



Broadcast Newsletter

IN THIS ISSUE:

**FCC PERMANENTLY ELIMINATES
PRE-FILING LICENSE RENEWAL
ANNOUNCEMENTS..... 1**

**BROADCAST STATION LOCAL PUBLIC
NOTICE RULE CHANGES ADOPTED 1**

**EEO OUTREACH REQUIREMENTS
WAIVED FOR COVID-19 EMPLOYEE
REHIRES 2**

**2019 EAS NATIONAL TEST
REPORT ISSUED 2**

**TV BROADCAST INTERNET SERVICES
REGULATORY TREATMENT PROPOSAL
DESIGNED TO SPUR NEW SERVICE..... 2**

DATES TO REMEMBER..... 3-4

FCC PERMANENTLY ELIMINATES PRE-FILING LICENSE RENEWAL ANNOUNCEMENTS

Beginning with stations filing renewal applications in August 2020, the FCC has [permanently eliminated](#) any requirement for stations to broadcast pre-filing announcements about those applications. August 2020 renewal stations would have had to begin airing such announcements on June 1, and broadcast a total of four. The FCC had previously excused stations filing June 1, 2020 renewal applications from having to air pre-filing announcements.

As a result, no broadcast stations filing for license renewal will ever again have to make any announcement in advance of their renewal application filing. The elimination of this requirement comes in connection with a broader FCC [Order](#) (summarized in the next article) that revamps the rule requiring local public notices for certain broadcast applications.

Post-filing announcements will still have to be made, but the format, timing and certification of those on-air announcements will be different.

BROADCAST STATION LOCAL PUBLIC NOTICE RULE CHANGES ADOPTED

The FCC recently adopted an [Order](#) substantially revising its broadcast local public notice rule. One significant change is the permanent elimination of requirements to publish any newspaper notices about filed applications, which were costly and more difficult to accomplish as newspapers folded. Instead, stations will publish such notices online, using a station or substitute website with a conspicuous link and text that includes a hyperlink to the filed application.

To facilitate the new rule, commercial broadcast stations will need to establish and maintain a permanent website link dedicated to online public notices. When a station must post an application online notice, the notice must appear at

the link. When there are no pending applications for which online public notice is required, the link must state so and include the date the page was last updated.

The FCC also changed the requirements for any application requiring an on-air announcement, but they standardized the days, times, and text of those announcements. Under the new rules, any application requiring an on-air announcement i) must begin within five (5) business days after the FCC's public notice that the application has been accepted for filing, (ii) air between 7 AM and 11 PM, Monday-Friday, and at least six (6) times over a four (4) week period, with at least one, but no more than two (2), announcements per week, and (iii) in the weeks with two (2) announcements, the announcement must be aired on different days.

The effective date of these rule changes has not yet been announced because certain approvals from the Office of Management & Budget must first be obtained. Our best guess on an effectiveness date is sometime this fall. The FCC will publish a notice when that occurs. Double check with counsel when filing any application in coming months to be sure that your station follows the procedures that are in effect at that time.

EEO OUTREACH REQUIREMENTS WAIVED FOR COVID-19 EMPLOYEE REHIRES

In last month's newsletter, we mentioned our firm's ongoing efforts with the FCC staff seeking some relaxation of the EEO rules related to the COVID-19 pandemic. We are pleased to report that those efforts resulted in the issuance of a May 4, 2020 Media Bureau Order waiving the EEO outreach requirements in certain specific circumstances.

Broadcast stations with five or more full-time employees are normally required to conduct broad outreach for any full-time job vacancy. Those requirements include the posting/dissemination of job vacancy information, and the reporting of recruitment sources, number of interviewees, and the source that produced ultimate hire. Careful recordkeeping of those efforts is also required.

Under the Bureau's relaxation order, if a station is rehiring an employee that it terminated due to the COVID-19 pandemic, the normal outreach requirements are waived, *provided that the rehire is made within nine (9) months of the employee's termination*. This enables stations to quickly rehire experienced employees with known skill sets, without first having to conduct outreach.

The FCC still considers the rehire to be filling a job vacancy and, therefore, a station conducting such a rehire should include the job vacancy on its annual EEO public file report, but note that it was exempt from outreach requirements per the COVID-19 waiver.

2019 EAS NATIONAL TEST REPORT ISSUED

The FCC's Public Safety and Homeland Security Bureau has issued a [report](#) of the August 7, 2019 Nationwide EAS Test, highlighting a number of issues that caused breakdowns in performance by EAS Test participants. Some of those issues are reported by broadcast station participants, and include monitoring source problems, equipment performance or configuration, or degraded/poor signals. The report does not mention a 2020 Nationwide EAS Test, but we would not be surprised if such an announcement comes soon. Should a 2020 test be conducted in August, reporting would begin about 30 days before the test with the EAS Form One.

TV BROADCAST INTERNET SERVICES REGULATORY TREATMENT PROPOSAL DESIGNED TO SPUR NEW SERVICE

The FCC has released a [draft](#) of a Declaratory Ruling and Notice of Proposed Rulemaking seeking to clarify some legal matters surrounding the transition to ATSC 3.0, which will be voted on at their June 9th Open Meeting. The Declaratory Ruling would immediately eliminate some regulatory uncertainties, and the rulemaking examines the need to modify other existing rules to enable and encourage full deployment of new services.

Ancillary or supplementary uses of digital television spectrum have been around for a while, but the advent of ATSC 3.0 has made deployment of such

uses more likely. Uses of digital television spectrum for other than over-the-air broadcasts is considered an “ancillary or supplementary service”, and can include a multitude of services such as communications to smart devices or automobiles, providing telehealth services or monitoring, emergency communications, or updating metered utility services. ATSC 3.0 has created opportunities for consortia to develop uses of TV spectrum from several stations in a market at once, making the reach of such services more efficient and far-reaching.

The FCC has proposed defining such services as “Broadcast Internet” services, and if adopted, the Declaratory Ruling would make clear that use of TV spectrum by a consortia would not violate the FCC’s ownership rules, which otherwise prohibit one station from owning more than two TV stations in a market or providing more than 15% of programming for another station in a market. Subject to an approval vote, the FCC has determined that its ownership and attribution rules apply solely to the provision of over-the-air broadcast programming, not to Broadcast Internet services.

The rulemaking presents some interesting questions, including whether non-commercial educational TV stations can include advertising in the provision of non-broadcast services and whether low power television stations require regulatory changes to enable use of their digital spectrum for such services. You may recall that stations transitioning to ATSC 3.0 must still provide a free broadcast signal to the public. The FCC proposes that a 480i resolution would be the minimum service required for that free signal. The issue of how the FCC should assess fees on Broadcast Internet services is also considered, including how they should be calculated and whether they should be capped.

With this item, the FCC finally appears ready to strip away regulatory constraints to support innovation in the ATSC 3.0 world. TV station owners should pay close attention, and participate by filing or supporting comments. The FCC has opened a special [docket](#) for this proceeding. Comments can be filed now or after adoption of the item at the FCC’s June 9th meeting.

DATES TO REMEMBER

June 1, 2020

Radio Stations located in Michigan and Ohio – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due June 16, July 1 & 16, and August 1 & 16.

Television Stations located in DC, Maryland, Virginia and West Virginia – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due June 16, July 1 & 16, and August 1 & 16.

Radio and TV Stations located in Arizona, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, Wyoming and the District of Columbia: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from June 1, 2019 – May 31, 2020 and post it to the station online public inspection file and on the station website.

June 30, 2020

Unless extended, this date will mark the expiration of the FCC’s waiver of the sponsorship identification requirements in situations where advertising entities donate previously purchased airtime to be used for the airing of public service announcements prepared by or on behalf of the CDC or other governmental authorities regarding COVID-19.

July 10, 2020

TV & Class A stations (commercial only): for those stations that did not already do so on previously announced deadlines for this report, complete and electronically file via LMS the revised FCC Form 398 Children’s TV Programming Report; this is the first annual report but covers only the period from September 16 - December 31, 2019.

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 2nd Quarter 2020 issues/program lists and upload to online public file. For those stations that did not complete and upload 1st Quarter 2020 issues/programs lists by April 10, 2020 because the FCC [extended](#) the deadline, those 1st Quarter 2020 issues/programs lists must also be uploaded by the July 10, 2020 extended deadline.

TV & Class A stations (commercial only): note that there is **no** requirement to compile and post to the public file records showing compliance with children's programming commercial limits for the 2nd quarter of 2020. *This requirement has transitioned to an annual certification, with the certification for all of 2020 due on January 31, 2021. However, we recommend that you continuously confirm that commercial limits restrictions are being met.*

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

July 31, 2020

Full Power TV Stations (commercial and noncommercial): deadline to supply cable carriage email and phone number on landing page of the station online public inspection file.

© 2020 Hardy, Carey, Chautin & Balkin, LLP

For more info, contact Joe Chautin or Mark Balkin.

Phone 985.629.0777

Fax 985.629.0778

www.hardycarey.com

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.

 Hardy, Carey, Chautin & Balkin, LLP
ATTORNEYS AT LAW
1080 West Causeway Approach
Mandeville, Louisiana 70471-3036