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Caveat Emptor: Before Buying, Don’t Forget To Take A Good Close Look At The Station’s Technical Plant

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When purchasing a radio or TV station, the buyer often, and understandably, focuses on the economic and business elements of the transaction. Buyers analyze cash flow and ratings. They review programming options and the depth of the advertising market. From this, an acceptable purchase price is determined.

Meanwhile, the lawyers perform a due diligence on the station’s FCC record, checking licenses, regulatory compliance, complaints, regulatory fees, and the like.

But one area which can easily be overlooked by the buyer is the station’s technical plant: the hardware (and, in some cases, software) which will normally be essential to successful operation. After all, you wouldn’t buy a used car without looking under the hood, and the same approach should apply to station acquisitions.

The Georgia Association of Broadcasters published an article last year entitled “Technical Concerns upon a Station Transfer” highlighting these same concerns. Written by Daniel Davis of D Squared Broadcasting Technologies, the article provides a useful checklist of technical items to be reviewed prior to a station acquisition.

First, retain an engineer to inspect the station’s operation and installation. Start with the station’s technical documentation. Many of these records should be at the station; if they’re not, get copies from the FCC’s records in Washington. As Davis points out in his article, “Of utmost importance are FCC required documents.” Those include particularly the station’s main FCC license, as well as all licensed microwave facilities, such as studio-transmitter links and remote pick-up units.

Just snagging copies of these materials is not enough, however. Once you have them, you, your engineer and counsel should confirm that the licenses accurately describe the station’s facilities as constructed. For example, it may be advisable to double check the geographic coordinates of the station’s tower, a process which is considerably easier nowadays thanks to reasonably inexpensive GPS gear. Incorrect coordinates may have been entered in the Commission’s records when the tower was first authorized, or
possibly when it was registered. Such investigation can help avoid unpleasant post-
closing surprises.

Along the same lines, double check to confirm that all the station’s auxiliary
authorizations are accurately associated with the main station authorization in the FCC’s
records. Those records relative to auxiliaries have been in some disarray for years.
Indeed, to correct that problem last summer the FCC required all affected broadcast
auxiliary licensees to make sure their licenses were correct in the FCC system. Since
auxiliary licenses not associated with a broadcast call sign do not renew automatically
with the parent station and may have expired, you should confirm before buying a station
that all the auxiliaries you think you are buying are, in fact, still in full force and effect.

Also, are there any outstanding construction permits to modify the station? If so, check
the expiration dates of the permits as well as the state of construction. If construction has
been delayed, find out why. And if construction has been completed, make sure that a
covering license application has been filed (and if not, find out why). You should also
determine if the station is operating pursuant to any special temporary authority; if so,
find out why and how long the STA will be needed. Tower lighting and registrations
should also be checked.

If you are buying one or more towers as part of the deal, bear in mind that when towers
are sold, the new owners are required to update the tower registration to reflect the new
ownership. Make sure that that has been done.

The seller may possess engineering reports which may not be available at the FCC. As
Davis notes, such reports in the possession of the seller should be transferred along with
the station’s assets. These could include proof of performance measurement reports,
copies of engineering studies, coverage maps and, for AM stations, the most recent
antenna resistance measurement report. Moreover, Davis advises buyers to make certain
that the original technical manuals for all the broadcast equipment, including the
transmitters and consoles, are available, with factory test data for the specific transmitter
for the station.

Beyond review of the station’s licenses and engineering records, it is also advisable to
have an engineer inspect the station’s physical plant, including the studio facilities as well
as the transmitter and tower facilities. Have him/her make a list of the essential
equipment, check the performance of the equipment, and test the station’s signal.
Remember that radio license renewals begin this year and it will be necessary to certify in
the renewal application that the facility does not have a significant environmental impact
and complies with the maximum permissible RF exposure limits.

Davis also helpfully notes that many stations use telephone access remote control
systems. A buyer should request copies of the program code list or completed
programming worksheets for the system. After closing, user and security codes for the
system should be changed to prevent former employees from accessing the system.
“Without the current codes,” Davis cautions, “it could become necessary to completely
erase the system memory and reenter the program code, a tedious and time-consuming
task.”

In addition, computer software discs, recovery discs and manuals should be acquired
from the seller, along with a list of all computer user names and passwords. Davis also
urges buyers to request a list of the station’s telephone circuits and an explanation of the
purpose of each circuit. As he notes, “[i]t is possible that the station is paying for more
telephone service than necessary. There could also be lines that are no longer in use,
although they continue to appear on the monthly statement”.

Normally, the seller will provide an inventory of all personal assets being conveyed with
the station. Compare that with the list compiled by your engineer. The contract should
warrant the performance of the equipment and declare that the seller has title to all
property. The contract should also specifically disclose any excluded items that may
belong to station personnel or which do not convey with the station. If any equipment is
leased, this should be disclosed and copies of the lease agreements should be provided.
Bear in mind that these lease agreements will have to be assigned over to the buyer and
will likely require the consent of the leasing company. If any money is owed on the
lease, they’ll expect to be paid before allowing the transfer.

Lastly, review the rights to use the tower. Does the seller own or lease the tower? If it is
leased, is the lease agreement assignable and under what terms? Are there other tenants
on the tower that could create interference for the station? If so, what are your rights
under the lease? If the tower is to be sold, check on whether the seller has been leasing
space to other tenants and, if so, make sure those leases are assigned to you. And again,
don’t forget to update the tower registration once you own it.

Obviously, there is much to be done. But proper attention to such details should
eliminate any truly unpleasant post-closing surprises.

For a copy of his article, you may contact Daniel Davis at 706-543-3313 or at
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