

Memorandum to Clients

May, 2002

News and Analysis of Recent Events in the Field of Communications

No. 02-05

FCC: Coming to its Census About Auxiliary Licenses?

Broadcasters Required to Submit Information About Their Auxiliary Stations

By: Harry F. Cole

The FCC has announced that it is conducting a census of broadcast auxiliary stations – but it is placing the primary burden on broadcasters themselves, and the potential penalty for failing to meet that burden is not insubstantial.

In the olden days, auxiliary licenses were issued separately from the main broadcast license. Auxiliary licenses cover such services as remote pickup stations and STL's. That is, if you wanted, say, an STL, you had to apply for it as a separate license, and you had to file renewal applications for it separately. Eventually, however, the Commission decided to streamline its processes, as a result of which separate renewals were no longer required; once the main broadcast license was renewed, so too were any auxiliaries used in association with that main license. Note that, notwithstanding that change, auxiliary stations still retained their own unique call signs.

However, the Commission's internal record-keeping has proven to be far less than perfect, as a result of which there are

more than 9,000 auxiliary licenses in the FCC's system which don't appear to be associated with a "Parent Broadcast Station License." While some of those 9,000-plus licenses may be dead and gone, the Commission suspects (probably correctly) that at least some of them may be associated and currently utilized with a broadcast station, even though the Commission's files don't reflect such a connection.

While the process of tracking down and submitting information for all your auxiliary stations may be a pain, it beats waking up one morning to find that those auxiliary licenses have expired.

So in an effort to clean up this situation, the Commission is giving broadcast licensees "the opportunity to provide us with accurate Parent Station Information for Broadcast Auxiliary licenses." To avail yourself of that "opportunity", you should do the following:

1. Determine whether you are affected. To find out whether your auxiliary stations are properly linked up with your main license in the FCC's books, go to the FCC's Universal Licensing System ("ULS") home page at http://wireless.fcc.gov/uls. Using the "search" function on that page, enter the call sign for each auxiliary station you have. The resulting search should show that each call sign associated with an FCC Facility Identification Number ("FAC ID") corresponding to the FAC ID of your main station. As long as all the auxiliary stations you are using reflect proper linkage to the correct FAC ID for your main station, you are all set and need do nothing more. (Note that, if you don't know the call sign of your auxiliary station, you can also use the ULS search function to search for your FCC Registration Number ("FRN") – that search should turn up a listing of all licenses, including auxiliaries, associated with your FRN in the Commission's records. The listing of the auxiliaries should include FAC ID numbers corresponding to your main station FAC ID.)

2. Submit correct information. If your search reveals that any of your auxiliary licenses are not properly associated with your main license in the Commission's records, you should submit to the Commission the FAC ID (or, if you don't have your FAC ID, the Parent Station Call Sign) of the main station license which should be associated with all auxiliary licenses. If you have an auxiliary station which you believe is

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The Scoop Inside

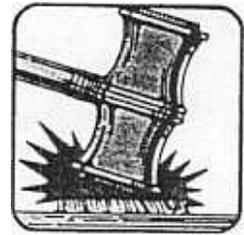
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Going - Going - But Not Gone Quite Yet!

Channel 60-69 Auction Delayed Again FCC Moves Forward on Channel 52-59 with Slight Delay

By: Vincent J. Curtis, Jr.



Facing substantial pressure from the Hill, the FCC late on Friday, May 24, 2002, delayed once again the auction of the upper 700 MHz band (channel 60-69) until January 14, 2003. At the same time, the Commission decided to go forward on the auction involving the lower 700 MHz band (channel 52-59). The only slow-down in that auction is that the Commission gave the parties two extra days in order to get their upfront payments filed, changing the new date to Thursday, May 30, 2002. Except for that slight change, the Commission has decided to go forward with the June 19, 2002 auction date for the lower band spectrum.

The Commission's action was the result of several weeks of very hectic lobbying by various interest groups on the Hill and at the FCC urging conflicting positions on delay as well as going forward with both auctions. The Administration had chimed in with the belief that the auction delay would be best for the Treasury in the end since the parties who will be bidding, because of various uncertainties, would not be willing to put out big dollars for this spectrum. The Commission's decision was clearly a compromise and will surely not please everyone.

The one group that is most unhappy about the delay and may go to Court is the Spectrum Clearing Alliance led by Bud Paxson. Paxson had urged the Commission and the members of Congress to go forward on the 60-69 auction claiming that he had put together a substantial number of incumbent broadcasters who would be willing to work out early spectrum clearance with winning bidders. Paxson had claimed that if the Commission did not go forward again with this auction that he intended to go to Court. As we go to press, no decision about Paxson's plans has been revealed.

In a Public Notice advising that the upfront payment had been extended two days, the Commission noted that seventy-two applications had already been accepted, and that eighty-one were incomplete, but could be amended provided the corrections were submitted no later than close of business on May 31, 2002.

There is pending before the Senate a bill which would delay both auctions without date. That bill, which was put forward by Senators Kerry and Ensign ran into a road block when Senator Stevens of Alaska filed a counterbill urging the Congress to support the continuation of the auctions. While the Senate could possibly pass a bill before the June 19 auction date, the chance of that happening without a major compromise is very doubtful.

The vote at the Commission was 3-1 with only Commissioner Martin urging that both auctions be delayed at this time. Whether any outside forces, either the Court or the Hill, could intervene, is uncertain. One other factor which will certainly impact is the filing of the upfront payments in the Channel 52-59 auction which will probably spell the end of any chance in delaying that auction.



Fletcher, Heald & Hildreth A Professional Limited Liability Company

1300 N. 17th Street - 11th Floor
Arlington, Virginia 22209
Tel: (703) 812-0400
Fax: (703) 812-0486
E-Mail: Office@fhhlaw.com
Web Site: fhhlaw.com

Supervisory Member
Vincent J. Curtis, Jr.

Co-Editors
Howard M. Weiss
Harry F. Cole

Contributing Writers
Ann Bavender, Harry F. Cole,
Vincent Curtis, Anne Goodwin Crump,
Lee G. Petro, R.J. Quianzon, Alison
Shapiro, Jennifer D. Wagner
and Liliana Ward

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IPFM and the Pirates: The FCC Gets a Second Chance

By: Jennifer Wagner



A federal court has agreed to again hear arguments for and against the FCC's rule forbidding pirate broadcasters from applying for low-power FM radio licenses, and this time all of the judges will listen. In the meantime, the earlier decision which will now be reviewed has been vacated.

In February, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit (familiarily referred to as "the D.C. Circuit") invalidated the provision of the Radio Broadcasting Preservation Act of 2000 that prohibits anyone who has engaged in unlicensed radio broadcasting from applying for a low-power FM radio license. In the case of *Ruggiero v. FCC*, the Court deemed the so-called character qualification provision unconstitutional under the speech clause of the First Amendment and equal protection clause of the Fifth Amendment, pri-

marily because it targeted only unlicensed broadcasters B but not other types of rule breakers -- and because it failed to consider waivers for pirates who either pled ignorance of the rules or renounced their pirate ways and tried to bring their operations into compliance with FCC rules. We described the court decision in the February Memorandum to Clients.

The D.C. Circuit currently consists of eight active judges and three senior judges. As a general rule, appeals filed with the Court are heard by three-judge panels such as the panel which issued the February decision. The losing party in any appeal may seek "*rehearing en banc*", meaning that the losing party is asking for all active judges (and any senior judges who may have sat on the original panel decision) to review and reconsider the panel's decision. While losers routinely seek *en banc*

review, the Court routinely denies such requests -- *en banc* consideration is generally limited to a very small number of extraordinary cases. Because of this, the Court's action in the *Ruggiero* case is particularly noteworthy.

The FCC persuaded the Court to rehear *Ruggiero en banc* by arguing that the February decision "blesses a wholly unwarranted judicial intrusion into Congress's domain". According to the Commission, the Court improperly overstepped the boundary between itself and Congress by contending that additional persons should have been covered or

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not required to be associated with a main license FAC ID or Parent Station Call Sign, you should indicate that in your response to the Commission. Any such corrective submission should be addressed as follows:

By email: mhower@fcc.gov

By fax: **MHOWER** at (717)338-2693

By mail: **Federal Communications Commission**
1270 Fairfield Road
Gettysburg, PA 17325
ATTN: Mhower

By FedEx (or other courier service):
Federal Communications Commission
ATTN: Mhower
Rear Entrance
35 York Street
Gettysburg, PA 17325

3. **Deadline.** Effective **July 1, 2002**, broadcast auxiliary licenses which are not associated with a broadcast station will be allowed to expire. Accordingly, it

would be a good idea to submit any required notifications to the Commission as soon as possible.

While the process of double-checking the FCC's records and, possibly, having to track down and submit information for all your auxiliary stations, may be annoying and burdensome, it is likely to be well worth the hassle. Waking up one morning to find that those auxiliary licenses have expired, requiring you to apply for them anew, could be far more annoying and burdensome.

We at FHH are available to assist you in the process of confirming and protecting the status of your auxiliaries. Of course, we will need from you information about the auxiliary stations you are using but, with that information, we should be able to determine if any corrective submission is necessary and, if so, we should be able to assist you in getting it on file.

If you have any questions about this, or if you would like our assistance in determining whether you need to submit information to the Commission, contact the FHH attorney with whom you normally work or Harry F. Cole at cole@fhhlaw.com or (703) 812-0483.

New Rules Adopted for Fixed Wireless Service in the 12 GHz Band

By: Lee G. Petro

The Commission has adopted the service rules for a new fixed wireless service in the 12 GHz band. Intending the Multi-Channel Video Distribution and Data Service (MVDDS) to be a competitor in the delivery of video and broadband communications services, the Commission authorized this terrestrial service to operate on the same spectrum currently used by the Direct Broadcast Satellite service and the non-geostationary fixed-satellite service.

the cable system. By contrast, DBS providers (of which there might only be one in the future) *will* be permitted to hold MVDDS licenses. It is conceivable, then, that the MVDDS service may permit DBS holders to act as a translator to fill in terrain-challenged areas. More provocative is the potential that this spectrum could possibly be used to solve the DBS providers' difficulties in providing both upstream and downstream wireless internet services.

In adopting the rules for the new service, the Commission adopted specific interference requirements to protect DBS and satellite operators. For example, MVDDS licensees will be required to limit interference at any and all existing DBS customer locations. If the interference level is exceeded, then the MVDDS operator will be required to discontinue service until such time that the limits can be met. Moreover, the Commission adopted a "safety valve" which permits DBS licensees to present engineering studies to demonstrate that certain service areas should have different (read: higher) interference standards based on terrain or other factors.

One must wonder, given the competitive difficulties faced by other broadband providers, whether the industry needs yet another provider of similar services.

However, until such time that demand for these services has increased, the adoption of this new service will introduce yet another terrestrial-based two-way service for the delivery of broadband service. The MVDDS will enter a highly congested industry, already populated by the MDS/ITFS broadband service providers, the remnants of Winstar and Richocet-type service providers, along with the existing DBS providers, for the delivery of the video and data services.

One must wonder, given the competitive difficulties faced by these other broadband providers, whether the industry needs yet another provider of similar services.

The Commission also determined that incumbent public safety Private Operational Fixed Service (POFS) licensees operating in the 12 GHz band must be protected by the MVDDS licensees. However, incumbent non-public safety POFS licensees will now be required to protect the MVDDS, and the Commission will not accept applications for new POFS licenses, amendments to applications for new and modified licenses, or applications for major modifications to existing licenses.

Notwithstanding such doubtful musings from the sidelines, the Commission is pressing ahead quickly: it has already established an auction date (February 12, 2003) for the distribution of the new licenses. This is somewhat surprising, giving the concerns raised by several Commissioners in the order establishing the new service, along with the widely-expected appeal of the decision by the incumbent DBS and cable operators. We will keep you apprised of the future developments in this matter.

Interestingly, the Commission determined that the dominant cable operator in any one economic area will not be permitted to also hold a MVDDS license for a facility overlapping with

If you have any questions, please contact the attorney you with whom you normally or Lee G. Petro at petro@fhhlaw.com or (703) 812-0453.



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excluded under the provision, which was promulgated as an amendment to the FCC's LPFM rules. The Court issued an Order on May 2 agreeing to rehear the case before a panel of all its judges. A rehearing date has not been set.

The May 2 Order also vacated the February judgment, which in effect breathes the breath of life back into the prohibition against pirates owning LPFM stations. That doesn't mean pirates-turned-LPFM-

applicant-wanna-bes are likely to get an opportunity to file LPFM applications before the case is reheard: the FCC has not scheduled a new LPFM filing window. Nor is this judicial activity likely to slow down the arrival of LPFM service: on May 23 the Commission issued a cut-off list of nearly 200 LPFM applications which are ready for processing. In a footnote to the cut-off list, the FCC acknowledged the February *Ruggiero* decision as well as the decision to vacate the February decision. But the footnote states that the determination that the listed applica-

tions are all "acceptable" is not "the result of the staff taking adverse action with respect to a conflicting LPFM application that failed to satisfy th[e] Commission rules regarding [pirates]" – in other words, the Commission seems to be confident that the cut-off list does not include any pirates or potential pirates.

If you have any questions about this development or its potential impact on your interests, contact Jennifer D. Wagner at wagner@fhhlaw.com or 703-812-0511.

Pirate of the Caribbean The FCC keelhaunched another radio pirate this month. The FCC announced that a man broadcasting an FM radio signal on 99.5 MHz in Puerto Rico had been repeatedly warned that operation of his transmitter was in violation of federal law. The pirate continued to broadcast and the FCC, accompanied by U.S. Marshalls, seized the man's broadcasting equipment. Last month, the FCC arrested a radio pirate operating on the mainland. The FCC has the authority to arrest pirates, seize their equipment and impose a fine of up to \$11,000 per day.

It's a Small World No matter what language you broadcast, you must not broadcast indecently, at least between 6:00 a.m. and 10:00 p.m. The FCC issued two indecency rulings recently. In one case, the Commission received a listener complaint about a non-English broadcast of dirty jokes. The listener submitted an audio tape of the broadcast containing the offensive material. The FCC located an interpreter and transcribed the material. Although the broadcaster disputed parts of the translation, the ultimate subject of the radio show was masturbation and sex. Having decided that the material was indecent, the FCC issued a \$7,000 fine (that's equivalent to 11,000 Swiss francs or 17,500 Brazilian Real).

In the second case, Station KROQ(FM) in Pasadena, California, broadcast a lilting ditty affectionately named "You Suck" at approximately 9:00 p.m. one day back in 1997. The station claimed that it thought that it had broadcast an edited version (although, given the relatively monothematic and extraordinarily specific nature of the lyrics, it's hard to imagine what an "edited" version might have consisted of), but a complainant claimed that various specific terms relating to certain body parts had been aired. Since those terms appear in the unedited version, but not in the edited version, of the tune, the Commission concluded that the full version had been broadcast, and the Commission had no difficulty concluding that the song was, indeed, "indecent". Accordingly, the Commission upheld its earlier determination that a \$2,000 fine was appropriate.

The most important aspect of this latter decision, though, is in its fine print. The complainant had not submitted a copy of a tape or transcript of the supposedly indecent material *as broadcast*. Instead, the complainant had filed a copy of the song as it appeared on a CD. The licensee, of course, responded that it had not broadcast *that* version of the song, so no reliance could properly be placed on that version. In response, the Commission held expressly that "the provi-

sion of a tape or transcript is not required in support of an indecency complaint." According to the FCC, the inclusion of a transcript of one version of the song was enough to put the licensee on notice as to the basic allegation and therefore enable the licensee to prepare its response. Since the licensee in this case could not say for sure which version of the song had been broadcast, the Commission concluded that the licensee should not be permitted to avoid liability simply because it did not know what had been broadcast.

The determination that a tape or transcript is not a necessary component of an indecency complaint is a relatively surprising development which suggests that the Commission may be inclined to accord greater latitude to complainants than has seemed to be the case up to now.

Focus on FCC Fines

By: R.J. Quianzon



Even Pinocchio Knows to Tell the Truth The FCC fined a company \$3.6 million for submitting "inaccurate factual information" within several affidavits. The company, a major telephone operator with numerous FCC licenses and authorizations, has agreed to a consent decree pursuant to which it will pay the full \$3.6 million to the U.S. Treasury. The consent decree also calls for the company to implement an extensive compliance plan in order to ensure that further inaccurate statements were not made. The plan requires employee training, internal affidavit verifications, company disciplinary actions and an independent audit of the company for the next year to be conducted by Ernst & Young. The FCC found that, in light of the agreement reached with the company, no material questions exist as to the company's character qualification.

Haunted House Calls The FCC has advised the Funeral and Cemetery Finders Association that recorded calls which are made to residential telephone lines are prohibited by FCC rules. The Communications Act prohibits telemarketers and other commercial businesses from playing prerecorded messages on residential telephones without the express permission of the person on the other end of the line. The FCC, gravely concerned, is investigating whether the Funeral and Cemetery Finders engaged in such practice when making cold calls for potential customers. At \$11,000 per improper phone call, the potential fine is a stiff penalty designed to scare telemarketers to death. Of note, this prohibition does *not* apply to tax exempt non-profit organizations.



CARP Webcasting Royalty Recommendations Rejected by Copyright Office

By: Alison J. Shapiro

On February 20, 2002, the Copyright Arbitration Royalty Panel ("ACARP") delivered its report recommending rates and terms for the statutory license for eligible nonsubscription services to perform sound recordings publicly by means of digital audio transmissions (*i.e.*, webcasting) and to make ephemeral recordings of sound recordings for use of sound recordings under the statutory license. As we reported in Memorandum to Clients last March, the rates recommended by the CARP – which were in the view of many extraordinarily high – in combination with the reporting requirements still under consideration were a serious blow to the streaming industry.

But the streamers received good news on May 21, 2002, when the Librarian of Congress, based upon the recom-

mendation of the Register of Copyrights, *rejected* the CARP's determination proposing rates and terms for these licenses. The Librarian of Congress will issue his final determination concerning the rejection of the CARP's proposed rates and terms on June 20, 2002. While it is possible that the Librarian's action will lead to substantially reduced license rates for streamers, there is no guarantee on that point. But at least for the time being there is some reason for hope that the streaming industry may not be subjected to royalty fees which would likely kill off the industry before it has a chance to flourish.

If you have any questions about this, contact the FHH attorney with whom you normally work or Alison J. Shapiro at shapiro@fhhlaw.com or 703-812-0478.

"If you don't build it, they will come . . ."

Sanctions for Failure to Build DTV Facilities Proposed

By: Harry F. Cole



In its on-going efforts to push, prod, cajole and coerce the television industry into the digital age, the Commission has issued a Notice of Proposed Rulemaking looking to adopt a set of "graduated sanctions" which would be available for imposition on television broadcasters who fail to meet their DTV facilities construction deadlines. This is another wake-up call to let the industry know that the FCC means business.

The DTV construction process has been subject to a variety of delays. Most recently, the Commission was inundated with hundreds of requests for extension of the May 1, 2002 DTV construction deadline applicable to the vast majority of commercial licensees. The FCC's staff, apparently not satisfied with the showings submitted with many of those requests, required the licensees to submit extensive, more detailed information about the circumstances which necessitated the requested extensions. While most, if not all, of

those requests will likely be granted ultimately, the fact remains that DTV construction is moving more slowly than the FCC would like.

Faced with this history, the Commission now suggests a three-level series of sanctions for delayed construction.

Under the proposal, if a DTV permittee does not present an adequate explanation for failure to construct, the Commission would deny an unqualified extension, and would admonish the licensee for its failure. The licensee would be required to file a report, within 30 days of the admonishment, outlining its construction plans and providing an approximate build-out schedule which would result in completed construction within six months of the admonishment. Sixty days after that first report, the licensee would have to file an update report, describing its progress and explaining any delays it has encountered. The FCC appears to believe that this first level of scrutiny and monitoring

may be enough to get the job done.

But if it isn't, and if a licensee fails to get its DTV facilities built in the six months following admonishment, the Commission proposes Step Two: a notice of apparent liability (in an as-yet-unspecified range), plus required reports of progress every 30 days.

And if *that* doesn't do the trick in six months (meaning that the licensee at this point would have had an extra 12 months past the date of the admonishment), the FCC proposes the Third Degree: declaring the DTV permit expired and rescinding the station's DTV authorization. Since all analog operations will still be required to be surrendered at the end of the DTV transition, the loss of the DTV authorization could have dire consequences. And while there

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Stuff you may have read about before is back again . . .

Updates on the News

Mandatory Electronic Filing

As of **May 21, 2002**, electronic filing is required for the following forms:

FCC 301-CA (to make changes in a Class A Television Station)

FCC 346 (to construct or make changes in an LPTV, TV translator or TV booster station)

FCC 349 (to construct or make changes in an FM translator or FM booster station)

FCC 350 (FM translator or FM booster station license)

And as of **June 11, 2002**, electronic filing is required for:

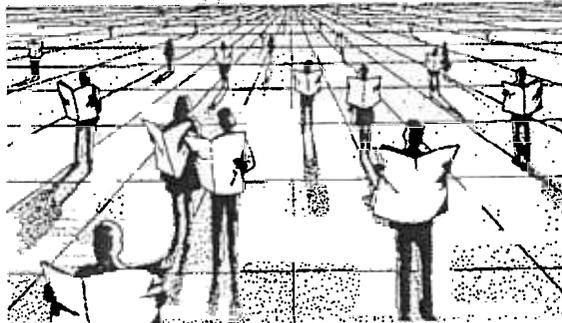
FCC 302-CA (Class A TV construction permit or license)

Paper versions of these forms will no longer be accepted unless accompanied by a request for waiver of the electronic filing requirement.

Digital Radio - Coming Soon to a Radio Near You??

In early May representatives of iBiquity Digital Radio, Inc., the developer of the in-band-on-channel (IBOC) digital radio system currently under consideration by the Commission, made the rounds of several Commissioners' offices to brief them on industry developments. Perhaps the most noteworthy aspect of the briefing was iBiquity's emphasis on the importance of obtaining FCC approval of the iBiquity system in early September "in order to ensure consumers receive the benefits of digital radio early next year." According to iBiquity, it plans to launch its products and service at the Consumer Elec-

tronics Show in January, 2003. In connection with that launch, iBiquity expects to deploy IBOC facilities to approximately 100 stations in six top markets by the end of the year. Whether the Commission will be inclined to issue a Report and Order endorsing iBiquity's IBOC system in that time frame is far from clear, but it is absolutely crystal clear that iBiquity is pressing hard for just that. Stay tuned.



Clear Channel Opts Out of Hearing

As our readers will no doubt recall, in March the Commission found that it could not grant an application for assignment of the license of a Charlottesville, Virginia, radio station to Clear Channel Radio License, Inc. due to market

concentration concerns. Because two parties would have a market share greater than 90 percent, and because Clear Channel had presented no special factors to justify such a high concentration, the Commission said that it could not find that a grant would serve the public interest. The Commission therefore looked to the interim policy which it had adopted to deal with such situations during the time period while its rule making proceeding to address multiple ownership issues is pending.

In accordance with that interim policy, the Commission designated the application for an evidentiary hearing, but gave the parties the option instead to defer further consideration of the application pending the outcome of the rule making proceeding. Perhaps not surprisingly, the parties have submitted an election statement indicating that they would prefer to await the outcome of the ownership rule revisions. Clearly, in this instance, the parties preferred the possible delay to the trouble, expense, and uncertainties of a hearing proceeding.



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would remain at least a possibility that an analog operator, faced with the rescission of its DTV authorization, might seek to convert to

digital on its analog allotment, the Commission proposes that that could not happen without the allotment also being opened up to competing applications. Obviously, the Commission is serious about making the DTV transition happen sooner rather than later. Whether the proposals will be adopted in their current

form remains to be seen. But it is virtually certain that the Commission will take definite steps to assure that the DTV transition proceeds apace.

Comments on the FCC's proposals are due to be filed by July 8, 2002, and reply comments by July 23, 2002. If you have any questions about the proposals, or if you would like help in preparing comments on them, call the FHH attorney with whom you normally work or Harry F. Cole at cole@fhhlaw.com or (703) 812-0483.

FM ALLOTMENTS PROPOSALS
3/26/02-4/27/02

State	Community	Channel	Docket No.	Deadlines for Comments	Type of Proposal (i.e., Drop-in, Section 1.420, Counterproposal)
CO	Ridgeway	279C1	02-118	Cmts – 7/15/02 Rep – 7/30/02	1.420 (substitution for Ch.279C2)
CO	Rangely	257C1	02-118	Cmts – 7/15/02 Rep – 7/30/02	1.420 (substitution for Ch.279C1)
MI	Presque Isle	227A	02-106	Cmts – 7/8/02 Rep – 7/23/02	Drop-In
MI	Alpena	257C2	02-107	Cmts – 7/8/02 Rep – 7/23/02	Drop-In
MI	Harrisville	226A	02-108	Cmts – 7/8/02 Rep – 7/23/02	Drop-In
GA	Morgan	228A	02-109	Cmts – 7/8/02 Rep – 7/23/02	Drop-In
WI	Owen	242C3	02-120	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
NE	Hartington	232A	02-121	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
CA	Lone Pine	249A	02-122	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
OR	Terrebonne	293C2	02-123	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
CA	Amboy	237A	02-124	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
OK	Wynnewood	283A	02-126	Cmts – 7/15/02 Rep – 7/30/02	Drop-In
MT	Roundup	248A	02-127	Cmts – 7/15/02 Rep – 7/30/02	Drop-In

FM ALLOTMENTS PROPOSALS
(CONTINUED)
3/26/02-4/27/02

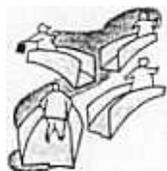
State	Community	Channel	Docket No.	Deadlines for Comments	Type of Proposal (i.e., Drop-in, Section 1.420, Counterproposal)
TX	Centerville	274A	02-128	Cmts – 7/15/02Rep – 7/30/02	Drop-In
NC	Rose Hill	284C3	02-110	Cmts – 7/8/02Rep – 7/23/02	1.420 (substitution for Ch.284A)
NC	La Grange	284C3	02-110	Cmts – 7/8/02Rep – 7/23/02	1.420 (reallotment from Rose Hill)
AL	Meridianville	262C2	02-114	Cmts – 7/8/02Rep – 7/23/02	1.420 (substitution for Ch.231A)
AL	Tuscumbia	262C2	02-114	Cmts – 7/8/02Rep – 7/23/02	1.420 (change of community)
AL	Carrollton	231C0	02-114	Cmts – 7/8/02Rep – 7/23/02	1.420 (substitution for Ch.231C)
AL	Gurley	231A	02-114	Cmts – 7/8/02Rep – 7/23/02	Drop-In
MI	Monroe	252A	02-115	Cmts – 7/8/02Rep – 7/23/02	1.420 (change of community)
MI	Luna Pier	252A	02-115	Cmts – 7/8/02Rep – 7/23/02	1.420 (change of community)
MS	Clarksdale	268A	02-119	Cmts – 7/15/02Rep – 7/30/02	1.420 (change of community)
MS	Friars Point	268C3	02-119	Cmts – 7/15/02Rep – 7/30/02	1.420 (upgrade)
NE	Norfolk	294C0	RM-10431	Cmts – 6/17/2002	1.420 (reclassification from Class C)

"TBA" means "to be announced". Newly-allotted channels are not likely to become available for filing until after the Commission has resolved certain difficulties with its broadcast auction processes. The Commission has provided no indication of when those difficulties may be resolved.

**FM ALLOTMENTS ADOPTED
3/26/02-4/27/02**

State	Community	Channel	Docket No.	Availability for Filing
MI	Alberta	299A	00-245	None
MI	Custer	263A	01-186	TBA
MI	Cheboygan	249C3	00-69	TBA
MI	Onaway	292C2	00-69	TBA
MS	Horn Lake	239A	02-31	None (change of community)
MS	Memphis	266C1	02-31	None (change of community)
MS	Olive Branch	266C1	02-31	None (change of community)

Consistent with our past practice, Fletcher, Heald & Hildreth PLC provides this advisory on a periodic basis to alert clients both to FM channels for which applications may eventually be filed, and also to changes (both proposed and adopted) in the FM Table of Allotments which might present opportunities for further changes in other communities. Not included in this advisory are those windows, proposed allotments and proposed channel substitutions in which one of this firm's clients has expressed an interest, or for which the firm is otherwise unavailable for representation. If you are interested in applying for a channel, or if you wish us to keep track of applications filed for allocations in your area, please notify the FHH attorney with whom you normally work.



FHH - On the Job, On the Go

Vince Curtis and Frank Jazzo will be on a panel with Roy Stewart, Chief of the Office of License and Policy of the new Media Bureau at the Mississippi Association of Broadcasters on Saturday, June 20, 2002 at the MAB's Annual Convention at the Grand Oasis Resort in Gulfport, Mississippi. Commissioner Kevin Martin will also be in attendance and will speak at the Members' Annual Meeting.

Vince, Frank and Roy will do a reprise at the New Mexico Broadcasters Association's 51st Annual Convention in Albuquerque, New Mexico on Friday, June 28, 2002.

Both panels will provide an update on changes and doings in Washington.

Harry Martin will be participating in a Tennessee Association of Broadcasters management roundtable discussion of regulatory issues in Chattanooga on June 14.

Gene Lawson recently participated in the 23rd Annual Advanced Estate Planning & Administration Conference at The Tides Inn in Irvington, Virginia. This year's major topics of interest included Buy-Sell Agreements and Related Tax (income and estate) Issues for the Closely Held Business as well as various state estate and inheritance tax reactions to the repeal of the Federal Estate Tax. If you have any questions about these or other business law matters, contact Gene at lawson@fhhlaw.com or 703-812-0404

Temporary Waiver of Multiple
Ownership Rule In Single-Station Sale

By: Ann Bavender

Granting authorization for Viacom to purchase a second television station in the LA market, the FCC gave Viacom six months to come into compliance with the radio-TV cross-ownership rule by selling one of seven radio stations it currently owns in the market. Without the divestiture period, Viacom would have had to sell one of the radio stations prior to closing on the television station purchase.

This is the first time that the FCC has given the purchaser of a single broadcast station extra time to come into compliance with a multiple ownership rule. Previously, the FCC has emphasized that such waivers were only to facilitate a large transaction involving many stations. The FCC emphasized that that the size and diversity of the Los Angeles media market was a unique circumstance unlikely to be present in other markets.

If you have questions about the multiple ownership rules, contact the FHH attorney with whom you normally work or Ann Bavender at bavender@fhhlaw.com or (703) 812-0438.

May 28, 2002

Lower 700 Mhz Band Auction and Upper 700 MHz Band Auction - Upfront payments due by wire transfer no later than 6:00 p.m. EDT

June 13 & 14

Upper 700 MHz Band Auction - Mock auction to be held.

June 14

Lower 700 MHz Band Auction - Mock auction to be held.

June 19, 2002

Lower 700 Mhz Band Auction and Upper 700 MHz Band Auction - Auction begins with first round of bidding.

July 1, 2002

Broadcast Auxiliary Record Update Deadline - All licenses must check the Commission's ULS system to make sure that the records for their broadcast auxiliary stations (such as Studio-Transmitter Links and Remote Pick-ups) have the correct Facility Identification Number for the parent stations associated with them. If not, the Commission will allow the licenses to expire and will remove the authorizations from its records.

Deadlines!!!

