



September 2009

Updates on the News

“Radio rescue petition” comment deadline set – Last month we reported on the 17-point “Radio Rescue Petition” filed by the Minority Media and Telecommunications Council (MMTC) last July. The FCC has now formally invited comment on that petition. You can download a copy of the Petition from MMTC’s website; a link is available in our post on www.commlawblog.com (Go to: <http://www.commlawblog.com/2009/09/articles/broadcast/fcc-invites-comments-on-mmmtc-radio-rescue-petition/>). As previously reported, the Petition presents an extraordinarily wide range of suggested steps intended (a) to jump-start the flagging radio industry and, in so doing, (b) to promote increased participation by minorities and women in the industry as well. Comments are due by **October 23**.

Escribimos Español – Here’s a heads-up from our blast-from-the-past department. Effective January 1, 2010, **100%** of “new” nonexempt Spanish-language programming must be closed-captioned. This applies to broadcasters, cable operators and the satellite TV services. For the past three years (since January, 2007), only 1,350 hours of such programming per channel per quarter have been subject to the captioning requirement. But come January, the obligation goes full-time. For purposes of this rule, Spanish-language analog programming is deemed to be “new” if it was first shown on or after January 1, 1998; on the digital side, it’s “new” if it was first shown on or after July 1, 2002. Want to refresh your recollection of just what constitutes an “exemption”? Check out the FCC’s captioning webpage at <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>.

Quick, let’s lock that barn door – As most students of the FCC have noticed, for the last several months – pretty much since the June 12 DTV transition – the Commission’s attention has been focused almost exclusively on all things broadband. We’ve seen FCC workshops and meetings and reports and blogs and vlogs and Twitters and just about every other conceivable form of communication, all devoted to BROADBAND. And that’s against the backdrop of the government’s multi-billion dollar give-away program (a/k/a the Broadband Stimulus Package) launched earlier this year and already steaming along, a program in which the FCC is a major governmental player (along with NTIA and RUS). So it came as something of a surprise when, on August 20, the FCC issued a cute little four-page public notice seeking comments on “defining ‘broadband’”. Since the term “broadband” had been tossed around so often in so many official pronouncements, we had kind of assumed that, you know, well, maybe, the government already had a

pretty good handle on exactly what it was talking about. Foolish us. According to the notice, the Commission is looking for “targeted” comments on (among other things) “the general form, characteristics, and performance indicators that should be included in a definition of broadband”. (“Targeted”? It shouldn’t be that hard to hit a target as big as that.) In any event, it doesn’t sound like the FCC is trying to fine-tune an existing, well-established definition, but you never know. The notice is a trove of such mixed signals. Sure, the Commission is seeking comment on “the form that a definition of broadband should take”, “whether to develop a single definition, or multiple definitions”, “the minimum thresholds necessary for broad classes of applications to function properly”, “what criteria should be used to adjust thresholds over time” . . . and another dozen or so similar questions, all of which strike us as relatively cosmic in scope. But the Commission gave interested parties a mere 11 days to comment (and another eight days for reply comments). Maybe the FCC didn’t want folks to over-think the problem.