



May 2008

Updated “The Public And Broadcasting” Now Available For Immediate Placement In Public Inspection Files

Michael Richards
703-812-0456
richards@fhhlaw.com

With a minimum of fanfare, the FCC has released a new (we hesitate to declare it “improved”) edition of *The Public and Broadcasting*, the agency publication a copy of which all full-service broadcasters are required to have in their local public inspection files. We posted a notice about the release of the new edition on our blog – www.CommLawBlog.com – when the Commission announced it. If you have not already taken the time to obtain a copy of the new version and place it in your public file, you should do so as soon as possible.

The latest re-write is the first since 1999. It arrives as a result of the Commission’s localism fixation. In the Commission’s view, the Great Unwashed (*i.e.*, the broadcast audience) are largely dissatisfied with the programming of many if not most broadcasters, but the Great Unwashed somehow lack the skills, knowledge and/or tools by which to (a) identify their dissatisfaction and (b) take steps to express that dissatisfaction to appropriate figures (*i.e.*, the broadcasters themselves and, ultimately, the Commission). *The Public and Broadcasting* – none-too-subtly subtitled “How to Get the Most Service from your Local Station” – is intended to serve as a preliminary instruction manual.

The Public and Broadcasting is supposed to tell the people what they should know about the broadcasters who use their airwaves, the rules under which those broadcasters operate, and the limits of government regulation. Presumably on the theory that the manual might come in most handy for someone who already happens to be inspecting a station’s local public inspection file, for decades all such files have been required to contain a copy of the manual. (Of course, if a person is savvy enough to know about the existence of a public file, and motivated enough actually to go look at one, that person probably doesn’t need *The Public and Broadcasting*. But we digress.)

The 2008 edition helpfully updates outdated terms (for instance, gone are references to the “Mass Media Bureau”, which have been replaced by references to the “Media Bureau” – since the term “Mass Media Bureau” bit the dust years ago) and deletes discussions of rules and policies which no longer exist (example: the “personal attack rule” is no longer

addressed, because that rule also bit the dust long ago). The new version also includes new discrete sections on digital broadcasting, V-chips and local marketing agreements. It also gives more detailed information on how to file a complaint – especially a complaint about allegedly indecent programming.

In fact, aside from technological or legal changes, the biggest change between the content of the 1999 edition and the 2008 edition is the enormous increase in space devoted to indecency and its discontents. Of course, in recent years – and especially since the infamous Janet Jackson Super Bowl appearance in 2004 – there has been a dramatic upsurge in interest in indecency, an upsurge which has been accompanied by an exponential increase in indecency-related complaints. The Commission has even streamlined the indecency complaint process, providing a handy on-line fill-in-the-blanks template that can be submitted to the Commission with a mere mouse click. So it's probably not surprising that the new *Public and Broadcasting* devotes considerable attention to that area. But if the Commission is *already* receiving hundreds of thousands of indecency complaints, why does the Commission think that additional coaching in that particular area is necessary?

We could ponder such questions until the cows come home, but that would not change the essential message here: there is a new edition of *The Public and Broadcasting*, and if you have a public file, you must make sure that that public file contains a copy of that new edition as soon as possible. And since the FCC also requires broadcasters to make copies available to people who walk in off the street and ask for one (Note to readers: please let us know if and when that happens), you might want to run off a couple of extra copies to have on hand for that purpose.

The 2008 edition of *The Public and Broadcasting* is available for download at: http://www.fcc.gov/mb/audio/decdoc/public_and_broadcasting.html. If you run into any problems getting it there, contact the FHH attorney with whom you normally work, and we'll get you a copy right away.