



# Broadcast Newsletter

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## **SPONSORSHIP ID WAIVER EXTENDED FOR COVID-19 PSAs**

Back in April, the FCC temporarily waived its sponsorship identification rules through June 30, 2020 to allow advertisers on commercial broadcast stations to donate purchased airtime to be used for COVID-19 public service announcements sponsored by governments or governmental agencies. Under the sponsorship identification rule, the entity donating the time would have to be identified, but the FCC waived that requirement. By [Order](#) issued June 26, 2020, the original deadline has now been extended through August 31, 2020.

## **TV TRANSITION WRAPPING UP**

The decade long process of relocating television stations to channels 2-36 will officially end on [July 3, 2020](#), though a small number of stations will have a bit longer to complete their transitions based on unique circumstances.

For stations entitled to reimbursement, it is critically important to continue to file for reimbursement and provide any information the FCC is requesting to support those requests. In coming months, we anticipate that the FCC will announce procedures related to the finalization and close out of reimbursement rights for stations. In connection with that process, we expect the FCC to commence random audits of reimbursed stations to ensure that funds were expended on the expenses approved during the reimbursement process. Stations should retain all documentation of expenditures incurred. Any funds received but not used will ultimately have to be returned to the US Treasury.

## **MOST BROADCAST STATION LOCAL PUBLIC NOTICE RULE CHANGES NOT YET EFFECTIVE**

While the FCC recently adopted an [Order](#) substantially revising its broadcast local public notice rules, the effective date of most of those rule changes has not yet arrived.

One notable rule change that already took effect is the elimination of the requirement for stations to air pre-filing renewal announcements, which became [effective](#) May 13, 2020. The FCC also recently [announced](#) that the rule change applying the local public notice rule to LPFM stations will take effect on July 20, 2020. All of the other rule changes, including those changing the post-filing renewal announcement content and schedule, are still awaiting approval by the Office of Management & Budget. The Media Bureau has promised a new public notice announcing when those rules will go into effect. For stations with upcoming license renewals, stay alert for a change to post-filing announcements in coming months.

As previewed in last month's newsletter, the coming changes include 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. The FCC also standardized text, dates and times of any on-air announcements.

We will include an article in this newsletter when the remaining rules go into effect.

## NO 2020 NATIONWIDE EAS TEST

When the FCC's Public Safety and Homeland Security Bureau recently issued a [report](#) of the August 7, 2019 Nationwide EAS Test, we noted that it made no reference to a 2020 test. We've now learned that FEMA has [cancelled](#) the annual test for this year, citing COVID challenges that broadcasters are facing, as well as the 2019 test results showing 85% compliance. So stations will not have to participate in a 2020 test or file those pesky 3 EAS reports. The next Nationwide EAS Test will be held in 2021. We do recommend that stations check EAS equipment to ensure that it is functioning and has the latest software updates.

## FCC LOOKS TO JUMPSTART ATSC 3.0

In an action designed to spur broadcast stations to begin providing ATSC 3.0 services, the FCC issued

a [Declaratory Ruling](#) and simultaneously issued a Notice of Proposed Rulemaking to foster growth of next-generation data services.

The Declaratory Ruling clarified that the FCC's television station ownership restrictions do not apply to the lease of spectrum to provide what it dubbed "Broadcast Internet Services." This ruling enables stations to lease spectrum to others in the same market without having such use trigger ownership attribution restrictions. The FCC was concerned that stations were not moving forward with providing Broadcast Internet Services because of the perceived attribution legal issue.

In the rulemaking proceeding, the FCC asks numerous questions about how to modify its existing ancillary and supplementary service rules that were first adopted 20 years ago. The rulemaking is wide-open to a number of revisions, including new services, whether and how to calculate fees on such services, and any regulatory barrier that is hindering development.

## LPTV AND TV TRANSLATOR ACTION ITEMS

The FCC's Media Bureau has issued a [public notice](#) announcing a settlement opportunity for those LPTV and TV translator applications that are mutually exclusive with others filed during the 2018 displacement window. The notice identifies each application. These applicants can file unilateral engineering amendments, legal settlements, or engineering settlements during a June 1 – July 31, 2020 settlement period. Applications not resolved through this process will proceed to auction where the highest bidder will prevail in being awarded the construction permit.

The Media Bureau has also issued a [reminder](#) to LPTV and TV translator stations operating on the guard band/duplex gap channels (channels 38, 44, 45 and 46) that operations must cease on those channels by midnight on July 13, 2020. Stations that must go silent should obtain temporary authority to do so, and may only remain silent for one year before their license will automatically expire.

## FCC LAUNCHES ANOTHER EEO AUDIT ROUND FOR RADIO STATIONS

On June 9, 2020, the FCC [announced](#) a new round of broadcast station 2020 EEO audits (the first one was in February), listing another 35 randomly selected radio stations. The deadline for these stations to respond is July 24, 2020. Stations randomly audited in 2018, 2019 or 2020, and those whose renewal applications were granted after June 1, 2018 may not have to respond and should email [lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov) to confirm that they are exempt.

Stations that have five or more full-time employees (30 hours per week on average) are required to prepare an EEO public file report each year on the anniversary of their deadline for filing a license renewal application. The report must be placed in the station online public file and posted on a station's website if it has one. If a station has five or more full-timers when it files for renewal, the last two EEO public file reports must be submitted to the FCC. So, even if your station isn't randomly audited, EEO scrutiny will arrive at license renewal time. Keep all records and timely complete reporting to avoid adverse action.

*Compliance Tip:* The EEO audit letter sent to your station by the FCC must be immediately uploaded to the station online public file in the EEO Records Section, Additional Documents Tab, in the "EEO Audits, Investigations & Complaints" Folder. The same applies to the station's submitted response (that's how you respond, by uploading it), and the FCC's eventual audit conclusion letter.

## LOCAL ORIGINATION ON FM BOOSTERS AND TRANSLATORS GAINS STEAM

After receiving and [inviting](#) preliminary comments on an April 2020 proposal by GeoBroadcast Solutions, LLC to allow FM booster stations to locally originate some programming different from its primary station, [comments](#) filed in that proceeding by "Broadcasters for Limited Program Origination," which also included a petition for rulemaking, have now received a separate file

number and [docket](#) for comments due no later than July 23, 2020.

That the FCC is taking these proposals seriously and inviting comments suggests some receptivity to rule amendments to allow both FM boosters and FM translators to originate programming. We note that the latest proposal differs substantially from the first in extending wide origination flexibility to FM translators, and this may be the reason it has received a separate docket number. The FCC could be considering taking up these two proposed rulemakings separately.

One of the overall justifications for allowing boosters and translators to originate programming is so that radio can compete with local streaming services. Except for the latest proposal's suggestion that FM translators be allowed to locate anywhere within the primary station's 45 dBu contour (instead of the current 60 dBu contour), the rule changes sought would not create interference issues – they are content related – and therefore would not burden the FCC staff.

Our review of the proposals and some of the comments suggests that some relaxation of the current rules is well supported and probably likely. Radio stations should take the time to review the proposals and consider filing comments.

## DATES TO REMEMBER

### July 3, 2020

Deadline for all TV stations assigned to Phase 10 to transition to their post-auction channels; also the formal end of the post-auction transition

### 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 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 2<sup>nd</sup> Quarter 2020 issues/program lists and upload to online public file. For those stations that did not complete and upload 1<sup>st</sup> Quarter 2020 issues/programs lists by April 10, 2020 because the FCC [extended](#) the deadline, those 1<sup>st</sup> 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 2<sup>nd</sup> 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.

**LPTV and TV Translator Stations** whose pending applications are mutually exclusive: deadline to file amendments to resolve mutual exclusivity and avoid going to auction.

## August 3, 2020

**Radio Stations located in Illinois and Wisconsin –** deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due August 16, September 1, September 16, October 1 and October 16.

**Television Stations located in North Carolina and South Carolina –** deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due August 16, September 1, September 16, October 1 and October 16.

**Radio and TV Stations located in California, Illinois, Wisconsin, North Carolina, and South Carolina:** if five (5) full time employee threshold is met, prepare EEO public file report covering the period from August 1, 2019

– July 31, 2020 and post it to the station online public inspection file and on the station website.

## August 31, 2020

Extended deadline for 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.

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