

**§ 1.2205, Nt.**

**47 CFR Ch. I (10–15 Edition)**

if it were a 100 percent interest. *De facto* control is determined on a case-by-case basis. Examples of *de facto* control include constituting or appointing 50 percent or more of the board of directors or management committee; having authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or playing an integral role in management decisions.

NOTE 3 TO §1.2205: The prohibition described in §1.2205(b)(1) applies to controlling interests, officers, directors, and governing board members of a full power or Class A broadcast television licensee as of the deadline for submitting applications to participate in the reverse auction, and any additional such parties at any subsequent point prior to the announcement by public notice of the results of the incentive auction. Thus, if, for example, a full power or Class A broadcast television licensee appoints a new officer after the application deadline, that new officer would be subject to the prohibition in §1.2205(b)(1), but would not be included within the exceptions described in §§1.2205(b)(2)(i) and (ii).

EFFECTIVE DATE NOTES: 1. At 79 FR 48530, Aug. 15, 2014, §1.2205 was added. Paragraphs (c) and (d) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

2. At 80 FR 56816, Sept. 18, 2015, §1.2205 was amended by revising paragraph (a)(2), effective Nov. 17, 2015. For the convenience of the user, the revised text is set forth as follows:

**§ 1.2205 Prohibition of certain communications.**

(a) \* \* \*

(2) For the purposes of this section, the term forward auction applicant is defined the same as the term applicant is defined in §1.2105(c)(5).

\* \* \* \* \*

**§ 1.2206 Confidentiality of Commission-held data.**

(a) The Commission will take all reasonable steps necessary to protect all Confidential Broadcaster Information for all reverse auction applicants from the time the broadcast television licensee applies to participate in the reverse auction until the reassignments and reallocations under section 6403(b)(1)(B) of the Spectrum Act become effective or until two years after public notice that the reverse auction is complete and that no such reassign-

ments and reallocations shall become effective.

(b) In addition, if reassignments and reallocations under section 6403(b)(1)(B) of the Spectrum Act become effective, the Commission will continue to take all reasonable steps necessary to protect Confidential Broadcaster Information pertaining to any unsuccessful reverse auction bid and pertaining to any unsuccessful application to participate in the reverse auction until two years after the effective date.

(c) Notwithstanding paragraphs (a) and (b) of this section, the Commission may disclose Confidential Broadcaster Information if required to do so by law, such as by court order.

(d) *Confidential Broadcaster Information* includes the following Commission-held data of a broadcast television licensee participating in the reverse auction:

(1) The name of the applicant licensee;

(2) The licensee’s channel number, call sign, facility identification number, and network affiliation; and

(3) Any other information that may reasonably be withheld to protect the identity of the licensee, as determined by the Commission.

**§ 1.2207 Two competing participants required.**

The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of the proceeds from the related forward auction assigning new spectrum licenses unless at least two competing licensees participate in the reverse auction.

**§ 1.2208 Public notice of auction completion and auction results.**

Public notice shall be provided when the reverse auction is complete and when the forward auction is complete. With respect to the broadcast television spectrum incentive auction conducted under section 6403 of the Spectrum Act, public notice shall be provided of the results of the reverse auction, forward auction, and repacking,