



Broadcast Newsletter

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OCTOBER 1 DEADLINE FOR 2021-23 CARRIAGE ELECTIONS

October 1, 2020 is the deadline for television stations to make their triennial carriage election with cable and satellite providers that will govern their carriage status on those systems during the 2021-2023 carriage cycle, which begins January 1, 2021 and ends December 31, 2023.

The rules on how to make carriage elections were changed in this [2019 FCC Order](#) with further details in this [February 2020 Public Notice](#). This time, instead of finding addresses, preparing and then sending separate election letters to every MVPD via certified mail, full power commercial stations (and Class-A stations eligible for must-carry) will simply prepare and place a single *election statement* in the station's online public file (in the "Must-Carry or Retransmission Consent" folder). If a station is going to elect mandatory carriage for all MVPD systems in its DMA, it can simply specify that in a uniform, blanket election statement. Or if a station plans to elect mandatory carriage on some systems, and retransmission consent on others, the single election letter uploaded to the public file can delineate those differences for the various MVPD systems in its DMA. A failure to upload an election statement by the deadline will result in a default election to "must-carry" status, *and* a violation of the broadcast public file rule (which specifically requires that the statement be timely uploaded).

If a station, for any MVPD, is changing its election choice for the 2021-2023 carriage cycle from the one it used for the 2018-20 election cycle (i.e., from must-carry to retransmission consent), an *election change notice* for those MVPDs must be completed, uploaded to the public file as an attachment to the single election statement, and emailed to only that MVPD, copying a special FCC notification email (electionnotices@fcc.gov). The same October 1, 2020 carriage election deadline applies to these election change notices, which must include the station's call sign, community of license, DMA, specific change in election status, an email address, phone number, name of a station contact person, and whether the station is changing its election for some or all of the MVPD's systems. If a station

does not receive a response verifying receipt of its change notice, or gets an indication that the message was not delivered, it must call the MVPD to confirm receipt or arrange re-delivery. If the email is timely/properly sent to the MVPD email address, and no verification is possible, the change notice will still be considered to have been properly delivered if it was also properly copied to the FCC's election notice email and is timely placed in the public file. Remember, this additional "election change notice" step is only required if a station is changing its election from the last cycle for a MVPD, and then need only be sent to that MVPD.

After the October 1, 2020 deadline, should a station receive a carriage refusal notice, or any other notice that places carriage of the station in doubt (such as a signal strength issue), certain deadlines may be triggered to file carriage complaints with the FCC. Stations should regularly monitor any emails received at the carriage election email address provided earlier this summer (full power stations did so via the online public file; Class A and LPTV's eligible for must-carry simply rely upon the email address for the station in LMS).

LICENSE RENEWAL TIDBITS

When completing or reviewing your station's license renewal application before filing it, be absolutely certain that the certifications being answered are accurate. The FCC has detailed instructions that help stations understand the scope and meaning of the renewal certifications. The radio station instructions are [here](#), and the TV station instructions are [here](#).

If a station cannot answer "yes" to a certification, it should explain the reason in an exhibit and fully disclose the issue. A false certification leads to more problems, and can jeopardize a station's license. A "no" certification is uncomfortable, but leads to forgiveness and preserves the station license. In the age of transparency and online public files with detailed information related to a station's compliance, now is not the time to guess at or use a "close enough" approach to completing the certifications.

Finally, for commercial stations that must pay a renewal application filing fee, LMS is not always showing a fee due button on the screen that appears just after submitting the application. If the fee is not paid, LMS will sometimes generate a reminder to pay before the 14th day after filing. If the fee is not paid by then, the application will be dismissed. Best practice: After submitting the renewal application, scroll down on the screen that appears, select the "Submitted Applications" button, and on the next page that appears, click on the "Submitted" tab. There, if a fee is due, a small orange rectangle will appear. Click on it and you'll be taken to the fee payment page to remit the fee.

MEDIA BUREAU MAKES 2020 CHILDREN'S TV REPORT AVAILABLE IN LMS

The FCC recently made its 2020 Children's Television Report (formerly Form 398; now Form 2100, Schedule H) available and accessible in LMS for full power commercial and Class A television stations. Previously, this report had to be filed quarterly but the FCC changed it to an annual filing requirement at the end of 2019. However, once stations had submitted their 2019 report, the form was unavailable for stations to load or complete in LMS.

With a short [public notice](#), the FCC announced that the form covering 2020 had been added to LMS accounts so that it can be worked on and saved by a station throughout the year. However, the earliest the form will be enabled for filing is January 1, 2021. The deadline to file the 2020 Children's Television Report is January 30, 2021.

DIGITAL TELEVISION FEEABLE ANCILLARY/SUPPLEMENTARY USE REQUIRES DECEMBER 1 SCHEDULE 2100(G) FILING

December 1, 2020 is the deadline for digital television stations that used digital capacity for feeable ancillary/supplementary uses during the period from October 1, 2019 – September 30, 2020 to file Schedule 2100(g) Ancillary/Supplementary Use report and remit any fees due.

Ancillary/supplementary uses are defined as computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, or subscription video (i.e., anything other than over-the-air broadcasts). Stations that did not make any such uses for a fee do not have to file the schedule or taken any other action.

PERMIT CONSTRUCTION DEADLINE WAIVERS AVAILABLE FOR SOME FM TRANSLATORS

The FCC has [announced](#) that it will consider COVID-19 related requests for waiver of the expiration date for certain FM translator construction permits that were awarded as part of Auction 99 or 100.

Permits expiring on or before June 30, 2021 are eligible to apply now for a 6-month waiver of the deadline. The procedure for seeking the request is easy enough (email a letter requesting the waiver to robert.gates@fcc.gov or larry.hannif-ali@fcc.gov). However, simply stating that COVID-19 has caused financial difficulties or loss of revenue will not be enough. A showing must be made that demonstrates the impact of the pandemic on the permittee, and may include such evidence as financial statements demonstrating the pandemic's economic impact; affidavits or other evidence of the unavailability of components or tower crews, or copies of equipment orders and delays.

FOREIGN BROADCAST CONTENT DISCLOSURE ON THE HORIZON

FCC Chairman Ajit Pai has circulated an item among the other Commissioners that would require broadcast stations to disclose when they broadcast content that is sponsored or provided by foreign governments. A brief [press release](#) announced the action. Details of the proposal have not yet been made public, but given the FCC's other recent actions related to Chinese government influence in technology sold in the U.S., we expect the FCC's action to be swift.

DATES TO REMEMBER

October 1, 2020

Deadline for all **Full Power Commercial Television Stations** (and other stations that meet the definition of "qualified local commercial television station" in the FCC's rules) to place their 2021-23 carriage election statement in the public file, and deadline for all **Class-A and Low Power Television** stations eligible for mandatory carriage to send notice of their 2021-23 carriage election via email to MPVD providers.

Radio Stations located in Iowa and Missouri – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due October 16, November 1, November 16, December 1 and December 16.

Television Stations located in Florida, Puerto Rico and the Virgin Islands – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due October 16, November 1, November 16, December 1 and December 16.

Radio and TV Stations located in Florida, Puerto Rico, Virgin Islands, Iowa, Missouri, Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon, and Washington, : if five (5) full time employee threshold is met, prepare EEO public file report covering the period from October 1, 2019 – September 30, 2020 and post it to the station online public inspection file and on the station website.

October 10, 2020

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 3rd Quarter 2020 issues/program lists and upload to online public file.

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 3rd 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.

December 1, 2020

Digital Full Power, Class A or LPTV Stations:

Deadline for digital television stations that used digital capacity for feeable ancillary/supplementary uses during the period from October 1, 2019 – September 30, 2020 to file Schedule 2100(g) Ancillary/Supplementary Use report and remit any fees due.

Radio Stations located in Colorado, Minnesota, Montana, North Dakota and South Dakota

– deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due December 16, January 1, January 16, February 1 and February 16.

Television Stations located in Alabama and Georgia

– deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due December 16, January 1, January 16, February 1 and February 16.

Radio and TV Stations located in Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota and Vermont: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from October 1, 2019 – September 30, 2020 and post it to the station online public inspection file and on the station website.

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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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