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FCC GRANTS SOME PENNSYLVANIA RADIO RENEWALS WITH DATE ERROR

As has typically been the case during the license renewal process over the last 2 years, the FCC’s Audio Division begins granting radio renewals that have no issues approximately 10 days prior to the date the license will expire. The Audio Division followed that approach with recently granted radio station license renewals in Pennsylvania, granting several hundred on July 23, 2022 – about 9 days before the August 1 license expiration dates for those stations.

There was only one issue with the granted renewals – instead of showing a new license term ending August 1, 2030, both LMS and the renewal postcards showed the new license term ending June 30, 2030. We contacted the FCC to see if perhaps they just didn’t really like Pennsylvania radio stations and decided to short their new renewal terms by two months. We were relieved to learn that an outside contractor had messed up the date, and told that it would be corrected in coming days. Four days later, we noticed that LMS did in fact reflect the proper license term expiration dates of August 1, 2030, however, the corrected date didn’t flow through to the renewal postcard when it was selected. We’re not sure that will actually be corrected in the end, but at least the database is correct.

This is a good reminder to review for accuracy any authorization that the FCC grants. We’ve seen glitches with construction permits and licenses, and now for the first time with renewal grants. If you see a mistake, let the FCC staff know and they will get it fixed.

COURT OVERTURNS PART OF NEW FCC FOREIGN SPONSORSHIP ID RULES

Earlier this year, the FCC adopted new Foreign Sponsorship Identification rules that were challenged in court but went into effect on March 15, 2022. On July 12th, the DC Circuit Court of Appeals vacated a small portion of

the FCC's new rules requiring federal database verification of foreign sponsorship information obtained by broadcasters. You can read the short decision [here](#). The rest of the new rule requiring stations to ask sponsors of programming content aired pursuant to a "lease of time" if the sponsor qualifies as a "foreign governmental entity" was not overturned and remains in place.

Interestingly, neither the FCC or any of the Commissioners (all of whom voted in favor of the new rule) issued a public notice or statement about the decision. Perhaps they will in the future. While they can certainly seek further judicial review of the decision to the entire DC Circuit or to the U.S. Supreme Court, we would be surprised if they did. The Court's decision essentially tells the FCC to "stay in its lane" when it comes to implementing laws adopted by Congress – i.e., don't "imagine" certain obligations into existence when there is no basis for doing so given the legislative language. If the FCC challenges the decision, it might be inviting a ruling that puts even further guardrails on Commission or administrative agency decision making.

For leased time program agreements that were in effect on March 15, 2022 and still are, stations are to complete due diligence to determine foreign entity status no later than September 15, 2022. For any new agreements, actions should be taken at the time they are signed up to determine foreign entity status. On air and public file requirements only kick in if a programmer has foreign entity status or receives support from a foreign entity.

LMS CALL SIGN RESERVATIONS UPDATE

As of June 22, stations can reserve call signs for initial permits, exchanges, changes and contingent requests in the FCC's Licensing & Management System (LMS), according to the FCC's [public notice](#) announcing the change. In addition to call sign reservation requests now being announced via the FCC's daily releases, we have learned that they are also – for the first time – formally granted with an issued authorization that shows the prior and new call sign and the effective date.

NEXT GENERATION TV FNPRM COMMENT DATES SET

The FCC has now set comment deadlines for its [Third Notice of Proposed Rulemaking](#) regarding the current state of the voluntary Next Generation Television transition, and the scheduled sunset of two related 2017 rules. Initial comments must be filed by August 8, 2022 with reply comments due by September 6, 2022.

Next Gen TV uses the ATSC 3.0 transmission standard that introduces broadband-type capabilities for delivery of video and data content and a better viewing experience. In 2017 the FCC adopted rules allowing the voluntary transition to the new standard, but with some caveats such as requiring that a simulcast ATSC 1.0 standard video signal remain simultaneously available to viewers in the market so no one lost programming if they did not have an ATSC 3.0 reception device. This rulemaking does not remove the 1.0 signal requirement, but instead asks whether the rule requiring that the 1.0 signal must still be substantially similar to the 3.0 programming stream.

In addition, the FCC wants input on the scheduled 2023 sunset of the requirement that a Next Gen TV station comply with a published ATSC A/322 technical standard.

We are closely watching this proceeding because the information submitted in the comments will give a snapshot of the current ATSC 3.0 market. That data, and the FCC's response, may have a significant impact on the further deployment and viability of Next Gen TV.

FCC FIELD OFFICE PERSONNEL VISITING STATIONS AND ISSUING NOTICES OF VIOLATION

A few months ago, we wrote here that the FCC had lifted its Covid-19 travel restrictions on the personnel in its field offices. As a result, we anticipated immediate station visits and active responses to complaints about broadcast station operations. In recent days, the FCC's field offices in Miami, West Palm Beach and Atlanta have each issued notices of violation to broadcast stations.

In the case originated by the Miami field office, agents were prohibited from accessing the station, in violation of Section 73.1225(a) of the FCC's rules requiring licensee to make the station available for inspection by FCC representatives during business hours or at any time it is in operation. Despite displaying their badges and credentials to two different station representatives, FCC agents were denied access to the station. A call to the licensee didn't change things. The NOV requires a written statement explaining the rule violation under penalty of perjury.

In the NOV issued by the West Palm Beach field office, the station was not operating at the location specified in its previously issued STA. In addition, the station was using a different antenna than the one authorized. Section 73.1350(a) of the FCC's rules require stations to operate in accordance with FCC-issued authorizations. Even though the station admitted to the violation during the investigation, the field office issued the NOV anyway.

Finally, in the NOV issued by the Atlanta field office, the station inspection revealed multiple rule violations stemming from operation of an FM booster station without an authorization from the FCC.

Notices of Violation are formal investigative tools used by the FCC. After responses are received, the FCC has authority to issue notices of apparent liability for monetary forfeitures or take other enforcement actions.

DATES TO REMEMBER

August 1, 2022

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

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, 2021 – July 31, 2022, upload it to the station online public inspection file and post it on the station website.

September 15, 2022

Broadcast Stations Leasing Airtime to Third Parties

– deadline for station third party programmers leasing airtime on the station as of March 15, 2022 (that continue in effect) to verify foreign entity status to the station for purposes of new foreign sponsorship identification rule.

Mid-September

All commercial broadcast stations - the payment window to remit annual regulatory fees typically falls in mid-September. Amounts due should become available just prior to the payment window.

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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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