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ALERT

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Current Legal Developments Critical to Corporate Management

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LABOUR LAW

Employee options after sale of business unsettled

Kate A. Zavitz,
Borden Ladner Gervais LLP

On the sale of a business, whether employees may elect to continue employment with the purchaser or receive severance pay from the vendor remains unsettled at law.

No matter the economic climate, businesses in Ontario continue to be sold, leased or transferred within the meaning of the “sale of a business” provisions set out in the *Labour Relations Act, 1995* (“LRA”). This raises an

interesting issue about employment following the sale of a business — whether, in such circumstances, unionized employees have the right to elect to either continue employment with the purchaser, or receive severance pay from the vendor.

Unsettled law

The law in this area has yet to be conclusively decided. The line of authority from Ontario as established in the case of *Westbury/Howard Johnson Plaza Hotel v. H.E.R.E.* (“*Howard Johnson*”) supports the view that employees are automatically transferred to a successor employer by operation of

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TELECOMMUNICATIONS

CRTC issues 2009 new media ruling

Stephen Zolf,
Heenan Blaikie LLP

Whether ISPs, in providing access to broadcasting content, are subject to the *Broadcasting Act* will be referred by the CRTC to the Federal Court of Appeal.

The Canadian Radio-television and Telecommunications Commission (the “CRTC”) determined in June 2009 that it will maintain the

approach that it announced in 1999 for broadcasting over the Internet and mobile devices. This means that the CRTC will continue to apply its New Media Exemption Order (“Order”) to all Canadian broadcasting undertakings that provide broadcasting services delivered and accessed over the Internet.

2009 proceeding

In the 2009 proceeding, the CRTC reviewed the cultural, economic and technological issues raised by broadcasting in new media. The CRTC found that the landscape has evolved

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One of the Seven [Wise men of Greece] was wont to say: That laws were like cobwebs, where the small flies are caught and the great break through.

~ Sir Francis Bacon
(1561 - 1626)