



May 2008

Updates on the News

DTV window opening sooner? – Most everybody in TV-land has been waiting for the opportunity to file upgrade proposals to boost their DTV facilities beyond the replication limits initially authorized by the FCC. For the last six-nine months, the conventional wisdom has been that the window for filing such maximization applications would not be opened until August, at the earliest. But according to rumors circulating recently, the maximization window might open as early as late June, shortly after the June 19 deadline for the few remaining initial DTV construction permits that still need to be filed. Word is that we should be looking for an announcement in the next few weeks advising that a window period for such maximization filings will start around the last week of June – with all applications filed during the window being deemed to have been filed on the same date. Keep your eyes peeled.

DTV education status reports, redux – When the next Form 388 (DTV Quarterly Activity Station Report – *i.e.*, the form used to report the steps each TV station has taken to educate the public about the DTV Transition) is due from TV licensees, it should be filed through CDBS, rather than ECFS. As you may recall, when the Form 388 was adopted a couple of months ago, it could only be filed as a rulemaking comment through the ECFS system. The Commission has thought better of that approach and, according to one Media Bureau official, the next time around the form will be available for filing through CDBS.

Cycle for TV Mid-Term EEO reports about to start – Attention TV licensees: Form 397 is about to enter your lives. That's the mid-term EEO report, the filing requirement for which was imposed a couple of years ago. It's due to be filed the next business day after the four-year anniversary of the filing deadline for the station's last renewal. That means that the first batch of TV filers – those in Maryland, Virginia, West Virginia and the District of Columbia – should be getting their reports ready to file by June 2, 2008. Need more information? Check out the FCC's public notices (DA 07-964, dated 3/9/2007, and DA-07-2074, dated 5/16/2007) which can be found at <http://www.fcc.gov/mb/policy/eo/>.

CORES beefs up – The Commission has modified its CORES system for issuing FCC Registration Numbers (FRNs) and related passwords. The changes do ***not*** affect passwords which have already been established and are in use. ***BUT*** if you create a new password, or want to change or reset an existing password, or try to update your CORES

information, the new standards will kick in. All new passwords must contain at least six characters and at least three of the following four character types: numeric, upper case letters, lower case letters, special characters (*i.e.*, !, #, \$, *, etc.). New passwords cannot be identical to any of the user's previous four passwords. The revised system also includes a lock-out feature. After five unsuccessful login attempts, the account will be locked for 15 minutes (you'll get a warning of how many attempts you've made, in case you weren't already feeling any pressure to get it right the next time). To unlock the account, wait 15 minutes, or get a password reset at <http://support.fcc.gov/password.htm>, or just call the help line (877-480-3201, option 1) between 8:00 a.m.-6:00 p.m. ET).

For the birds – As we reported in the February, 2008, *Memo to Clients*, the Commission was ordered by the U.S. Court of Appeals in D.C. to take a closer look at claims that communications towers are killing migratory birds by the millions (and, if that turns out to be the case, what might be done about it). The FCC's Wireless Bureau has now opened a docket (WT Docket No. 08-61) for the submission of comments on the subject. If you've got something to say, let the Wireless folks know. The Bureau has assigned the proceeding "permit but disclose" status under the *ex parte* rules, which means that parties may make *ex parte* presentations as long as they are properly disclosed in a written memo filed in the docket.

That's news to the FCC – The Commission has officially declared the entertainment news program *TMZ* and certain portions of the long-running Christian program *The 700 Club* to be newscasts. The programs' producers requested the rulings so that any appearances by political candidates would be exempt from the equal opportunities provisions of the political broadcast rules. *TMZ* and *The 700 Club* now take their rightful places alongside *Celebrity Justice*, *Access Hollywood*, *Entertainment Tonight*, *Geraldo*, *The Jerry Springer Show*, *The Howard Stern Show* and last but not least, the ironically-named *Not Just News*, all of which have been dubbed to be "newscasts" (in whole or in part) by the FCC. Apparently sensitive to the fact that these programs aren't likely to be confused with, say, *Meet the Press* or *Face the Nation*, the FCC somewhat defensively explains that the agency's "role is not to decide, by some qualitative analysis, whether one kind of news story is more *bona fide* than another". The FCC's understandable reluctance to be drawn into a debate about what really constitutes a "news" program is particularly interesting in view of its insistence (as part of the on-going localism juggernaut) that TV (and, in all likelihood, radio) licensees keep diligent track of, among other things, their own "news" programming. Will licensees, in preparing their Form 355 programming reports, be permitted to rely on the Commission's own determinations of what may be deemed "news"?