.justice.gc.ca/en/T-3.4/index.html>)

16.(1) A Canadian carrier is eligible to operate as a telecommunications common carrier if it is a Canadian-owned and controlled corporation incorporated or continued under the laws of Canada or a province.

(2) A Canadian carrier other than a corporation described in subsection (1) is eligible to operate as a telecommunications common carrier if it is a corporation incorporated or continued under the laws of Canada or a province and the following conditions are met:

- (a) the corporation was acting, or is a successor to a person that was acting, as a telecommunications common carrier in Canada on July 22, 1987, whether or not the telecommunications operations of the corporation or the person it succeeded were regulated under any Act of Parliament on that day;
- (b) the telecommunications operations on July 22, 1987 of the corporation or the person it succeeded have been continued substantially without interruption since that day by that person, if any, and the corporation;
- (c) the corporation and the person it succeeded, if any, satisfied the prescribed criteria respecting continuous ownership and control by Canadians since July 22, 1987; and

(d) the corporation and the person it succeeded, if any, have operated as a telecommunications common carrier only in the territory in which the corporation or that person operated as such on July 22, 1987, or in such greater territory and in such manner as is specified by the Minister.

(3) For the purposes of subsection (1), a corporation is Canadian-owned and controlled if

- (a) not less than eighty per cent of the members of the board of directors of the corporation are individual Canadians;
- (b) Canadians beneficially own, directly or indirectly, in the aggregate and otherwise than by way of security only, not less than eighty per cent of the corporation's voting shares issued and outstanding; and
- (c) the corporation is not otherwise controlled by persons that are not Canadians.

(4) No Canadian carrier shall operate as a telecommunications common carrier unless it is eligible under this section to operate as such.

¹⁸ Ibid 5.