FLETCHER, HEAL

Memorand

December, 2002 *News and Analysis of Recent Eve* No. 02-12

"Silent Night? Holy Mackerel!!!"

SESAC Wins $

By: An

Two Pittsburgh FM stations got run over by a reindeer dressed up as a federal jury which ordered them to pay SESAC over $1.2 million for playing "Grandma Got Run Over By A Reindeer" and other songs without a SESAC license. The damages were awarded against the two stations and the President of the stations' licensee corporation as an individual.

suit, the jury awarded damages ranging from ,000 per song. The maximum damage of as awarded for six of the songs, apparently because jury figured that the licensee really should have that those songs (for instance, "All Along the Watchtower") were licensed through SESAC.

It appears that the jur ered the damages for Christmas songs, possibly because the licensee might not have been expected to realize that, for instance, "Silent Night" might be licensed anywhere. While it is not clear exactly what rights SESAC holds with respect to such old and well-known tunes, it is likely that SESAC licenses broadcast of certain arrangements of such songs.

The AC and Classic Rock stations were ordered to pay damages for repeatedly playing 31 SESAC songs, including songs by Chico Debarge, Bob Dylan, Mannheim Steamroller, Peter McCann, William Becton, Albert Brumley and Neil Diamond. The songs included Christmas favorites "Silent Night", "Joy To The World", and "Grandma Got Run Over By A Reindeer", Bob Dylan's "Knockin' On Heaven's Door", "Just Like a Woman", "All Along The Watchtower" and "Positively 4th Street", and Neil Diamond-written "Cracklin' Rosie" and "Solitary Man". The stations earlier had SESAC licenses, but let them

This was one of the first jury trials involving copyright infringement by a broadcaster since the Supreme Court, in 1998, ruled that litigants in copyright cases have a right to jury trial. Before that, judges awarded damages that were typically $1,000 to $5,000 per song. In 1999, the limit on damages per song was raised from $100,000 to $150,000. SESAC also plans to ask the judge to require the stations to pay SESAC $500,000 to cover its expenses for the lawsuit. SESAC reports that a blanket license would have cost each station only $5,000 per year.

SESAC is a performing rights organization, like ASCAP and BMI. It represents songwriters and publishers and monitors use of music to ensure that the artists are paid royalties when their work is heard. Radio stations have to pay for licenses from each of the three organizations to legally use their songs. In the past, ASCAP and BMI represented the majority of popular songwriters, while SESAC represented only a small number. In recent years, however, SESAC's roster of artists has expanded considerably to include a number of high-profile artists. In 1995, Dylan and Diamond signed with SESAC. SESAC now has a diversified repertory that includes genres ranging from Adult Contemporary, Urban, Jazz, Rock, Ameri-

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The Scoop Inside

"That's a nice little license you got there --
It'd be a shame if somethin' happened to it . . ."

FCC TO DEADBEAT LICENSEES: WE'VE GOT YOUR NUMBER

By: Donald J. Evans

While the Commission has stopped short of threatening to break legs to collect outstanding fees, it's clear that the FCC has focused on the, er, leverage it has over licensees who haven't quite gotten around to paying the fees imposed by the Commission. In a notice of proposed rule making ("NPRM") issued last month, the FCC has proposed rules that will significantly upsize the downside of trying to stiff the Commission when it comes to paying regulatory and other fees. In particular, the FCC has proposed to withhold action on any application filed by anyone who is delinquent on any filing fees, regulatory fees or other debt owed to the Commission.

It is not immediately clear how the Commission would implement this. At first blush the easiest way would seem to be simply to have the Commission's application-processors check for any payment delinquencies associated with the applicant's Federal Registration Number ("FRN"). The Commission now requires that all applications contain the FRN of the applicant, which should make it easy for the staff to cross-check against missing fees associated with any particular FRN. It was, we suppose, inevitable that, once the FCC got everyone registered with a unique Federal Registration Number ("FRN"), it would use that number to track whether the companies it regulates are delinquent in payments due to the agency.

Of course, the FCC's FRN system might not be a perfect way to check, since the Commission permits a single entity or person to have multiple FRN's. So perhaps the Commission will also insist that applicants provide some other unique identifier -- their taxpayer ID numbers, for instance -- to permit a more reliable check of the files. And, of course, the Commission might also revise its application forms to require the applicant to certify that there are no outstanding fees.

However it's done, it is pretty obvious that the FCC should have no difficulty at all in identifying deadbeats.

The so-called "red light" rule would have a couple of safety provisions to prevent major hardship or unfairness. For example, it would not apply if the delinquent payment is being challenged or in emergency situations, nor would it apply to fines imposed by the FCC which have not been enforced in court.

Still, the proposal has some scary elements. For example, the FCC proposes to be able to rescind actions on applications indefinitely into the future if it discovers at some later point that it was owed money at the time the application was granted. This could give a whole new meaning to the concept of "finality" -- or, more likely, it could deprive the notion of "finality" of any meaning. Historically, once the Commission has acted, it has 30 days within which to rescind or modify its decision. If it doesn't act within that time frame, and if nobody seeks reconsideration or review of the decision, then the decision becomes "final" and the parties subject to the decision can move ahead safe in the knowledge that that which the Commission did will stay that way.

But under the concept which the FCC has proposed, parties would never be able to say for sure that an action had been final because the Commission would reserve the right to rescind any action at any time in the future should it determine that money was owed to it by the applicant at the time of the action. You think your license was renewed and now it's good for a whole new license term? Perhaps so, but not if the FCC finds out at some point down the line that you had an overdue regulatory fee at the time

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Focus on FCC Fines

By: R.J. Quianzon

FCC Moves to Yank a Ticket The FCC has designated for revocation hearing an AM license that the FCC claims the licensee already gave away.

Last March, an FCC agent inspected an AM station in Georgia and found a laundry list of nearly a dozen rule violations. However, those rule violations have nothing to do with the license revocation. As part of the inspection, the FCC agent spoke with a person at the station. The person advised the agent that he had been trying to purchase the station and that the original owner (the licensee of record) no longer operated the station. From that refreshingly candid disclosure, the FCC has postulated that the licensee -- that is, the folks who, according to the FCC's records, then owned and continue to own station -- transferred control of the station to another company.

But the fun didn't stop there.

That company in turn apparently may have transferred the station to the guy who happened to be standing there when the FCC showed up. So it looked to the FCC like there may have been two transfers of control, neither of them authorized. Needless to say, the FCC is interested in getting to the bottom of all this through the hearing process. During the hearing, of course, the licensee would have the opportunity to explain the circumstances, and the FCC would have the burden of proving that misconduct did occur.

It seems that one of the transfers occurred as a result of a foreclosure on the station's property and equipment. Transfers of corporate control or complete sales of assets usually require FCC approval when broadcasting licenses are involved. Indeed, even filing for bankruptcy (which technically transfers control of a company to a Court) requires FCC action. Clients should always ensure that sales transactions, as well as LMA's, TBA's and JSA's, are compliant with the FCC's rules. Failure to do could could result in loss of the license.

"It Ain't Me, Babe" Several months ago the FCC proposed fining a company $24,000 for lighting, painting and numbering violations related to its towers. FCC agents observed these violations during an inspection on April 30 and May 2, 2002. The company didn't necessarily disagree with the claim that the towers were in violation. Instead, the company pointed the FCC in the direction of the Commission's own official records which, *mirabile dictu*, got the company completely off the hook.

It turned out that, at precisely the time that the inspector was looking at the tower on April 30, the company was selling it. What a coincidence. The company advised the FCC that the towers and station were sold, with FCC consent, on April 30, 2002. In other words, the station was no longer owned by the company during the FCC inspection and the fine was not the responsibility of the selling party. Before you conclude that no one will end up paying any fines for the tower violations, however, you may want to check back on this column over the next several months: we suspect that, while the FCC let the seller get away, the feds may have someone else in their sights to take the rap for the violations. While that would presumably be the buyer, the story would probably not end there, either, as the buyer may have included in the asset purchase agreement an indemnification provision pursuant to which the seller (you know, the guy who dodged the fine when the g-men came knocking directly on his door) would still be on the hook for violations arising while the seller was still the licensee. This could take a while to resolve. Stay tuned.

"Someday Soon" Elsewhere on the tower front, a licensee in North Carolina got hit for a $6,000 fine (reduced from an initial assessment of $12,000) for failure to have the necessary obstruction lighting and failure to post its tower's registration number. The licensee acknowledged the violations, but claimed that it had had problems getting any tower companies to fix the light because of the age of the tower and the potential danger inherent in climbing it. The licensee also claimed that it didn't have enough money to fix the light and that the death of "[the licensee's president's] mother, aunt and best friend also delayed correction of the outage". (We assume that the licensee was talking about the deaths of three different people there.) Finally, the licensee told the Commission that the licensee would correct the outage "in just a few days now."

Needless to say, that didn't happen.

And as for the posting of the tower's registration number, the licensee apparently advised the Commission that the licensee's "FRN" number had since been posted. But licensees are not required to post their FRN -- or FCC Registration Number -- on their towers. Rather, they are required to post the Antenna Structure Registration ("ASR"). Oh well, at least the licensee tried.

The bottom line was, at least initially, a $12,000 fine. But the licensee managed to convince the Commission that the licensee didn't have enough money to pay that amount, whereupon the fine was whacked in half.

"I am just a poor boy, though my story's seldom told" A radio pirate in New York City was shut down by the FCC last year and got spanked with a $10,000 fine. The pirate turned

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Unlicensed hoards at the gate?

Notice of Inquiry Contemplates Wide Use of Unlicensed Devices

By: Vincent J. Curtis, Jr.

In an action that should be of major concern to broadcasters, the Commission has issued a Notice of Inquiry ("NOI") seeking comments on ways to expand band use for unlicensed devices. So what, you say? The NOI makes clear that the Commission may eventually allow such unlicensed devices to be operated in the TV broadcast band in locations and during times when those frequencies are not being used.

The FCC's theory appears to be that there are areas and times in which operation of unlicensed devices will not cause interference to any other operation on the spectrum used by the devices. If that's true, the FCC seems to think, it might make sense to allow such use to be squeezed in, since such interstitial operation could increase the efficient use of the spectrum.

The FCC's fickle history reflects a more fundamental reality with which broadcasters must come to terms: broadcasters are no longer the important game in town.

But unlicensed devices include such items as cordless telephones, baby monitors, garage door openers, home security systems and electronic toys -- items which tend to be pretty darned mobile and not easily subject to readily enforceable restrictions on the geographic area(s) in which they might be operated.

In fairness to the FCC, the Commissioners have made a show of concern for broadcasters, issuing conciliatory remarks about the need to protect existing licensees. But the ultimate reliability of such blandishments is anybody's guess. Many broadcasters are still smarting from the treatment accorded them by the FCC during the DTV and channel clearing proceedings of the 700 MHz band. As you may recall, while prior Commissions had cooed softly about protecting existing licensees and pending applications, many of these promises turned out to be sweet nothings, and the affected broadcasters got ditched by the wayside once the proceedings reached the final stages.

The FCC's fickle history along these lines, and the possibility of a similar change of heart in the context of the unlicensed devices NOI, are reflective of a more fundamental reality with which broadcasters must come to terms: broadcasters are no longer the important game in town. The FCC's regulatory focus has shifted in recent years from broadcasting to a wide variety of other spectrum uses. With only one Commissioner who publicly acts as their champion (Commissioner Kevin Martin), many broadcasters are justifiably concerned that their positions are being pushed aside in favor of expanded wireless operations. The NOI offers little to discourage such concern.

As we go to press, the text of the Commission's NOI has not yet been released. We will provide additional details in next month's issue.

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of your application.

It's also unclear from the proposed rules whether the "taint" of delinquency for old debts can spread from the delinquent payor to others through ownership of the station where the debts arose. In other words, let's say you're the licensee of a station and, like all commercial licensees, you owe an annual regulatory fee -- but you don't pay it. Instead, you sell the station and remove yourself entirely from the regulatory clutches of the FCC. A year or two later the Commission wises up to the fact that you shorted it on the reg fee. When that happens, does the new owner get the red light when it goes to file an application -- since the debt arose through the station's license, and the new owner happens to be the one holding the bag, er, the license? Or do you get the red light in connection with any other application you may file? And it that's the case, what happens if you don't file any more applications? Obviously, there are a number of details yet to be worked out here, but the bottom line should be clear: aggressive enforcement efforts against payment delinquencies will likely be a source of significant confusion and uncertainty in many areas.

The rules aren't in effect yet, and they may never come into effect. Nevertheless, we think it would probably be wise even now to bear the possibility of such enforcement in mind when you draft purchase/sale agreements and the like.

Comments on the NPRM are due February 10, 2003, and Reply Comments are due March 12. If you have any questions about this proceeding, or if you would like our help in preparing comments to be filed with the Commission, contact the FHH attorney with whom you normally work.

New approaches to spectrum management on the table

Spectrum Task Force Looks to the Future

By: Lee G. Petro

The Commission's Spectrum Task Force has taken its first stab at re-writing the FCC's spectrum policies, releasing its Report in late November. The Report, and the supporting Working Group studies prepared in connection with it, provide an interesting view of the possible future of the use of spectrum in the United States.

Generally, the Report advocates policies that will permit the increased flexibility and efficiency in the use of the spectral band. Most significantly, the Task Force recommends that the Commission move away from "Command and Control" regulations, where the Commission specifies (a) the type of services may be offered by its licensees, and (b) the specific technical rules for each of these services. Instead, the Task Force recommends that the Commission either grant "Exclusive Rights" to licensees that would permit the flexible use of spectrum within a certain geographic area, or construct greater areas of "Spectrum Commons" where the unlicensed use of spectrum would be permitted. Under both the "Exclusive Rights" and "Commons" models, the Commission would craft specific regulations with respect to the rights and responsibilities of the users of the spectrum (including, for example, frequency and power limits), but permit the flexible use of spectrum within these defined limits.

Despite the proposal to move away from the "Command and Control" regulatory approach, the Report seems, inconsistently, to embrace continued use of that approach in the area of broadcasting. According to the Task Force, the current regulatory structure for broadcast services may be preserved in light of the statutory public interest obligations which are inherent in that structure. Moreover, the Task Force recommends that the Commission permit digital television licenses to utilize single frequency low-power distributed transmission systems within their service areas.

The Task Force acknowledges that many of the current limitations on the use of spectrum are tied to "worst case" interference concerns. However, the Task Force noted that many of these concerns can be rectified through the adoption of the "interference temperature" concept, along with the adoption of receiver performance requirements. The "interference temperature" would calculate the appropriate level of acceptable interference under which the receiver could still receive a useful signal. The adoption of receiver performance requirements would permit underlay services that did not adversely affect the primary services offered on the particular spectrum band.

It is anticipated that the adoption of such measures would encourage robust "secondary markets" for spectrum that is not fully utilized. Moreover, such measures could permit the creation of new unlicensed spectrum uses. Finally, the Task Force encourages the Commission to streamline its experimental licensing process, so that new technology can be brought to the market with less delay.

The behemoth Report and Working Group Reports (which run more than 300 pages) contain many proposals, and the true test will be in the details. However, it is foreseeable that low powered unlicensed users will be authorized to operate within the broadcast spectrum. In fact, the Commission adopted a Notice of Inquiry on December 11, 2002 which calls for comments on permitting unlicensed spectrum uses within the TV Broadcast spectrum. While any such proposals is years from adoption, all current licensees must remain aware of the possibility that their current "lock" on spectrum may be picked. Indeed, notwithstanding the lip service paid to the current regulatory structure for broadcasting, there is absolutely no guarantee that, in the final analysis, the Commission may conclude that that structure, too, may be abandoned -- along with the spectrum protections currently enjoyed by broadcasters -- in the interest of increased spectrum efficiency.

Comments on the Report are due on January 27, 2003. If you have questions about the Task Force Report, or if you would like our assistance in preparing comments for submission to the Task Force, you should contact the FHH attorney with whom you normally work, or Lee G. Petro at 703-812-0453 or petro@fhhlaw.com.

It's that time of year again

Get ready for renewals

By: Anne Goodwin Crump

Believe it or not, it is almost time for the license renewal cycle to begin again. The first radio renewal applications in this cycle will be due on June 1, 2003. But look out -- just because the renewal application itself is not due until June 1 does not mean that there is nothing to do between now and then. To the contrary, certain pre-filing activities must begin by April 1, 2003, and some prudent preliminary homework relative to areas covered by the renewal application is strongly advised. Since it has been a long time since the last renewals were filed for most stations, the following will serve as a refresher with regard to some items and issues which stations should be thinking about as they prepare for renewals.

EEO

First on many minds are the new EEO requirements. The Commission has stated that it will require licensees to submit with their renewal applications their two most recent annual EEO public file reports. For many radio stations, it will be impossible to submit two such reports, as the new EEO rules will not have been in effect long enough. It is clear, however, each station will be expected to submit reports to demonstrate what actions the station has taken to comply with the Commission's new EEO rules since their effective date.

Furthermore, the Commission has stated that, for each six month period which has elapsed between the effective date of the EEO rules and the license renewal filing date, the licensee will be expected to have accomplished a *pro rata* share of the required number of outreach menu options. Likewise, when a new licensee acquires a station between the effective date of the EEO rules and the license renewal filing date, it will be expected to complete a *pro rata* share of the outreach menu options based upon the available amount of time.

The Commission did not make clear what its expectations would be if a station is required to complete only two menu options in two years (as with small stations and stations in small markets) but has less than one year between the effective date and the license renewal filing date. In view of the emphasis placed upon the rules by various Commissioners, however, it would be only prudent for licensees having any period greater than six months to complete at least one menu option.

An additional uncertainty at this time is when the new rules will go into effect. The scheduled date is 60 days after publication of the rules in the Federal Register,

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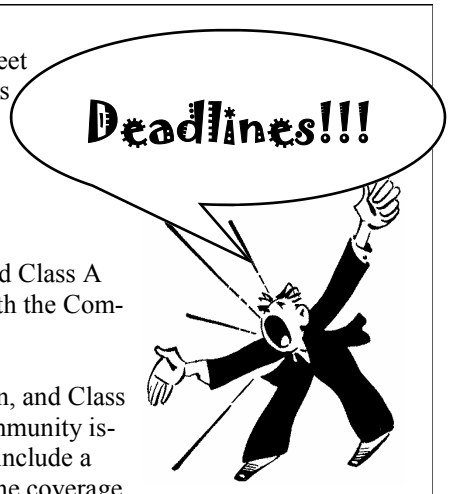

January 1, 2003
Closed Captioning Requirements - All video programming distributors must meet the benchmark of providing at least 30 percent of pre-rule, non-exempt programs with closed captioning. For analog programming, pre-rule programming is that first shown before January 1, 1998, and for digital programming, it is that first shown before July 1, 2002.

January 10, 2003
Children's Television Programming Reports - For all commercial television and Class A television stations, the reports on FCC Form 398 must be filed electronically with the Commission, and a copy must be placed in each station's local public inspection file.

Issues/Programs Lists - For all commercial and noncommercial radio, television, and Class A television stations, a listing of each station's most significant treatment of community issues must be placed in the station's local public inspection file. The list should include a brief narrative describing the issues covered and the programs which provided the coverage, with information concerning the time, date, duration, and title of each program.

February 1, 2003
Ownership Reports - All commercial and noncommercial radio and television stations in Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma must file a biennial Ownership Report (FCC Form 323 for commercial stations or Form 323-E for noncommercial stations) or certification of no change.

which occurred on December 17. The effective date of the rules is therefore February 15.

PUBLIC FILE AND ISSUES/PROGRAMS LISTS

Another item to check up on is whether the station has placed issues/programs lists for each quarter throughout the license term in the station's public inspection file. As most licens-5.9(st)-078(er)6(h-5.9(sa-1.58s lf4774(ous-5.9(sdto cbe10.52 to)8774(i)8(52 portas-5.9(scr)6(t-5.98o)1074( ]TJ0 -1.14 TD 0.000

Tales of the Expanded Band

FCC Waives Multiple Ownership Rule to Avoid AM Expanded Band Holdover

By: Jennifer Wagner

Like a baby raptor waiting in the bushes to hatch and wreak havoc on an innocent and unsuspecting world, a remnant of the since-corrected AM expanded band migration rule lay buried in a multiple ownership rule footnote. And while the potential problem recently surfaced and was addressed by the FCC, the Commission's action did not pound a stake through the problem's heart. To the contrary, like a movie director seemingly intent on leaving open the possibility of a sequel, the Commission has left open the possibility that the obscure rule could come back again.

As reported in the December 2001 Memo to Clients, the FCC's Audio Division had corrected AM expanded band licenses that contained a condition that threatened to substantially shorten the period during which an AM station licensee could migrate from the existing to the expanded band. The original expanded band licenses allowed licensees to operate on both their expanded band ***and*** existing band stations for five years in order to accustom audiences and advertisers to the new channel. However, confusion ensued because some of the licenses stated that the five-year dual operation period ran from issuance of the expanded band station ***construction permit*** and others said that the five-year period ran from issuance of the expanded band station ***license***. Fletcher, Heald & Hildreth filed a petition to bring this inconsistency to the Commission's attention, resulting in the correction and reissuance of licenses. As a result, all AM expanded band licenses now permit five years of dual operation ***from the date of the expanded band license***.

Meanwhile, a reference to the five-year period starting from the construction permit date was festering in Note 10 of the multiple ownership rule, 47 C.F.R. Section 73.3555. That note exempts expanded band stations from normal station ownership limits. But the note expressly stated that the exemption lasted only five years, beginning on the date of the issuance of the construction permit. Oops.

This obvious inconsistency with the policy announced last year sat, apparently unnoticed, until Entercom Kansas City License, LLC, licensee of KKHK(AM) and expanded band station KXTR(AM), both in Kansas City, Kansas, saw the potential problem and requested a waiver. Entercom currently owns seven other stations in the Kansas City market apart from KXTR and KKHK. The multiple ownership rule -- as reflected in Note 10 -- gave Entercom less than two years of licensed dual operating authority, which was presumably something of a disappointment to Entercom.

Not to worry, though. Citing the Fletcher, Heald & Hildreth letter decision from last year, the Commission granted Entercom's request to waive that portion of the multiple ownership rule for the duration of its authorization to operate both stations.

But ignoring common sense (not to mention Santayana's bon mot about the fate of those who cannot remember the past), the Commission didn't bother to delete or revise Note 10. Instead, it merely granted Entercom a limited waiver of the multiple ownership rule in order to sidestep Note 10. Thus, the reference to a five-year dual operation period starting from the date the expanded band station construction permit is issued is still there, waiting to rear its ugly head.

If this could impact your station operations, please contact either the FHH attorney with whom you normally work or Jennifer Wagner at (703) 812-0511 or wagner@fhhlaw.com.

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cana, Contemporary Christian, Latin, Country, Gospel, Dance, Classical, and New Age.

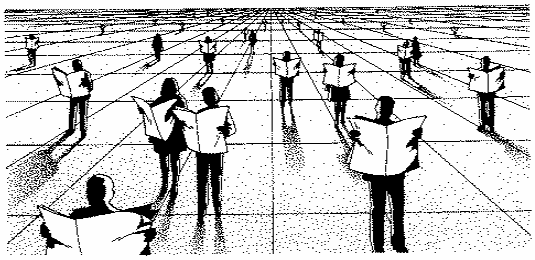
With its expanded list of artists, SESAC has also expanded its enforcement efforts: it uses a high-tech method of finding violators. Broadcast Data Systems (BDS) which monitors songs played on radio stations and compiles song lists for the Billboard charts also provides information to SESAC.

If you have questions regarding how copyright laws, or the latest internet webcasting laws, affect your station, please contact the FHH attorney with whom you normally work or Ann Bavender at bavender@fhhlaw.com or (703) 812-0400.

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

Updates on the News

The STA Grant Is Not In The Mail In case you are a DTV permittee with an STA to operate with reduced facilities, and you happened to file for an extension of that STA, and you are now anxiously camped out by your mailbox awaiting formal confirmation from the Commission that your extension was granted and your continued reduced power operation is still legal, the word from the FCC is that there will be no FCC-issued document granting such extensions. According to the Commission's staff, such STA extension requests are reviewed by the staff and, if they say what they're supposed to say, they are granted "informally". That apparently means that the grant is entered into the Commission's database, but the licensee/permittee is not notified of it. Rather, stations in that situation are expected to "monitor" the situation and find out for themselves when the grant occurred and when the new extended STA expires. This can be done by checking the FCC's CDBS site periodically.



Where were you on the night of November 5, er, December 5? On December 6, the FCC issued a notice that "no incoming e-mail was received at the FCC between 7:30 p.m. and 11:50 p.m. EST on Thursday, November 5." The notice suggested that anyone who sent mail to the FCC during that time would have to resend it. Shortly afterward, the Commission issued another notice that no incoming e-mail had been received between those hours on Thursday, December 5. Presumably the latter notice was a correction of the former notice, as November 5 fell on a Tuesday this year. But if you happened to try to e-mail the Commission anything between 7:30 - 11:50 p.m. on either of those dates, you might want to re-send it, just in case.

30 Days Hath September . . . And speaking of the Commission's calendar-reading skills, we call your attention to a public notice extending the dates for MDS, MMDS and ITFS licensees, permittees and applicants to verify licensing information and associated technical data. The Wireless Bureau had originally set December 17, 2002 as the deadline for verification responses, but on December 5 the Bureau issued an order purporting to "extend the time to respond . . . forty-five days". Pretty routine. But in the ordering clause, the Bureau stated that responses would be due on January 21, 2003 -- which, according to our calendar, is considerably less than 45 days. Oh well. To its credit, the Bureau did catch the problem and issued an erratum the next day in which it said that "[g]iven that the forty-fifth day is a Sunday, we will extend the filing deadline to the next business day, Monday, February 3, 2003." But let's think about that for a minute. If the original deadline was December 17, 2002, then 45 days after that would be, er, um, let's see, five plus seven, carry the one, uh . . . January 31, 2003 by our calculation. But January 31, 2003, being a Friday and all, probably won't fall on a Sunday, so we're not sure what the Commission has in mind. Oh well again. For the time being, it is probably safe to assume that the deadline is February 3, but keep an eye for further errata.

On the Road Again And speaking of the Media Ownership proceeding, it looks like the Commissioners are heading out on a road trip to beautiful downtown Richmond, Virginia, in February, to conduct a public hearing in connection with that proceeding. The precise format of, and the expected participants in, the hearing have not been announced yet, but the goal is to "provide another opportunity to solicit public opinion about media ownership issues in a mid-sized market." Actually, the goal was probably to placate Commission Copps, who had earlier announced his own intention to conduct public hearings on his own outside of Washington.

It may not have done the trick, however. While Richmond was selected, according to Chairman Powell, partly as a result of "severe budget constraints", Commissioner Copps (while welcoming the opportunity to toddle on down to Richmond) continued to insist that "we just have to find a way to hear from more folks outside the Capital Beltway." And lo and behold, a number of broadcast-related unions announced that they intend to hold meetings in New York and Los Angeles. In response, that travelin' man Commissioner Copps has indicated that he plans to attend those meetings. Perhaps more significantly, he has also indicated that he plans to bring along enough other Commissioners to provide a quorum.

FM ALLOTMENTS ADOPTED -10/26/02-11/20/02

State	Community	Channel	Docket No.	Availability for Filing
OK	Cherokee	237C2	01-291	Dismissed
AR	Sparkman	259A	01-215	TBA
MO	Moberly	223A	01-252	TBA
OK	Kiowa	254A	01-212	TBA
TX	Crowell	293C3	01-210	Dismissed
TX	Menard	242A	01-214	TBA
TX	Menard	287C3	01-304	TBA
TX	San Isidro	247A	01-305	TBA
SC	Bishopville	229A	02-197	None
SC	Lamar	229A	02-197	None
GA	Crawfordville	234A	02-225	TBA
IN	Lebanon	265A	02-143	None
IN	Speedway	265A	02-143	None
MN	Detroit Lakes	236C1	00-53	None
MN	Barnesville	236C1	00-53	None
NC	Enderlin	233C1	00-53	TBA
AL	Andalusia	279C3	DA 02-3419	None
AZ	Duncan	264C1	DA 02-3419	None
CO	Holyoke	222C1	DA 02-3419	None
CO	Julesburg	243C1	DA 02-3419	None
FL	Panama City	253C0	DA 02-3419	None
FL	Pensacola	254C1	DA 02-3419	None
LA	Lake Charles	241C1	DA 02-3419	None
MO	Joplin	223C0	DA 02-3419	None
SC	Cayce	244C3	DA 02-3419	None
SC	Myrtle Beach	221C1	DA 02-3419	None
TX	Kerens	295C3	DA 02-3419	None

"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.

Notice Concerning Listings of FM Allotments

Consistent with our past practice, Fletcher, Heald & Hildreth PLC provides these advisories 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 un-available 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.

FM ALLOTMENTS PROPOSED -11/21/02-12/19/02

State	Community	Channel	Docket No.	Deadlines for Comments	Type of Proposal (i.e., Drop-in, Section 1.420, Counterproposal)
WY	Laramie	288C3	02-365	Cmts - 01/30/03 Reply-02/14/03	1.420
CO	Timnath	288C2	02-365	Cmts - 01/30/03 Reply-02/14/03	1.420
NM	Santa Clara	236C1	02-374	Cmts - 01/30/03 Reply-02/14/03	1.420
TX	Lockney	271C3	02-368	Cmts - 01/30/03 Reply-02/14/03	Drop-In
TX	Quitaque	272A	02-369	Cmts - 01/30/03 Reply-02/14/03	Drop-In
TX	Turkey	269A	02-370	Cmts - 01/30/03 Reply-02/14/03	Drop-In

We wish you the
happiest of holidays
and peace
in the new year.

Fletcher, Heald & Hildreth, P.L.C.