



Broadcast Newsletter

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HAPPY THANKSGIVING!

From everyone at our law firm, we wish you and your families a relaxing Thanksgiving Day filled with laughter, fun and great food. We are thankful for the privilege of serving you!

FORM 398 CHILDREN'S TV QUARTERLY REPORT SUSPENDED

The FCC issued a [public notice](#) recently about the suspension of the Form 398 Quarterly Children's TV Programming Report. That form is being transitioned to an annual filing as part of a recent rulemaking, and as previously announced, the first "annual" Form 398 filing will cover the period of September 16 through December 31, 2019 and is due no later than January 30, 2020.

The old quarterly version of the Form 398 will sunset on December 17, 2019. So if your station needs to amend a previously filed quarterly report (or actually file the report for a quarter that was missed), that needs to be done by the December 17th deadline. If a station realizes that it must amend a prior quarterly report after that date, an explanation can be uploaded to the station public file in the Children's Reports Section, Additional Documents folder.

On the off chance that the Form 398 "annual" version hasn't been approved by the Office of Management & Budget before what would have been the normal January 10, 2020 quarterly filing date for the form, the FCC has preemptively waived any requirement to file a quarterly report.

RADIO DUPLICATION RULE ON THE CHOPPING BLOCK

The FCC has launched a [rulemaking](#) to consider whether to eliminate an old rule, last amended in 1992, that restricts commonly owned commercial AM and FM stations with substantial contour overlap from duplicating more than 25% of total weekly programming.

The original logic for the rule dates back to the 1960s, when the duplication percentage was higher and designed to increase programming diversity in a market. With the number of radio stations nearly doubling since 1992, and the ability for AM stations to use FM translators, the NPRM asks whether the non-duplication rule remains necessary to promote competition, programming diversity, and spectrum efficiency.

This proceeding is yet another example of Chairman Ajit Pai's efforts to modernize the FCC's rules, and delete regulations that no longer serve a purpose given the rapidly changing broadcast media landscape. Comments will be due within 30 days of publication in the Federal Register.

BIENNIAL OWNERSHIP REPORT WINDOW IS OPEN

The FCC's filing window is now open for all commercial and noncommercial AM, FM, TV, Class A and LPTV stations, as well as entities with attributable interests in such stations, to file biennial ownership reports. The window will close on January 31, 2020. All information reported must be as of October 1, 2019. The FCC's [Public Notice](#) about the filing window provides additional details. Commercial stations filing a new biennial ownership report must remit a \$70 fee for each station.

When filed, ownership reports should automatically show up in station online public inspection files (though if they don't, the rule actually requires the station to upload them). Per the FCC's rule, only the most recent complete ownership reports are required to be in the public file, so stations can toggle "out" older reports. Reminder – the license renewal form has a certification question about the timely submission of ownership reports during the license term. So timely filing your report is, as always, important.

LPTV / TV TRANSLATOR DISPLACEMENT REIMBURSEMENT UPDATE

The FCC, in response to eligibility certification filings by LPTV and TV translator stations that were displaced by the post-auction repack, have begun reviewing those certifications and issuing emails determining eligibility status. These initial

determinations do not approve the separately filed expense estimates for reimbursement – those will be processed separately and a letter issued establishing the total that the FCC will reimburse. So stations should continue to watch for emails or other correspondence related to that determination.

In some cases, the FCC has already asked for eligibility certifications to be amended because the documents previously submitted are insufficient to establish eligibility. Usually, those emails request a response within 10 days, so be alert and respond promptly. The FCC may also request further documentation or information related to expense estimates, which usually have a 5 day response timeline.

If your station has not filed the Form 1876 to establish the bank account that will receive reimbursement funds, now is the time to do so. The Form is PDF fillable, accessible in CORES, and must be printed, signed, notarized and mailed in to the FCC along with a bank statement or letter confirming the account. There is no deadline for filing the Form 1876, but stations should do so as soon as possible to avoid any delay in receiving reimbursement funds

ALL-DIGITAL AM BROADCASTING?

As part of its continuing effort to revitalize AM broadcasting, the FCC has adopted a [rulemaking](#) proceeding that will allow AM stations to voluntarily transition to an all-digital format to avoid interference and improve the listening experience. The NPRM considers a variety of issues related to power levels, interference, notification, and the potential issues if a digital AM station ever transitions back to analog. Comments will be due within 30 days of publication in the Federal Register. We expect this rulemaking to take a few months, as some of the issues will require special and careful deliberation. Hopefully, voluntary AM all digital operation will be possible by the summer of 2020.

DATES TO REMEMBER

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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