



Broadcast Newsletter

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FCC FULL POWER TV AND CLASS A FILING FREEZES LIFTED

On November 27, 2020, the FCC’s long-running freezes on certain types of television station applications ended. Modification applications that increase a full power or Class A station’s service area beyond an area that is already served can now be filed, as can petitions for rulemaking to change channels in the DTV Table of Allotments or for new DTV allotments, channel swaps, or to change communities of license.

The end of these freezes raises the potential for low power and TV translator stations to be displaced by these filings due to their secondary status. If that occurs, low power television and television translator stations can readily file for relief as there are currently no freezes on low power or translator stations filing minor modification, displacement, or digital companion channel application. A freeze does remain on the filing of applications for *new* LPTV/translator stations.

FCC LICENSE ASSIGNMENT AND TRANSFER OF CONTROL APPLICATIONS MIGRATE TO LMS

Several years ago, the FCC began transitioning various FCC application and reporting forms from the old Consolidated Database System (CDBS) to the new Licensing Management System (LMS). However, the FCC’s license assignment and transfer of control applications had not made the transition, remaining some of the oldest forms still filed in CDBS. That ended on November 18, 2020 with this [public notice](#) announcing the move of those forms to LMS.

The former FCC Form 314 license assignment application is now available in station LMS accounts as “Assignment of Authorization, non-*pro forma*” and the former FCC Form 315 transfer of control application and Form 316 assignment or transfer of control application are available in “*pro forma*” or “non-*pro forma*” options. Generally speaking, a *pro-forma* application involves a transfer of control of an existing licensee or an assignment to an individual or an entity that

is controlled by the existing licensee, and a non-*pro forma* application involves a transfer or assignment to a new entity.

For assignment applications to a new or third-party entity, the licensee will load the application and complete the initial or “assignor” section, finishing by entering the FCC Registration Number (FRN) of the proposed assignee. Once that is saved into the form, the proposed assignee will be able to separately log in to LMS using its own FRN to complete the “assignee” portion of the form. Previously, the parties had to use a single CDBS account in order to complete and file an assignment application. Under the new method, a proposed assignee will have to obtain an FRN from the beginning of the license assignment process, as opposed to only after the FCC has approved the license assignment and the transaction is closed.

REMAINING LICENSE RENEWAL APPLICANTS MUST FOLLOW NEW LOCAL PUBLIC NOTICE RULE

When the FCC’s recently adopted [Order](#) revising the broadcast local public notice rule became effective on October 30, 2020, the way that license renewal applicants made local on-air announcements about renewal applications changed significantly. For all renewal applications beginning with those filed December 1, 2020, instead of six announcements on the 1st and 16th days of the three months following the application filing, a more condensed schedule is now required.

Under the new rule, renewal application on-air announcements must (i) 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. Just in case you missed it, a renewal application announcement aired on a Saturday or Sunday would not meet the new requirement. The language to be used in the on-air announcement is set forth in the new rule. FM translators and TV translators do not air on-air announcements and instead have a separate

online publication requirement with prescribed language and links.

Once the renewal application on-air announcements are completed, stations with online public files must complete and upload a certification that the announcements have been completed, with dates and times specified. That certification is due 7 days after the station completes its sixth announcement under the new schedule.

For stations whose renewal applications were accepted for filing under the old local notice rule, that old rule (with six announcements on the 1st and 16th days of the three months after filing) should be followed in completing the on-air announcements and in uploading the public file certification.

FCC FINES TV STATION \$20,000 FOR CHILDREN’S TV COMMERCIAL LIMITS VIOLATIONS

On November 23, 2020, the FCC’s Media Bureau issued a \$20,000 [Notice of Apparent Liability](#) to a television station in Maryland for exceeding the FCC’s rules limiting the number of minutes of commercial matter that may be included during children’s programming.

The station disclosed eleven instances of inadvertent commercial limits overages when it filed for license renewal, and detailed steps it had taken to prevent future violations. While noting that the station had not deliberately violated the rule, the Bureau nevertheless adjusted the standard \$8,000 forfeiture amount upward to \$20,000 because the overages involved ads for a product related to the program (a Hot Wheels Super Ultimate Garage play set ad aired during a “Team Hot Wheels” program), resulting in the treatment of the entire program as commercial matter.

The FCC’s rules limit the amount of commercial matter that may be aired during children’s programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. A program associated with a product, in which commercials for that product are aired, are treated as program-length commercials (i.e., the entire program is counted as commercial time).

Stations should regularly police children's programming for compliance in advance of broadcasts to avoid commercial limit overages.

DECEMBER 1 DEADLINE FOR DIGITAL TELEVISION FEEABLE ANCILLARY/SUPPLEMENTARY USE 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 take any other action.

COMMENT DEADLINES SET ON FCC FOREIGN BROADCAST CONTENT DISCLOSURE RULEMAKING

Comments are due December 24, 2020 and reply comments January 25, 2021 on the FCC's proposed rulemaking that would require broadcast stations to disclose when they broadcast content that is sponsored or provided by foreign governments. The [NPRM](#) discusses numerous issues that will ultimately inform broadcasters as to how diligent they will need to be in obtaining the information necessary for disclosure, how the disclosure requirements might apply to time brokerage or local marketing agreements, and how the proposal comports with the First Amendment.

DATES TO REMEMBER

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; on-air announcements and public file certifications are required under the new local public notice rule.

Television Stations located in Alabama and Georgia – deadline to file license renewal application and EEO program report; on-air announcements and public file certifications are required under the new local public notice rule.

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 December 1, 2019 – November 30, 2020 and post it to the station online public inspection file and on the station website.

January 10, 2021

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 4th Quarter 2020 issues/program lists and upload to online public file.

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

January 30, 2021

TV & Class A stations (commercial only): compile and post to the station online public file records certifying compliance with children's programming commercial limits for all of 2020, **and** prepare and electronically file the Children's Television Report (Form 2100, Schedule H) in LMS documenting station compliance with children's educational and informational programming requirements for all of 2020. This form is loadable now in LMS so stations can begin working on it at any time.

February 1, 2021

Radio Stations located in Kansas, Nebraska and Oklahoma – deadline to file license renewal application and EEO program report; on-air announcements and public file certifications are required under the new local public notice rule.

Television Stations located in Arkansas, Louisiana and Mississippi – deadline to file license renewal application and EEO program report; on-air

announcements and public file certifications are required under the new local public notice rule.

Radio and TV Stations located in Arkansas, Kansas, Louisiana Mississippi, Nebraska, New Jersey, New York and Oklahoma: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from February 1, 2020 – January 31, 2021 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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