



Broadcast Newsletter

IN THIS ISSUE:

OWNERSHIP REPORTS ARE DUE	1
LICENSE RENEWAL INSIGHTS & TIPS	1
FILING DEADLINE EXTENDED FOR LPTV/TV TRANSLATOR DISPLACEMENT REIMBURSEMENT	2
COMMERCIAL FM BROADCAST AUCTION ANNOUNCED	2
FINES!	2
CHANGES COMING FOR APPLICATION LOCAL PUBLIC NOTICE REQUIREMENTS	2
FCC TO HOSE BROADCAST SYMPOSIUM.....	2
MEDIA BUREAU MOVES FORWARD WITH MODERNIZATION.....	3
FCC CLARIFIES POLITICAL BROADCASTING PUBLIC FILE DISCLOSURE FOR ISSUE ADS.....	3
DATES TO REMEMBER.....	3-4

OWNERSHIP REPORTS ARE DUE

By [Public Notice](#), the FCC has announced the opening of the 92-day filing window in which all commercial and noncommercial AM, FM, TV, Class A and LPTV stations, as well as entities with attributable interests in such stations, must file biennial ownership reports. These reports must be electronically filed in LMS. The notice touts the new ability for filers to certify that there has been no change to a prior report, and for any new report that must be filed, to pre-load the prior report so that data input is not so time-consuming. There's even a new search function in LMS to help filers find their prior reports. So nice.

All reported ownership information must be current as of October 1, 2019. In case you ever wondered what would happen to a station if it did not file a required biennial report or certification of no change, the short answer is nothing – in the short term. But when a station would later file for license renewal, it would have to disclose the failure to file and thus the absence of a required public file item. Either or both would likely result in fines.

LICENSE RENEWAL INSIGHTS & TIPS

For this license renewal cycle, many radio stations now have FM translators they did not own for the last license renewal. The way those are renewed is as an addendum to the license renewal application of the primary station, so be sure to include the translator there. But don't assume that the pre- or post-filing announcements for the primary station "cover" the FM translator as well. The current rule (hopefully to be changed as part of an ongoing rulemaking proceeding, see later article) is that FM translators must publish a newspaper notice at least once immediately after the filing of the license renewal application in a daily, weekly, or biweekly newspaper of general circulation in the community or area served by the translator. If there is no such newspaper, the required notice should be posted in a public place and a copy retained for reference.

LPTV / TV TRANSLATOR DISPLACEMENT REIMBURSEMENT FILING DEADLINE EXTENDED

LPTV and TV translator stations that were displaced by the post-auction repack now have until November 14, 2019 to make two filings in order to receive funds. The FCC extended the original October 15 deadline by [public notice](#) on October 8, 2019. The notice encourages stations not to wait until the end of the filing period (hint – LMS gets very slow near filing deadlines). Oh, and if you're not in the eastern time zone, beware – the November 14, 2019 deadline ends at 11:59 PM eastern time.

Two forms must be filed by the new November 14, 2019 deadline. First, a Form 399 Eligibility Certification must be completed and filed, with documentation uploaded to prove eligibility. Second, a separate Form 399 Estimate/Request for Reimbursement must also be filed. The FCC will then confirm eligibility and arrive at an allocation for each station. Failure to file either or both forms will forfeit a station's right to reimbursement.

COMMERCIAL FM BROADCAST AUCTION ANNOUNCED

By [Public Notice](#) on October 10, 2019, the FCC announced that it will auction construction permits for 116 FM broadcast station beginning April 28, 2020. Of those 116 permits, 29 of them have been offered in prior auctions but were not sold. An additional 5 permits in this new auction were previously offered and had a winning bidder that defaulted. The permits will be auctioned in Auction 106.

A complete list of the Auction 106 available permits, along with minimum opening bid amounts, can be found [here](#). If you'd like to comment on opening bid amounts or proposed auction procedures, the deadline for doing so is November 6.

LICENSE RENEWAL FINES ISSUED

The Media Bureau has now fined a second station \$15,000 and granted only a two-year license renewal for failing to prepare required quarterly issues/programs lists and failing to upload those

lists to the online public file. You can read the decision [here](#). The Bureau has also fined a station \$1,500 for failing to timely file a license renewal application. The application was filed 42 days late. That decision is at this [link](#) for your reading pleasure.

The Bureau's fines thus far into the "young" radio license renewal cycle have all been for egregious oversights like the ones described above. We've not yet seen how the Bureau will consider situations involving less egregious rule violations such as several late-filed issues/programs lists during a license term, or other selective documents that are missing from the public file.

Do you know who uploads your station's required documents to the online public file? Are those uploads timely? Do you have a backup person that double checks the upload? Do you get an email notice from your employee that items have been uploaded by stated deadlines? You can access your station's public file by inserting the call letters on [this page](#). Trust but verify.

CHANGES COMING FOR APPLICATION LOCAL PUBLIC NOTICE REQUIREMENTS

The FCC has adopted a [notice of proposed rulemaking](#) that seeks comment on a proposal to replace newspaper publication requirements with an online publication. Newspaper publication is often a requirement in the FCC's rules when certain types of applications are filed. The notice proposes replacing the newspaper notice with an online notice by the station on its website (or if it doesn't have one, then on some other publicly accessible site). The information required in such notices would be reduced as part of the FCC's proposal. Even over-the-air notices would be truncated and direct the public to the online notice. Your comments are welcome, and are due no later than November 18, 2019.

FCC TO HOST BROADCAST SYMPOSIUM

The FCC has [announced](#) that it will host a symposium on current and future trends in broadcasting at its offices on November 21, 2019. A panel including large and small broadcasters will

be presented. Attendance in person is an option, but not necessary as the symposium can also be viewed online. We're not aware of a previous symposium of this type, but it is consistent with Chairman Pai's general and specific efforts to modernize regulations and get ahead of coming changes to the industry.

MEDIA BUREAU MOVES FORWARD WITH MODERNIZATION

The FCC's Media Bureau has opened new rulemaking proceedings to modernize certain rules related to broadcasting. The [first](#) addresses an old rule regarding use of common antennas. The [second](#) rulemaking seeks comment on a proposal for AM stations to voluntarily transition to an all-digital format. A third rulemaking is expected with the opening of a Media Bureau [Docket](#) to address the possible amendment of FCC Rule 73.3556 regarding duplication of programming on commonly owned radio stations. The FCC is slated to consider adopting two rulemaking proceedings on AM all-digital and programming duplication at its November 19th Open Meeting.

FCC CLARIFIES POLITICAL BROADCASTING PUBLIC FILE DISCLOSURE FOR ISSUE ADS

For stations that accept issues ads, two recent decisions by the FCC warrant your attention to be sure you're now properly disclosing the ads in the station's online public file. The decisions can be found [here](#) and [here](#).

The decisions concern Section 315 of the Communications Act, which requires that when a non-candidate group makes an offer to buy an ad about Federal issues, the station must disclose in its public file the same information that it would normally disclose for a candidate ad (i.e., was the ad accepted, class of time purchased, schedule of spots, price paid, and exact times spots aired). In addition, a station must also disclose the candidate or issue discussed in the ad. On this point, Section 315 requires disclosure for any ad discussing a "political matter of national importance" and as examples, cites (a) any discussion of any candidate for office, (b) any discussion of any election for a Federal office, and (c) any national legislative issue of public importance.

The FCC's recent decisions clarify that the disclosure requirement for ads discussing "any candidate for office" is triggered when the candidate mentioned is a candidate for *Federal* political office. The FCC also notes that a "national legislative issue of public importance" means an issue *currently pending* in legislation before Congress. But the FCC also notes that even if an issue is not currently pending before Congress, it could still be a "political matter of national importance." The decision then requires that all such issues in an ad be identified by the broadcaster in its public file disclosure. This will require stations to review an ad to be sure that the public file disclosure is complete. Stations should not simply rely on what a group identifies as an issue in the ad, but must undertake their own review.

The FCC also clarified a station's responsibility in connection with the requirement that stations disclose in the public file executive officers or directors of groups offering issue ads. If a station only receives one name in response to its question for identification of officers/directors, or otherwise suspects that the disclosure is inadequate, the station must ask more questions to determine whether there are more officers/directors than are disclosed by the group. Though the FCC doesn't require it, stations in this situation should document their efforts to request more officer/director info from the sponsoring organization or advertising agency. That way, if a complaint is filed, the station can defend itself.

Unlike a rule change, which must go through certain administrative hoops to become effective, these are clarifications that are effective now. Stations should therefore begin complying with this guidance immediately.

DATES TO REMEMBER **November 1, 2019**

All Commercial and Noncommercial Radio, TV, Class A, LPTV Stations: First day to file 2019 Biennial Ownership Report or certification of no change in LMS filing system.

November 14, 2019

Deadline for all eligible LPTV and TV translator stations displaced by the post-television auction repack to electronically file Form 399 Eligibility Certification and separate Form 399 Estimate of Costs for displacement channel buildout.

December 1, 2019

Radio Stations located in Arkansas, Louisiana & Mississippi: broadcast first pre-filing license renewal announcement; additional pre-filing announcements should air December 16, and January 1 and 16, 2020.

Radio and TV Stations located in Alabama, Georgia, Colorado, Minnesota, Montana, N. Dakota, S. Dakota, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: if five (5) full time employee threshold is met, prepare EEO public file report and post it to the station online public inspection file and on the station website.

Radio Stations in Alabama & Georgia –air first post-filing license renewal announcement; additional post-filing announcements must air Dec 16, 2019, and Jan 1, Jan 16, Feb 1 and Feb 16, 2020.

December 2, 2019

Radio Stations in Alabama & Georgia – deadline to file license renewal application and schedule 396 Broadcast EEO Program Report

January 10, 2020

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 4th Quarter 2019 issues/program lists and upload to online public file.

TV & Class A stations changing channels as part of the repack or based on voluntary receipt of auction funds should file a transition progress report in LMS (unless the station has already transitioned). Phase 8 stations are exempt from this quarterly filing because their 10-week transition report is due January 3, 2020, and another quarterly report would therefore be duplicative.

Class A TV Stations Only: complete and post to your online public file a certification of ongoing Class A eligibility.

January 30, 2020

TV & Class A stations (commercial only): compile and post to the public file records relating to the station's compliance with children's programming commercial limits for the period of Sept 15, 2019 – December 31, 2019, and for the same period, complete and electronically file via LMS the FCC Form 398 Children's TV Programming Report.

January 31, 2020

All Commercial and Noncommercial Radio, TV, Class A, LPTV Stations: Last day to file 2019 Biennial Ownership Report or certification of no change in LMS filing system.

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Actual resolution of legal issues depends upon many factors, including variations of facts and applicable Federal laws. This publication is not intended to provide legal advice on specific subjects, rather, it seeks to provide insight into legal developments and issues that we feel could be useful to our clients and friends.

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