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Memorandum to Clients

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The form of things to come

Media Bureau Previews Relocation Fund Reimbursement Process

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The Media Bureau has given the television industry a sobering glimpse of what life will be like immediately after the close of the Incentive Auction. All full-power and Class A licensees would be smart to take a look now so that they'll be ready when the time comes. And make no mistake: the FCC is confident that the time will come.

This opportunity to gaze into the future is afforded by the Bureau's draft TV Broadcaster Relocation Fund Reimbursement Form (Reimbursement Form), about which the Bureau is soliciting comments.

When the Incentive Auction rolls around, stations opting to participate will either give up their channels or agree to shift channels in return for a share of the proceeds from the auction. Stations electing ***not*** to participate in the auction will be squeezed ("repacked" is the term the Commission uses) into the lower end of the spectrum now allocated to TV. As a result, an unknown number of TV stations will be forced to change channels. Implementation of such changes will necessarily force the affected stations to spend money.

Not to worry (too much), however: the TV Broadcaster Relocation Fund (Fund) will come to the (partial) rescue.

Inside this issue . . .

The Fund, established by Congress in the Spectrum Act, consists of a total of $1.75 billion set aside to reimburse eligible TV broadcasters (and cable and satellite providers) for the reasonable costs imposed as a result of the channel changes. The Reimbursement Form will be the mechanism for seeking reimbursement; the instructions accompanying the form outline the reimbursement process. Comments on the draft instructions are also sought by the Bureau.

While the Bureau refers to the Reimbursement Form as a single document, in fact the Form as envisioned by the Bureau consists of multiple separate components to be filed at different stages of the reimbursement process. Those stages are: the initial sign-up for a Department of Treasury (DoT) account through which funds will be made available; the initial estimate of funds expected to be necessary for the station's modifications; submission of actual cost documentation (as expenses are incurred during the modification process); and the final allocation/accounting.

The first two stages will occur very shortly after the Incentive Auction wraps up. Once the auction is done, the Commission will issue a public notice (the Channel Reassignment PN) detailing the assignment of TV (full power and Class A) stations to new channels. Within three months of the issuance of the Channel Reassignment PN, licensees eligible for reimbursement will have to establish their DoT accounts and submit their initial estimates.

Before delving into the details of the Reimbursement Form, let's review who will be eligible to participate in the process.

For television stations, eligibility is limited to full-power and Class A stations that are involuntarily assigned to new channels during the repacking process. That process, of course, envisions the possibility that some stations may choose to "share" channels, with one station abandoning its frequency and moving over to share another station's transmission facilities (and over-the-air RF frequency). In such situations, only the host, or "sharer", station is entitled to reimbursement if it is required to change channels.

MVPD's may also claim reimbursement for expenses reasonably incurred in order to continue to carry stations which are relocated either voluntarily or involuntarily, within the same spectrum band or between bands, or which decide to share a channel with another station.

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A translator too far

Audio Division to AM Licensee: Tell City is No Mattoon

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A Hail Mary tossed up by an AM licensee looking for quick access to an FM translator has fallen short of its mark with the Audio Division's rejection of the licensee's request to extend the Division's "Mattoon waiver" policy. As a result, we can kiss good-bye (at least for the time being) to the notion of a "Tell City waiver".

This is not particularly good news for the AM industry.

The story starts with Station WTCJ in Tell City, Indiana, an AM station saddled with a relatively meager 0.85 kW ERP. Presumably looking to improve its service by adding an FM translator to the mix, the licensee arranged to buy one and move it to Tell City. But the translator it contracted to buy had a couple of problems: it wasn't anywhere near Tell City, and the frequency it was authorized to operate on wouldn't work in Tell City anyway. In fact, its license would have to be moved about 61 channels up the dial to make it work.

Those factors were potential roadblocks because the translator moves (both geographically and spectrum-wise) necessary to make the translator useable in Tell City constituted "major changes" under the rules, and no opportunity for seeking "major changes" is currently available. The application appeared, therefore, to be a non-starter.

No problem. Knowing that the Audio Division has evinced some flexibility with respect to FM translator relocations in some contexts – most specifically, the Mattoon waiver policy adopted by the Division in 2011 to assist AM licensees – the WTCJ licensee figured that that spirit of flexibility and accommodation might work for him, too. So he asked for a waiver so that the proposed translator move could be treated as a "minor change".

Nearly two years after the application was filed, the Division dismissed it.

In the Division's view, what the licensee was asking for really wasn't appropriate waiver fodder. Also, the request ran afoul of the *Ashbacker* case and, in any event, sought relief better suited to a broader rulemaking rather than a narrow adjudicatory waiver proceeding.

Declaring that waivers should be available only in "special circumstances", the Division concluded that the proposed waiver wouldn't qualify because it would provide a "general boon to the AM industry". In other words, because a potentially significant number of other similarly situated folks might be able to seek similar waivers, the Tell City request can't really be deemed an appropriate request for "waiver". Rather, according to the Division, the request sought more of a "regulatory change" than a "waiver". Of course, the Division didn't seem so concerned about such subtleties when it announced the Mattoon waiver policy, which sure looks like the same kind of "regulatory change", too. But perhaps Mr. Emerson speaks to that.

The *Ashbacker* policy, which finds its roots in a 1940s-era Supreme Court decision, provides generally that the Commission should not routinely grant one application while denying or deferring a mutually exclusive application without some form of comparative process. The idea is that, if spectrum is to be made available for application, everybody should have a fair and equal shot at it.

The Division figured that, because other potential applicants would not have had a chance even to file applications that were mutually exclusive with the Tell City proposal (much less have them compared against the Tell City request), the Division should not, under *Ashbacker*, go ahead and give the Tell City applicant

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Should the FCC really be involved with this?

Petitioner Wants FCC to Ref "Redskins" Debate

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For years there's been a steady drumbeat for the owners of the Washington, D.C. National Football League team to change the team's name to something other than "the Redskins". The contention is that the word "Redskins" is – in the eyes of both American Indians and non-Indians – an offensive ethnic slur. (In response, the team -- which has used that name for more than 80 years – says that it's a tribute to American Indians' strength and courage, *i.e.*, the antithesis of a slur.)

And now the FCC has been invited to blow the whistle, throw a flag, and rule the use of the term to be a license-ending infraction.

The Redskins-as-ethnic-slur controversy is not new, but it has seemed to gain momentum over the last couple of years, perhaps fueled by aggressive efforts to bring governmental authority to bear. For example, while a number of American Indians have waged an extended battle to get the U.S. Patent and Trademark Office to cancel the team's registered trademarks, those efforts had been generally unsuccessful until mid-2014.

The petition is certainly full of sound and fury. But what about legal merit?

The response from the Redskins camp has been unequivocal: in a 2013 USA Today interview, the team's owner, Dan Snyder, said that he will never change the name, adding famously that the interviewer could capitalize the word "NEVER".

That hasn't stopped various prominent folks from urging a change.

Former FCC Chairman Reed Hundt published an op-ed piece in the Washington Post along those lines. Separately, on behalf of himself, two former commissioners and several media law activists (one a former 8th Floor official, another a current 8th Floor official), Hundt sent a letter directly to Snyder with the same message. In Hundt's view, broadcasting the word "Redskin" is the same as broadcasting indecent language. (Hundt's opinion was not shared by all former FCC officials, as evidenced by a letter to the Post from a former Commission General Counsel.)

Even current Chairman Wheeler and President Obama have been asked to weigh in. (Both deplored the use of the Redskins name while – unlike Hundt – steering diplomatically away from suggesting that the government has any business telling Snyder what to do.)

And then there's John F. Banzhaf III. A law professor at George Washington University, Banzhaf has a long history of legal activism, including deep involvement in fights against cigarette advertising (by suing tobacco companies), childhood obesity (by suing fast food restaurant owners) and sex discrimination. (On the latter point, he has reportedly referred to himself as the "father of potty parity" because of his efforts to insure equitable provision of public restroom facilities for men and women.)

Last year, Banzhaf declared that broadcasters should stop using the "R-word" (as he referred to it). In a letter to the Washington Post, he proposed opposing TV and radio station license renewal applications as a means to stop the "unnecessary" use by broadcasters of the offensive word.

And now Banzhaf has made good on his threat by filing with the FCC a formal objection opposing the license renewal application of a D.C.-area radio station, WWXX(FM). Oh, by the way, that station just happens to be controlled by Dan Snyder.

Banzhaf's objections run a wide gamut. He claims that broadcast of *that word* (Banzhaf also uses a sanitized version: "R*dskins") has an adverse impact on impressionable young Indian and non-Indian children. He suggests that its use "constitutes hate speech" and might cause "hate crimes against Indians". Banzhaf argues at length why he believes the broadcast of the word constitutes profanity. (One issue that Banzhaf does not address is why his petition was filed over three years after the deadline for objections to the station's license renewal application.)

So Banzhaf's petition is certainly full of sound and fury. But what about legal merit? Since lots of stations presumably refer routinely to "the Redskins" in the course of, *e.g.*, their sports reporting (not to mention their reporting of this Redskins-as-ethnic-slur controversy), it is conceivable that they, too, could be targeted. Is there any reason for broadcasters to be concerned about losing their licenses?

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Intern-al Affairs II

Inviting More Former Interns to the Litigation Party

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Class. Some litigants have it. Some don't. A couple of folks who worked as interns at Gawker Media have managed to convince a Federal District Court Judge in New York that they might have it. And that's bad news for Gawker.

If you read my article in the August, 2013 Memo to Clients (which has also been posted on CommLawBlog.com) about lawsuits brought against media companies by unpaid interns, you should have an idea of what I'm talking about. Two former interns (originally there were four, but two of them bailed) sued Gawker, claiming, among other things, that Gawker hadn't paid them as required by the Fair Labor Standards Act (FLSA). To beef up their case, the two interns think that they might be able to expand the suit to become a "class action" in which they would be joined by bunches of other similarly-situated former Gawker interns.

And in August a U.S. District Judge in New York (and not just any judge – Judge Alison Nathan of Aereo fame! Is there anything she can't do?) gave the plaintiffs the green light to go out and round up potential co-plaintiffs. (The name of the case is *Mark v. Gawker Media LLC.*)

The case is exactly what you'd expect in a *Former Interns v. The Man* lawsuit. The plaintiffs allege that they were never paid for the time they spent performing work that was "central to Gawker's business model". (For readers not *au courant* with everything on the Internet, Gawker is an "Internet publisher" which reportedly bills itself as "the source for daily Manhattan media news and gossip".) The interns' tasks included "writing, researching, editing, lodging stories and multimedia content, promoting content on social sites, moderating the comments forum and managing the community of Gawker users" – in the interns' view, basically the stuff that kept Gawker up and running. Only they didn't get paid.

The interns asserted various claims under the FLSA (and similar claims under New York law). But there were still just two plaintiffs, even though they were sure that Gawker had enjoyed the services of many other interns on the same non-pay terms over the years. Obviously, if the plaintiffs could bring a bunch more like-motivated souls into the case, their odds of success might be strengthened (or at least their bargaining power in any settlement deal might be improved).

So they filed a motion asking Judge Nathan for "conditional certification" and an order allowing them to publish notices that might attract the attention of other former interns who might then "opt-in" to the lawsuit. The motion did not ask for a determination that the plaintiffs – and others like them – are for sure a "class" for "class action" purposes; rather, it asked for (a) a preliminary ruling that it *might be* a class and (b) the opportunity, through court-ordered public notices, to bring more of the putative class's members into the fold. (Needless to say, Gawker, presumably hoping to keep this case as small as possible, opposed the motion.)

"Conditional" certification helps individual plaintiffs ratchet their cases up to "class action" status.

The standard for this kind of motion isn't particularly high. The plaintiff needed only to make a "'modest factual showing' that they and potential opt-in plaintiffs 'together were victims of a common policy or plan that violated the law'". Judge Nathan looked at whether the plaintiffs and other potential opt-in plaintiffs would be considered unpaid trainees under the FLSA – the same question posed in the cases I discuss in my earlier post, cases which are still being considered on appeal by the United States Court of Appeals for the Second Circuit.

Assessing the plaintiffs' showing, Judge Nathan noted that courts have routinely certified as a class various FLSA collectives made up of individuals who claim they were improperly classified as independent contractors rather than employees. She also noted that other cases involving unpaid intern claims have resulted in class certification.

In this case, like earlier intern cases, it's clear that interns were acting like employees: they were independently tasked but given little supervision; they were performing work similar to that done by Gawker's full time employees; Gawker was deriving benefit from their work; and there were few if any indicia of any educational training component within the internship program. And while each individual intern might have worked on different projects in different locations from the other interns, all of them ended up on the same side of this key intern v. employee question. In view of all of those consideration, Nathan found that the interns have a credible, common claim, and she gave them the conditional certification – and the court-ordered public notice – they were asking for.

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Same as the old e-filing system?

Broadcasters: Meet the New E-Filing System

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The Media Bureau has announced the partial debut of the "Licensing and Management System" (LMS), an online filing system which, eventually, will replace the current system (*i.e.*, the Consolidated Database System – what we know and love as CDBS) that's been in operation since the turn of the century. So CDBS may not be long for this world. Just how long will depend on how long the FCC takes to set up the necessary filing capabilities in LMS. But enough have been set up so far to open the doors for two specific types of applications.

In this case, full-power TV licensees and permittees are the ones on the cutting edge of technology: if you're a full-power TV licensee or permittee and you need to file for a construction permit or covering license, you'll be the first to experience LMS. That's because, as of ***October 2, 2014***, full-power TV folks in that position will have to file ***not*** a Form 301 (for a CP) or 302-DT (for a license), but a whole new Form 2100 (for either). And you'll be filing that through LMS, ***not*** CDBS. In fact, as of October 2, CDBS won't even be an option for such applications.

All broadcasters should get used to the notion of having to file Form 2100 because the Bureau's goal is to reduce ALL broadcast applications to that single form.

The "main portion" of the form will require "general information common to all broadcast applications". Applicants will then include along with that main portion a "schedule" consisting of information specific to the particular type of application being filed. Schedule A is for full-power TV construction permits; Schedule B is for full-power TV licenses.

More schedules will be added on an ongoing basis. As those schedules are developed, we'll be advised through a series of public notices until, eventually, LMS will be capable of handling all of the forms currently in CDBS. That will then be the death of CDBS – long live LMS!

But let's not write any teary-eyed obits for CDBS quite yet. The move away from CDBS has been in the works for more than five years already. After all that time, LMS is rolling out with only two schedules (f/k/a applications), which leaves more than 30 to go, by our count. We probably shouldn't hold our breath waiting for all the rest to be up and running.

And even the modest roll-out is less than auspicious. In its announcement, the Bureau advised that Form 2100 is available at the FCC's website. Um, not really. We checked the FCC's website about five hours after the public notice hit our inbox, and Form 2100 was nowhere to be found. The public notice also provided a link to LMS. That link did indeed take us to the LMS portal, but we couldn't get past the front door. While our inability to check out the new form and the new filing system is likely only a temporary problem, it was disappointing nonetheless. On the positive side, though, it appears that LMS will be accessed with only an FRN and FRN password. No more CDBS account numbers and passwords to remember!

Readers should check back with CommLawBlog.com for updates.

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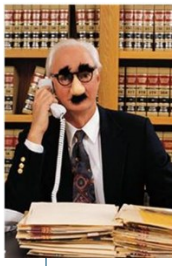
So what does this mean for other media companies – and all other companies, for that matter, since the legal principles aren't limited to the media? For the biggest companies that have hired, but not paid, flocks of interns over the past decade or more, Judge Nathan's certification decision is another big defeat on a key procedural issue. There's strength in numbers and certification/public notice decisions like this open the door (and flash a large visible "Welcome" sign) for new litigants to "opt in" without much effort.

Where intern-reliant companies might previously have ignored the occasional intern's claim for back wages under the not-unfounded belief that the former intern wouldn't devote the energy or money necessary to lawyer up and sue, that hurdle is gone. Would-be plaintiffs need only opt in to the already-started litigation to get their cut. And the public notice aspect merely makes it easier for such would-be plaintiffs to learn of these opportunities.

Bottom line: "conditional" certification helps individual plaintiffs ratchet their cases up to "class action" status, and such "conditional" certification is obviously available. As full class certification becomes increasingly accepted in intern cases, we can expect to see the overall number of such cases swell.

Even if you're the type of company that didn't really have an intern "program" – maybe you took on a student here or there – the Gawker case reminds us all that the bulk of intern cases in recent years haven't gone well for the company using interns. You may want to start setting aside money in case former interns come knocking at your door; you certainly want to change your programs going forward to ensure that you're either paying your interns actual wages or truly offering them an actual educational experience.



Good news/Bad news?

Issue-Oriented Spots: Who's The REAL Sponsor?

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In last May's *Memo to Clients* we reported on complaints filed against a dozen or so TV stations with respect to the stations' alleged failure to include in their online political files all of the various detailed information required by applicable political advertising laws. (We also posted the article on CommLawBlog.com.) We expected that that was just an opening salvo.

Turns out we were right.

The same two complainants (this time joined by a third compadre) have since filed a couple more, based not on the political rules, but rather on the more general sponsorship identification requirements of Section 317 of the Communications Act.

The Media Bureau has already turned away those two complaints. BUT it left the door wide open for more. And, unfortunately, in so doing the Bureau provided little if any useful guidance for broadcasters, but considerable encouragement for complainants. As a result, we can expect to see more such complaints rolling in.

The complainants' theory is based on the time-honored notion of "following the money".

The recently-tossed complaints were filed by the Campaign Legal Center and the Sunshine Foundation (the folks who had filed the complaints we reported on last May), along with Common Cause. One was directed to Station KGW(TV), Portland, Oregon, the other to WJLA-TV, Washington, D.C. In each case the station had run a flight of spots paid for by a "Super PAC". (In KGW's case, the PAC was the American Principles Fund; in WJLA's it was the NextGen Climate Action Committee.) The spots all included sponsorship ID's identifying the respective PAC.

But, according to the complainants, that wasn't enough.

Based on various publicly available sources, the complainants concluded that each of the PACs was, in effect, the alter ego of a particular individual who was solely (or predominantly) responsible for the PAC's funding. (According to the complaints, the American Principles Fund and Next Gen Climate Action Committee are "the political advertising arm[s]" of, respectively, Sean Fieler, a hedge fund manager, and Tom Steyer, a former hedge fund manager.)

Section 317 requires that sponsorship ID's identify the "person" paying for any commercial. Section 73.1212 of the Commission's rules requires that stations "fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity" paying for any ad broadcast. From these provisions the complainants concluded that stations cannot simply ID spots with the name of the organization (in these cases, the super PACs) that in fact pays for the spots. Rather, the complainants urged, stations are under an obligation to ferret out the "true identity" of the sponsor, the "true identity" being determined (according to the complainants) by the "true source" of the sponsor's funds. That obligation supposedly includes some form of independent investigation, like Googling the PAC, or even asking around the office, to track down that "true source".

The complainants' theory – based on the time-honored notion of "following the money" – is understandable. Whether it is legally correct is another story.

While Section 317 does indeed refer to "persons", that term is plainly not limited to individuals, but must include also legal entities. If that weren't the case, then corporate sponsors – say, f'rinstance, McDonalds or GM – would somehow have to include their individual owners in their sponsorship ID's. Can we all agree that that has never been required? So as long as the PACs themselves were properly identified, that arguably satisfied Section 317.

And while Section 73.1212 does use the regrettably vague term "true identity" when referring to sponsorship ID requirements, it stops well short of specifying that the term "true identity" is synonymous with "true source of funds", as the complainants seem to believe. *Au contraire*, the rule seems on its

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face to indicate otherwise. It imposes additional burdens when it comes to ads relating to political or controversial matters. In those cases stations must not only provide on-air sponsorship ID's, but they must also place in their public files "a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity." That suggests that, when it comes to identifying an organization – including, presumably, a PAC – in the context of political advertising, the Commission looks to the entity's officers and directors, not its contributors.

If the Commission were to adopt the complainants' view, it would mean considerably more effort on the part of stations – and a station's efforts would be subject to second-guessing on a number of fronts. How extensive would a station's investigation into the "true source" of a sponsor's funds have to go? And what level of funding would count as a "true source"? If the investigation disclosed that an organization had two contributors, rather than one, would they both have to be identified? How about three contributors? Four? Ten? What if the sponsoring entity were funded by another entity?

This decision at may be comforting to broadcasters . . . until they think about it for a couple of seconds.

Such questions would presumably have to be answered for every political/controversial spot purchased by an organization. Since the market for such spots runs hot and heavy throughout the political season, such investigative requirements would pose serious practical problems.

Unfortunately, in tossing the KGW and WJLA complaints, the Bureau stopped well short of addressing any of these concerns. Instead, the terse ruling concluded that the complainants hadn't presented enough "credible evidence casting into doubt that the identified sponsors of the advertisement were the true sponsors." Unless a station has "credible, unrefuted evidence that a sponsor is acting at the direction of a third party", the station is entitled to "rely on the plausible assurances of the person(s) paying for the time that they are the true sponsor."

That may be comforting to broadcasters, until they think about it for a couple of seconds.

While it's all well and good to accord broadcasters such deference, note that the ruling still leaves wide open the essential question, *i.e.*, who is a "true sponsor" if it's not the entity signing the check? Further, the order suggests that WJLA employees "may have come across facts" during their political coverage that "could have raised questions in their minds" about the relationship between NextGen and Steyer. Which employees? The order doesn't say. Since the order refers to the employees' "news reporting", they were presumably on the station's news side – but there's no indication that the station's sales staff (*i.e.*, the folks who were selling the time) would necessarily have been aware of information the news staff may have developed, or that sales folks would necessarily have assumed that it was necessary or appropriate to dig around on the news side for further information.

In any event, in view of the "sensitive First Amendment interests present here" the Bureau declined to bring the hammer down on WJLA.

Such sensitivity to First Amendment interests is welcome, but in the very next sentence the Bureau's order cautions that things might have been different had the complainants presented WJLA with "evidence calling into question that the identified sponsors were the true sponsors."

That certainly sounds like an invitation to the complainants (and other similarly unhappy folks) to bring their sponsorship ID concerns to stations everywhere. But, again, the order still leaves open important questions about how stations will be expected to react when that happens. What, after all, is "credible, unrefuted" evidence? The complainants presumably believe that the information they presented to the FCC – based, apparently, on various news reports and Internet searches – constitutes such a showing. But what if the station doesn't share the complainants' faith in the credibility of the supposed evidence? Or what if a responsible official from the PAC denies that anybody but the PAC is the "true sponsor"? Such a response would appear to "refute" the allegation, perhaps plausibly, but we doubt that that would satisfy the complainants.

In other words, the Commission has hung out the welcome sign to complainants, so we can expect to see a boatload more cases of this kind flowing in, possibly in the near future.

The upshot, then, is that this particular legal can has been kicked down the street a ways, but it hasn't been disposed of. While KGW and WJLA have avoided any penalty for the time being, it's far from clear that they – or other similarly-situated stations – will skate the next time around.

Stay tuned.

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As far as we can tell, the answer is clearly: No. There are no current laws or FCC regulations or policies which prohibit broadcast of the word "Redskins", or any other racial epithet for that matter. (Of course, the lack of controlling rules or precedent does not prevent the filing of objections – as demonstrated by the Banzhaf pleading. While defending against such objections can impose unpleasant costs in time, money and energy, it is highly unlikely that the mere broadcast of the term "Redskins" could cause a broadcast license to be terminated.)

In his petition Banzhaf relies on 18 USC Section 1464, which makes it a criminal offense to broadcast obscene, indecent or profane language on radio or TV. The problem there is that, as inconsistent as the FCC's enforcement of that provision has been over the last several decades, Section 1464 has never been held to proscribe racial or ethnic epithets. "Obscenity", of course, is a term of art defined by the Supreme Court (in the 1973 *Miller* decision). It relates exclusively to the most egregious depictions of sexual content. As defined by the Commission, "indecency" involves sexual or excretory organs or functions. Since the term "Redskins" does not have any *per se* sexual or excretory connotations at all, much less any offensive ones, it would be impossible to stretch the terms "obscene" or "indecent" to include "Redskins".

As for "profanity", in 2004, the Commission announced a broad and unprecedented definition of "profanity" which might arguably have encompassed racial or ethnic slurs. Stripped of any limitation to sexual or excretory connotation, "profanity" was said to refer to material "so grossly offensive to members of the public who actually hear it as to amount to a nuisance". The Commission suggested in particular that profanity would include "certain of those personally reviling epithets naturally tending to provoke violent resentment". As vague as that definition was, it might have been applied to ethnic and racial slurs.

But two years later, in 2006, the Commission expressly pared down its definition. It imposed on "profanity" a presumption that "regulation of profane language will be limited to the universe of words that are sexual or excretory in nature or are derived from such terms". Again, "Redskins" does not fit into that universe. And to make its intentions unmistakably clear, the Commission added:

Although we recognize that additional words, such as language conveying racial or religious epithets, are considered offensive by most Americans, we intend to avoid extending the bounds of profanity to reach such language given constitutional considerations.

So proscription of the broadcast of racial and religious epithets has already been expressly taken off the table by the FCC. While he may welcome the challenge, Banzhaf appears to be swimming upstream when he argues that "Redskins" is obscene, indecent or profane so as to warrant denial of a license renewal.

This situation highlights the difficulties posed when some, but not all, happen to be offended by certain language. While those opposed to the use of the term "Redskins" sincerely believe that it is an egregious racial slur, others quite clearly – and equally sincerely – do not. When this type of dispute arises, it may be tempting to bring the government in to resolve it. But is that really a good idea? Isn't the First Amendment there to *prevent* the government from declaring that some speech is "correct" and other speech not so much?

The very public debate that has been ongoing is precisely what the First Amendment is designed to foster.

This is most assuredly ***not*** to say that those who are offended by "Redskins" – or any other term – should just get over it. The First Amendment is intended to keep the government out of the speech control business so that the non-governmental marketplace of ideas can thrive. The very public debate that has been ongoing is precisely what the First Amendment is designed to foster: free and frank exchanges providing each side the opportunity to convince the other (and those not yet aligned with either side) of the correctness of its view.

That marketplace of ideas can also spill over into the actual economic marketplace: the Redskins are a business (as is the NFL, for that matter), and various strategies are available to bring pressure in the marketplace to induce changes in behavior viewed as unacceptable.

And let's not forget that the First Amendment equally protects the rights of broadcasters who prefer – because of their own consciences or in response to their audience's or their sponsors' preferences – simply not to use the term "Redskins". There is ample precedent for such self-restraint: how often, after all, do you hear such terms as "nigger" or "faggot" or "kike" on the airwaves? Such terms are not prohibited by the FCC, but self-restraint – perhaps influenced by enlightened self-interest – has imposed its own *de facto* prohibition.

So let the public debate continue. But let's keep the FCC out of it.

The Tower Family Foundation: A Helping Hand to the Tower Worker Community

We down here in the bunker facilities that the *Memo to Clients* shares with CommLawBlog want to shine a spotlight – make that a high intensity white strobe – on the Tower Family Foundation. Just now getting off the ground (full official name: the Tower Industry Family Support Charitable Foundation), it provides financial assistance to family members of tower workers who are severely injured, permanently disabled, or killed while doing their job. The Foundation is providing important support for workers who are essential to any communications operation whose business depends on equipment hanging off the side (or stuck on top) of a tower.

No, you probably don't have any tower workers on your payroll. But you'll need one when the storm blows your stick over, or you want to swap out your old antenna for a spiffy new model, or you're trying to change transmitter sites. Tower workers are like surgeons: you may not need them often, but when you do, you generally need them (a) badly and (b) right away.

The trouble is that, unlike surgeons who work in the capacious climate-controlled comfort of an OR populated with lots of helping hands and cool whiz-bang technology, tower workers do their thing in lonely confined quarters hundreds of feet in the air, exposed to the elements; they work without much more than a few tools that can fit in a small bag. (Any skeptics need only check out this video – or others like it – to get a sense of working conditions at the top of a tower.) It is difficult and dangerous work. How dangerous? As we reported last February, in 2013 13 tower workers died in work-related accidents; four had died this year before February was half over.

The Foundation's goal is to provide "bridge funds" to the families of workers injured while working at heights or in tower-work-related accidents. The one-time grants will ideally be available in very short order after the accident to assist with expenses (*e.g.*, food, transportation, mortgage) that might not be immediately covered by insurance or other resources. Scholarships (up to a maximum of $10,000 over four years) are also available.

The Foundation was formed through the efforts of the National Association of Tower Erectors (NATE), which will work closely with the Foundation going forward. The original idea, though, came from Clear Talk Wireless, an FHH client, supported by our own Don Evans. They approached NATE and, lo and behold, the vision was realized. The Foundation's launch was announced earlier this month at the CTIA Super Mobility Week in Las Vegas. Participating in the festivities was Don who, with Clear Talk Wireless's Eric Steinmann, presented the Foundation with an initial funding donation of $400,000. (You can find a picture of Don looking uncharacteristically serious here - just scroll down a bit.) Don will continue to participate in meetings of the Foundation's Advisory Board as it receives and processes requests for grants.

Fletcher Heald is proud and grateful to be associated with the Foundation and the excellent and much-needed resources it provides. We encourage other communications companies to contribute to the effort. Information about making donations – the Foundation is a 501(c)(3) organization – or otherwise getting involved is available on the Foundation's website.

FHH - On the Job, On the Go

Scott Johnson, who happens to be a member of the University of Alabama's Board of Visitors for its College of Communications and Information Sciences, will be attending a board meeting in Tuscaloosa on October 9. UA, of course, is the licensee of a number of radio and TV stations. Roll Tide!

Harry Martin will speak on an FCC regulatory panel at the Calvary Radio Conference in Twin Peaks, California on October 15.

If you're planning on attending Wispapalooza 2014 in Vegas this year, be on the look-out for **Peter Tannenwald.** On October 16, **Peter** will be there appearing on a panel about "Smart LPTV: The Opportunity for WISPs". (For the non-cognoscenti, Wispapalooza is the annual convention of the Wireless Internet Service Providers Association.)

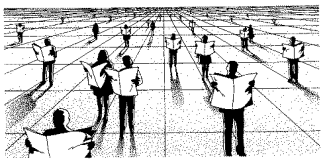
And if you favor a brisker environment, also on October 16 you can catch **Frank Jazzo** at the Annual Convention of the Alaska Broadcasters Association in Anchorage. He'll be speaking (along with the NAB's **Sue Kennom**) on the "Washington Legislative and Regulatory Updates" panel.

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

Updates On The News

Revised tower rules now in effect, mostly – Last month we reported on the FCC's overhaul of its antenna structure regulations. Since then the Commission's Report and Order has made it into the Federal Register. That, of course, establishes the effective date of most of the revised rules – and that date is ***October 24, 2014***. We say "most" of the revised rules because, wouldn't you know it, a couple of the revisions involve "information collections" that have to be run past the Office of Management and Budget thanks to the Paperwork Reduction Act. Those revisions – which involve Sections 17.4, 17.48 and 17.49 – will kick in once OMB has given them the once-over. Check back here for updates.

You want webinars? We've got your webinars – right here – If you missed the webinar Kevin Goldberg and Harry Cole presented on the latest twists and turns in the Aereo case (and the prospects for more twists and turns to come), worry not: it, like pretty much everything else, is on the Internet. The folks at Team Lightbulb, who arranged and promoted the webinar, have posted a recording of the show here – all audio and video included. It's free.



Ditto for for the webinar Dan Kirkpatrick and Paul Feldman presented on the basics of the must-carry/retransmission consent process. We've posted a recording of that show here – all audio and video included. It also is free. (Check out CommLawBlog.com for news of a follow-up webinar exploring further details of the must-carry election process in coming months.)

Fast lane for net neutrality comments – When last we took a sounding of the rising floodwaters of net neutrality comments, they were 1.1 million deep and more were pouring in. That was just last month and, we're pleased to report, the levees apparently held. At least we assume that to be the case because, with only a few days left before the deadline for reply comments, the FCC announced, in effect, that it was opening the dam upstream in an apparent effort to increase the flow of incoming comments. In a blog post on the FCC's website, the Commission's Chief Information Officer advised that [i]n the Commission's embrace of Open Data and a commitment to openness and transparency throughout the Open Internet proceedings, the FCC is making available a Comma Separated Values (CSV) file for bulk upload of comments given the exceptional public interest.

So the Commission appeared to be offering an express lane for the simultaneous submission of multiple comments (*i.e.*, "bulk uploads") to get them in the door even faster than might otherwise have been the case. The need for that express lane wasn't immediately obvious: a quick spot-check in ECFS indicated that, since mid-August, comments had been flowing in smoothly, generally several thousand (occasionally more than 10,000) a day. The bulk upload option would only increase that – and sure enough, by the time the deadline came and went, more than 3 million comments had made it in the door.

But necessary or not, this development brought us back to something we had addressed before.

Back in the July issue of the *Memo to Clients*, we observed that it would take more than 40 years for an individual – working 52 40-hour weeks per year, and processing one comment every five minutes – to review the 1.1 million comments that had already come in. (Of course, even if such an individual could be found, conventional limits imposed by the Eighth and Thirteenth Amendments make that scenario unlikely in the extreme.)

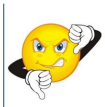
But it now occurs to us that, in addition to being unrealistic, our calculation came at the problem all wrong.

That's because we were assuming an open-ended time frame for completing the review. But as we all know, Chairman Wheeler would like to wrap up the Open Internet proceeding before the end of the year. So the variable to solve for is not the total time it would take; rather, the variable is the number of people it will take to complete the review in time to get an order adopted and released by December 31.

Time to bring out the *Memo to Clients* abacus!

Let's assume that review of the comments has to be completed by November 30, which would leave a month for the FCC's wordsmiths to crank out the item and for the Commission to adopt it by year's end. Let's also assume that review of the comments began on June 1, a couple of weeks after the Open Internet NPRM was released. And finally, let's assume a total of 3,000,000 comments will need to get reviewed, indexed, catalogued and contemplated, with each comment requiring an average of five minutes to process.

(Continued on page 11)



(Continued from page 2)
what it was asking for.

Whether *Ashbacker* in fact compelled that result is not at all clear. A variety of procedural devices (*e.g.*, STA's, interim authorizations) could have been invoked to address the *Ashbacker* concerns while still permitting Mr. Tell City to start using the translator right away. The Division, however, was unenthusiastic about going that route. That's possibly because heading down that path would eventually require the development of some means by which to resolve mutual exclusivities. Currently, there is no process for picking and choosing between competing applications for changes in translator facilities. Coming up with – and then implementing – a new comparative process would likely amount to a boatload of work over an extended time. Absent some absolute requirement that the Division move in that direction, the Division was probably not inclined to do anything that might force it to do so.

Commissioner Pai didn't seem to think that the Division should have punted.

But even if the Division had agreed that *Ashbacker* wasn't a problem, the Tell City proposal was still DOA. That's because the Division sees the creation of a Tell City waiver to be more appropriately addressed by the full Commission in the context of the AM Revitalization Proceeding initiated not quite a year ago. The Division was particularly concerned because the Tell City applicant was seeking, in essence, an extension of the Mattoon waiver policy – and in its AM Revitalization order, the Commission strongly hinted that the Mattoon policy might get tossed as unnecessary if and when the Commission opens a window for AM licensees to apply for translator. The Division saw no reason to start fiddling with a waiver policy that might not be long for this world.

Long for this world? How long might that be? That, of course, is the big question. It's fine to deny AM folks relief from their dire straits because some alternate relief is on the way, but if that alternate relief can't reasonably be expected to arrive soon, should it really be cited as a reason to deny interim relief? In this regard, let's not forget that a number of the proposals under consideration in the AM Revitalization Proceeding had been kicking around in one form or another for years before that proceeding got underway. In other words, AM licensees have already been waiting for relief for a long time.

Interestingly, Commissioner Pai didn't seem to think that the Division should have punted. In a statement he expressed his disappointment that the Tell City waiver request was denied, noting in particular that the waiver "would have provided immediate relief to AM broadcasters". Presumably, if the full Commission were on the verge of adopting AM revitalization measures, Pai would have known that and would have had no cause for disappointment.

In any event, the likely message of the Division's decision here is that the Mattoon case was an aberration not likely to be repeated. With the full Commission supposedly toiling away on the AM Revitalization Proceeding, the Division is apparently reluctant to take any steps that might be seen as a prejudgment of issues under consideration there.

As noted above, that's not good news for the AM industry.

[*Editor's Note: FHH attorneys assisted the NAB in the preparation of an analysis of the Ashbacker case that was submitted in support of the Tell City proposal.*]

(Continued from page 10)

With 183 days from June through November, there would be just under 88,000 minutes during which 3,000,000 comments would need to get processed at our estimated five minutes per. (Yes, we know that the inflow of comments was not evenly distributed over the entire period – but bear with us. This is just for illustrative purposes.) No problem – all it would take would be to assign 150+ staffers to do nothing but review comments, full-time, eight hours a day, seven days a week (no weekends, no holidays).

Let's put that in context. If you assemble *all* of the staffs of *all* of the Commissioners – including the Commissioners themselves – you've got about a fourth of the people necessary. If the Eighth Floor doesn't want to get its hands dirty (or isn't inclined to commit the requisite holidays and weekends), it could simply assign more than 25% of *all* the attorneys in *all* the FCC's various offices and bureaus to take on the chore. Any way you slice it, the Commission would have to make a substantial commitment of staff to get the job done.

Has it done that? We don't know. Even though we raised that question a couple of months ago, the Commission hasn't bothered to clue us – or anybody else, as far as we know – in as to the process it's using to review all the comments that are rolling in. The Commission touts its commitment to "transparency", and has expressly assured that *all* comments will be reviewed. Given that commitment and those assurances, we figure that the Commission should be more than happy to describe how it's reviewing all the incoming comments so that they will all be considered in the Commission's final decision. We'll let you know if we hear anything.

(Continued from page 1)

For those eligible for reimbursement, the first step will be to establish an account with DoT's Automated Standard Application for Payments (ASAP) system. That's the account into which reimbursed funds will be placed for disbursement to eligible claimants. This is probably the simplest component of the reimbursement process, requiring only the submission of name, address, contact person, DUNS number, and FRN information. (A DUNS number – short for Data Universal Numbering System – is a unique nine-digit identifier assigned by Dun and Bradstreet.) Eligible entities can and should get on this chore immediately after the release of the Channel Reassignment PN because having an ASAP account is an essential to the reimbursement process. (Heads up: Submission of the portion of the Reimbursement Form relative to the ASAP account will not, in and of itself, be enough. Additional information concerning how to complete the establishment of an ASAP account will be e-mailed to the contact person; ASAP enrollment must be completed within 45 days after receipt of that e-mail.)

In the second phase of the process, the Reimbursement Form will be used to provide estimates of relocation costs before construction of the modified facilities begins. The deadline for these estimates will be three months after release of the Channel Reassignment PN.

Reimbursement claimants will not be free to include each and every imaginable cost that they project, nor will they be free to name their own price for each item. Rather, they will be limited to the predetermined cost estimates included in the Media Bureau's Catalog of Potential Expenses and Estimated Costs (Catalog), at least as a starting point. (You can find more information about the Catalog here.) Some variations may be permitted: If a claimant believes that the Catalog does not fully account for its individual circumstances, it must submit an explanation and appropriate documentation to justify a variance; ditto if the claimant believes either that the Catalog-specified cost of an item is too low, or that some additional item not listed in the Catalog will be required.

In preparing the estimated costs to be filed, broadcasters must provide a description of the steps that will have to be taken to implement the transition, including any plan for interim operations. The specific equipment that will be used during and after transition will have to be identified, including antenna(s), transmitter(s), transmission line(s), and tower (s). Information as to any new equipment to be purchased must also be provided. Details as to the leased or owned status of certain equipment additionally will be requested. The initial estimate will also require substantial detail about the types of equipment modifications that will need to be made and any issues that might arise (*e.g.*, HVAC).

On a somewhat troubling note, the Commission may second-guess some of the claimant's estimates. For example, there will be no reimbursement for equipment that is not in working order – but there is some room for disagreement about exactly what state equipment must be in to be considered in "working order." Another potential source of FCC second-guessing: Stations proposing to buy a new transmitter will have to justify their decision to buy new rather than modify an existing transmitter.

While the initial estimate is expected to be detailed and comprehensive, it will not be written in stone. The FCC recognizes that plans may change along the way. If there is a significant modification of plans after the initial cost estimate form is submitted, a revised form will have to be prepared and filed to reflect in particular any changes that might increase the amount of reimbursement due.

While the initial estimate is expected to be detailed and comprehensive, it will not be written in stone.

The Commission will review all initial estimates and, following that review, provide initial allocations of funds amounting to up to 80% (90% for non-commercial stations) of the submitted estimate. Claimants will then be expected to proceed with implementation of their modification plans. As expenses are incurred along the way, claimants will be able to draw down funds from their ASAP accounts by submitting updated Reimbursement Forms along with invoices, receipts, or other documentation to substantiate their claimed expenses.

When the licensee submits this documentation, it will have to match each item to a cost category on its estimated cost form. As a result, multiple cost documents may end up being submitted under a single expense category and, alternatively, a single cost document might have to be filed multiple times under different expense categories.

If a broadcaster or MVPD finds itself running short of funds from its initial allocation, it will be expected to continue submitting documentation of expenses, which will be considered at the final allocation stage. Not surprisingly, if the actual cost is greater than the estimated cost, an explanation must be given for the difference.

The Reimbursement Period will end three years after the completion of the forward auction of the repurposed spectrum, a time-frame that coincides with the expiration date for construction permits for modified facilities. Prior to that time, the Media Bureau will

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establish a filing deadline by which documentation of all expenses incurred or paid to date, plus any remaining estimated expenses if construction is not complete, must be filed. That submission will also be made on the Reimbursement Form. At that point, entities will have to certify that the expenses shown on the actual cost form reflect the amounts actually paid to vendors, net of any discounts, rebates, or funds, for reimbursable expenses. If by then the initially allocated funds have run short along the way, broadcasters and MVPD's will be able to request additional funds. Finally, anybody not yet finished with construction when the Reimbursement Period ends will have to submit a final accounting of all actual expenses once construction is complete.

Clearly, the process of completing the form as planned will be neither short nor easy.

While the reimbursement process outlined by the Commission may look very logical, looks can be deceiving. The short three-month frame between (a) the Channel Reassignment PN and (b) the date on which cost estimates are due does not leave much, if any, room for hiccups along the way. And let's be honest here: the potential for hiccups clearly exists.

For example, if a television station isn't exactly happy with its new channel assignment and believes that there's an alternate solution which would allow it to stay put while requiring another station to move, we can expect that unhappy station to seek reconsideration or review of the Channel Reassignment PN. That alone would inject a measure of uncertainty in the process, since it's unlikely in the extreme that such a petition would be resolved before the close of the three-month period for estimates. But if reconsideration were ultimately to be granted and that first station allowed to remain on its current channel, that station would not be entitled to any reimbursement. That being the case, would the first station nonetheless be required to go to the trouble and expense of filing cost estimates for a move it hopes never to make? And how about the second station: uncertain as to whether it would be required to make either any move or a different move, would it have to submit cost estimates for both possible scenarios?

While it might be possible to sort out the objections of one broadcaster in three months' time, what happens if there are many requests for reconsideration or review of the repacking decisions, including some which object to the fundamental way in which the repacking was conducted? Will it nonetheless be necessary to march full speed ahead even in the face of substantial uncertainty? How should possible costs of seeking even a minor reconsideration or review be factored into expenses?

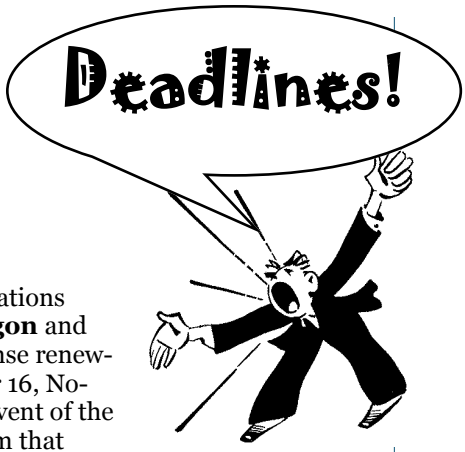
Potential claimants' time would be well spent taking a close look at the proposed Reimbursement Form.

The prospect of such hiccups cannot be ignored. But for now there is no need to speculate about such things. Instead, potential claimants' time would be better spent taking a close look at the proposed Reimbursement Form, the particular information that will be required at each submission stage, and the level of detail expected. If you have any suggestions or criticisms relative to the Form (*e.g.*, additional information that should be included, or included information that should be omitted), please consider filing comments.

Comments are due to be filed by ***October 27, 2014***. (Oddly, despite the fact that the spectrum auction is still some number of months away, no opportunity for reply comments is apparently contemplated.) They may be filed electronically through the FCC's online filing system; refer to Proceeding Number 12-268.

Holiday Schedule Reminder

Fletcher, Heald & Hildreth, P.L.C.
will be officially closed on
October 13 (Columbus Day),
November 27-28 (Thanksgiving weekend),
December 25 and January 1.
We will be open on Tuesday, November 11 (Veterans Day).



October 1, 2014

Television License Renewal Applications – *Television* and *Class A television* stations located in **Alaska**, **American Samoa**, **Guam**, **Hawaii**, **Mariana Islands**, **Oregon** and **Washington** must file their license renewal applications. These applications must be accompanied by FCC Form 396, the Broadcast EEO Program Report, regardless of the number of full-time employees. LPTV and TV translator stations also must file license renewal applications.

Television Post-Filing Announcements – *Television* and *Class A television* stations located in **Alaska**, **American Samoa**, **Guam**, **Hawaii**, **Mariana Islands**, **Oregon** and **Washington** must begin their post-filing announcements with regard to their license renewal applications on October 1. These announcements then must continue on October 16, November 1, November 16, December 1 and December 16. Please note that with the advent of the online public file, the prescribed text of the announcement has changed slightly from that used in prior renewal cycles. Also, once complete, a certification of broadcast, with a copy of the announcement's text, must be uploaded to the online public file within seven days.

Television License Renewal Pre-filing Announcements – *Television* and *Class A television* stations located in **Connecticut**, **Maine**, **Massachusetts**, **New Hampshire**, **Rhode Island** and **Vermont** must, on October 1, begin their pre-filing announcements with regard to their applications for renewal of license. These announcements then must be continued on October 16, November 1 and November 16. Please note that, with the advent of the online public file, the prescribed text of the announcement has been changed slightly from that of previous renewal cycles.

EEO Public File Reports – All *radio* and *television* stations *with five (5) or more full-time employees* located in **Alaska**, **American Samoa**, **Florida**, **Guam**, **Hawaii**, **Iowa**, **Mariana Islands**, **Missouri**, **Puerto Rico**, **Oregon**, the **Virgin Islands** and **Washington** must place EEO Public File Reports in their public inspection files. TV stations must upload the reports to the online public file. For all stations with websites, the report must be posted there as well. Per announced FCC policy, the reporting period may end ten days before the report is due, and the reporting period for the next year will begin on the following day.

Noncommercial Television Ownership Reports – All *noncommercial television* stations located in **Alaska**, **American Samoa**, **Florida**, **Guam**, **Hawaii**, **Mariana Islands**, **Puerto Rico**, **Oregon**, the **Virgin Islands and Washington** must file a biennial Ownership Report (FCC Form 323-E). All reports must be filed electronically.

Noncommercial Radio Ownership Reports – All *noncommercial radio* stations located in **Iowa** and **Missouri** must file a biennial Ownership Report. All reports filed must be filed electronically on FCC Form 323-E.

October 2, 2014

New Electronic Filing System for TV Applications – *Television* stations must begin filing applications for modification of facilities and applications for covering license on FCC Form 2100 through the new Licensing and Management System electronic filing system.

October 3, 2014

New Class C-4/Reclassification of Sub-Maximum Facilities – Reply Comments are due in response to the petition for rule making filed by SSR Communications Incorporated to seek the establishment of a new FM Class C-4 and a method for reclassification of stations with less than maximum facilities as contour protection stations.

October 10, 2014

Children's Television Programming Reports – For all *commercial television* and *Class A television* stations, the third quarter 2014 reports on FCC Form 398 must be filed electronically with the Commission. These reports then should be automatically included in the online public inspection file, but we would recommend checking, as the FCC bases its initial judgments of filing compliance on the contents and dates shown in the online public file. Please note that the FCC's filing system now requires the use of FRN's prior to preparation of the reports; therefore, you should have that information at hand before you start the process.

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Commercial Compliance Certifications – For all *commercial television* and *Class A television* stations, a certification of compliance with the limits on commercials during programming for children ages 12 and under, or other evidence to substantiate compliance with those limits, must be uploaded to the public inspection file.

Website Compliance Information – *Television* and *Class A television* station licensees must upload and retain in their online public inspection files records sufficient to substantiate a certification of compliance with the restrictions on display of website addresses during programming directed to children ages 12 and under.

Issues/Programs Lists – For all *radio*, *television* and *Class A television* stations, a listing of each station's most significant treatment of community issues during the past quarter must be placed in the station's public inspection file. Radio stations will continue to place hard copies in the file, while television and Class A television stations must upload them to the online 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.

December 1, 2014

DTV Ancillary Services Statements – All *DTV licensees* and *permittees* must file a report on FCC Form 317 stating whether they have offered any ancillary or supplementary services together with its broadcast service during the previous fiscal year. *Please note that the group required to file includes Class A TV, LPTV, and TV translator stations that are offering digital broadcasts*. If a station has offered such services, and has charged a fee for them, then it must separately submit a payment equal to five percent of the gross revenues received and an FCC Remittance Advice (Form 159) to the Commission. The report on Form 317 specifically asks for a list of any ancillary services, whether a fee was charged, and the gross amount of revenue derived from those services. Ancillary services do not include broadcasts on multicast channels of free, over-the-air programming for reception by the public.

Television License Renewal Applications – *Television* and *Class A television* stations located in **Connecticut**, **Maine**, **Massachusetts**, **New Hampshire**, **Rhode Island** and **Vermont** must file their license renewal applications. These applications must be accompanied by FCC Form 396, the Broadcast EEO Program Report, regardless of the number of full-time employees. LPTV and TV translator stations also must file license renewal applications.

Television Post-Filing Announcements – *Television* and *Class A television* stations located in **Connecticut**, **Maine**, **Massachusetts**, **New Hampshire**, **Rhode Island** and **Vermont** must begin their post-filing announcements with regard to their license renewal applications on December 1. These announcements then must continue on December 16, January 1, January 16, February 1 and February 16. Please note that with the advent of the online public file, the prescribed text of the announcement has changed slightly from that used in prior renewal cycles. Also, once complete, a certification of broadcast, with a copy of the announcement's text, must be uploaded to the online public file within seven days.

Television License Renewal Pre-filing Announcements – *Television* and *Class A television* stations located in **New Jersey** and **New York** must, on December 1, begin their pre-filing announcements with regard to their applications for renewal of license. These announcements then must be continued on December 16, January 1, and January 16. Please note that, with the advent of the online public file, the prescribed text of the announcement has been changed slightly from that of previous renewal cycles.

EEO Public File Reports – All *radio* and *television* stations *with five (5) or more full-time employee*s located in **Alabama**, **Colorado**, **Connecticut**, **Georgia**, **Maine**, **Massachusetts**, **Minnesota**, **Montana**, **New Hampshire**, **North Dakota**, **Rhode Island**, **South Dakota** and **Vermont** must place EEO Public File Reports in their public inspection files. TV stations must upload the reports to the online public file. For all stations with websites, the report must be posted there as well. Per announced FCC policy, the reporting period may end ten days before the report is due, and the reporting period for the next year will begin on the following day.

Noncommercial Television Ownership Reports – All *noncommercial televisio*n stations located in **Alabama**, **Connecticut**, **Georgia**, **Maine**, **Massachusetts**, **New Hampshire**, **Rhode Island** and **Vermont** must file a biennial Ownership Report (FCC Form 323-E). All reports must be filed electronically.

Noncommercial Radio Ownership Noncommercial Radio Reports – All stations located in **Colorado**, **Minnesota**, **Montana**, **North Dakota** and **South Dakota** must file a biennial Ownership Report. All reports filed must be filed electronically on FCC Form 323-E.

And then there were five

Google Makes It to Finish Line In White Space Coordinator Race, Again

Add one more (sort of) database coordinator to the "approved" list of white space database coordinators. The Commission has announced that Google has made it to the finish line – it's been approved to coordinate unlicensed "TV white space" devices. This is the second time Google has completed the process. As we have previously reported, Google was first approved in May, 2013. But then last June the Commission announced that Google had come back with a "major modification" to its already approved system – so much of a modification that it needed to go through the approval process again. (While that process chugged on, Google used the also-approved Spectrum Bridge system.) Now that modified Google system has been approved.

Google's latest success has been included in the appropriate box below.

Five down (if you count Google twice), six to go. Check back with CommLawBlog.com for further updates.

(Fuzzy on the whole white space database administrator question? Check out this post for some background.)

Coordinator	Test Started	Test Finished; Comments	Coordinator Approved
Comsearch	Feb. 24, 2014	June 23, 2014	
Frequency Finder Inc.			
Google Inc.	Feb. 27, 2013	May 29, 2013	June 28, 2013
Google Inc. II	June 2, 2014	July 29, 2014	**Sept. 10, 2014**
LS telcom AG	June 18, 2013	Nov. 14, 2013	
Key Bridge Global LLC	March 4, 2013	May 29, 2013	Nov. 19, 2013
Microsoft Corp.			
Neustar Inc.			
Spectrum Bridge Inc.	Sept. 14, 2011	Nov. 10, 2011	Dec. 22, 2011
Telcordia Technologies	Dec. 2, 2011	Feb. 1, 2012	March 26, 2012
WSdb LLC			