[GB] High Court Confirms Radio Authority Interpretation of Control in Limits on Licence Holding

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The High Court has confirmed the interpretation adopted by the Radio Authority of the concept of control in the legal provisions limiting the multiple holding of radio licences in the UK. The law is extremely complex, but to summarise, the Broadcasting Act 1990 and the Broadcasting (Restriction of the Holding of Licences) Order 1991 prohibit the holding of more than six such licences. In order to avoid the effect of this section, a company made arrangements to create a new company to hold licences on its behalf; shares would be owned equally in it by the first company and its bankers; the first company would not then control it. The Radio Authority approved the arrangment, but its decision was challenged in court by other shareholders.

The court upheld the decision of the authority on the ground that there was material before the Authority suggesting that it was legally permissible to conclude that the first company would not be able to exercise control. The approach adopted confirms the position taken earlier in R v Independent Television Commission ex parte TSW Broadcasting, (1992) Times, 30 March, HL, in which the House of Lords was reluctant to consider the merits of decisions by the broadcasting regulators, and suggests that challenge will only be successful in cases of unreasonableness or failure to take into account relevant considerations.

R v Radio Authority, ex parte Guardian Media Group plc, [1995] 2 All ER 139 (QBD).

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