pillsbury Antenna™

AN UPDATE ON COMMUNICATIONS LAW & ISSUES

February 2019

FCC Issues Status Report on Repack Reimbursement Program

The FCC's Incentive Auction Task Force and Media Bureau have issued a Public Notice to report on the current status of the reimbursement program for stations forced to modify their facilities as a result of the Incentive Auction. Congress initially allocated $1.75 billion to cover costs incurred by full power and Class A television stations and multichannel video programming distributors ("MVPDs") because of the repack. As it became clear that $1.75 billion would not be enough, Congress allocated an additional

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Media Bureau Seeks Input on Video Description for Report to Congress

The FCC's Media Bureau is requesting public comment on the current state of video description, including data about its availability, use, benefits and costs. The information gained in this proceeding will inform the Commission's preparation of a report to Congress about video description that the agency must deliver by October 8, 2019.

Video description is the insertion of audio narration describing a video program's principal visual elements during pauses in the program's dialogue. Its purpose is to make content accessible to the visually impaired. This extra audio service is transmitted on a secondary audio stream. Typically, a consumer can access it through an on-screen menu provided by the receiver or set-top box.

The current rules require commercial television stations in the top 60 markets that are affiliated with one of the top four commercial broadcast networks (ABC, CBS, Fox, and NBC) to broadcast at least 87.5 hours per calendar quarter of video-described programming between 6:00 a.m. and midnight. At least 50 of those hours must be devoted to prime time or children's programming. All network-affiliated stations, regardless of market size, generally must pass through video

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Maximum Fine Imposed on Unlicensed LPTV

The FCC has issued a *Forfeiture Order* (FCC 19-2) fining the operators of an unlicensed low power television station in Morehead, Kentucky, $144,344. This action is the resolution of a 2017 *Notice of Apparent Liability for Forfeiture* ("NAL") against Vearl Pennington and Michael Williamson, whose objections to the proposed forfeiture were denied.

Pennington formerly held an authorization for LPTV station W10BM, in Morehead, the most recent license for which had expired on August 1, 1998. An application to renew the license should have been filed by April 1 of that year. Some six years later, unable to find a renewal application for W10BM in its records, the Commission's Media Bureau sent Pennington a status inquiry letter in April 2004. The Bureau received no direct response from Pennington to that letter and thereafter deleted the station from its database and notified Pennington in October 2004 that the license was cancelled. Pennington did not submit a timely request for reconsideration of the license cancellation, nor did he request an interim Special Temporary Authority.

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Editing Error Leads to Defamation Litigation

An inadvertent error in editing a news interview for a special investigative report broadcast on WXYZ(TV), Detroit, led to a lawsuit against the station in the United States District Court in Detroit. The plaintiff alleged, among other things, that the station had defamed him by broadcasting a video clip that had been altered. The court ultimately issued summary judgement in the station's favor because the plaintiff was deemed to be a public figure and he had failed to show that the station acted with actual malice toward him.

In the spring of 2016, WXYZ aired a series of investigative reports about a situation transpiring in the Detroit Public Lighting Authority (the "PLA"). The Chief Executive Officer of the PLA was Odis Jones, the plaintiff in this lawsuit. It came to light that the PLA had made suspicious severance payments to certain departing employees. Jones personally signed some of the agreements authorizing the payments, and he himself received one in the amount of $250,000 when he left the PLA.

The severance payments appeared to be questionable for several reasons. Some of them went to employees who had accused Jones of misconduct. The PLA did not publicly disclose the amount of the payments. As a condition to receive the payments, the PLA required the departing employees to not disclose them. It did not appear that the departing employees had contractual rights to receive any severance pay, much less the large five- and six-figure payments they were given. Furthermore, PLA officials refused to respond to queries about these payments. In a three-part series of special reports, WXYZ exposed the severance payments and the apparently suspicious circumstances surrounding them.

One of these reports featured an interview with an employment lawyer named Deborah Gordon. In the video clip Gordon is depicted as saying that Jones "violated the law" and that the matter should be "referred to the AG [Attorney General]." In reality, Gordon had said that "if" Jones "violated the law," a referral should be made to the Attorney General.

The Gordon interview appeared in the second installment of the three-part series which also included "day of" material — an interview that had just been recorded that same day. This resulted in the need to edit the report late — not until the last half-hour before airtime. Although the reporter producing the piece had originally intended to use a different quote from Gordon, the video editor suggested removing this clip for aesthetic reasons. It only showed Gordon from the back of her head. He quickly reviewed several other options, and landed on the "If he violated the law" quote because during that part of her interview, the camera had recorded Gordon from the side rather than the back of her head. Although the editor and the reporter hurriedly discussed this substitution by email, it appears that the editor made the switch on his own authority. The raw footage of the Gordon interview included the complete sentence, "If he violated the law . . ." The editor believed the word, "if," was included in the clip that he created in this last-minute production under pressure. He even stated in his deposition that in replays of the report, the "if" is audible. However, no one else could hear the "if" in the report as it was broadcast and Gordon appeared to state, "he [Jones] violated the law."

Jones sued the station and accused WXYZ of editing the Gordon interview with malicious intent to create the false impression that he was a lawbreaker. He claimed that the station staff deliberately obscured the word, "if," in Gordon's statement and deceptively edited it to give the impression that it was a flat declaration without context or clarification. WXYZ filed a motion for summary judgment.

In a prior phase of the proceeding, the court had ruled that, as the chief executive of a municipal agency, Jones qualified as a public figure. Citing Supreme Court precedent, the court explained that the standard for finding that a public figure has been defamed is higher than for other plaintiffs. The law permits a more robust examination of public figures to help protect the public interest in knowing more about them and their performance of public acts. To obtain a judgment for defamation, a public figure plaintiff must show by clear and convincing evidence that the allegedly defamatory statements were made with "actual malice." A speaker (such as a television station) acts with "actual malice" when it makes or publishes a statement with knowledge that it was false or with reckless disregard of whether it was false or not. "Reckless disregard" may be found only where there is sufficient evidence to permit the conclusion that the defendant entertained serious doubts as to the truth of the publication.

The judge determined that the evidence of record did not support a finding that WXYZ had acted with actual malice. Although the Gordon statement was misquoted as broadcast, Jones could not show that the misstep was deliberate. Under the pressure of the last-minute assembly of program elements for the broadcast, the only person who actually exercised control over the selection and editing of the video clip was the editor, and not the reporter, the director, or any other member of the station's staff or management. The judge concluded that the evidence showed that the editor's mistake in obscuring the word,"if," in Gordon's statement was entirely inadvertent. He chose that specific passage of the Gordon interview, at least in part, to get a better visual of Gordon, rather than for the content of her statement. Further, it was unlikely that the editor could have been acting personally with actual malice toward Jones because at the time of the incident, he did not even know who Jones was.

The court granted summary judgment for WXYZ. The decision is entitled, *Odis Jones, et al., v. Scripps Media, Inc.*, 2019 U.S. Dist. LEXIS 8817.

FCC Filings Should Align With State Records

The FCC's Enforcement Bureau has initiated a hearing proceeding to consider the revocation of the license for low power FM station, KEJM-LP, Carthage, Missouri. The questions to be tried concern character issues about the licensee's basic qualifications to hold a broadcast license, including whether it had misrepresented its ownership to the Commission and whether it was owned or controlled by persons who were not United States citizens.

In its 2013 application for the original construction permit for KEJM-LP, Minesteros El Jordan listed the members of its nonprofit board of directors as Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgus. All five were identified as citizens of the United States. Jordan filed an engineering amendment to the application in January 2017, that again identified the same group of board members. The application was granted shortly thereafter and the station went on the air. In November 2017, Jordan submitted a minor modification application. The same five individuals were listed as directors in that application.

Also in January 2017, the Commission received a complaint through its electronic Consumer Complaint Center alleging that four of Jordan's five board members were not United States citizens, and that the fifth person, Marlon Fuentes, had only become a citizen within the previous year. Subsequent Bureau investigations revealed that Eliud Villatoro, a citizen of Guatemala, had been ordered to be deported by immigration authorities, and that his wife, Johana, had already been deported. The Communications Act mandates that at least 80% of the voting control of the holder of a broadcast license must be United States citizens. That means that at least four of Jordan's five directors should have been United States citizens.

In the course of its investigations, the Bureau located Jordan's corporate filings in the records of the Missouri Secretary of State. The individuals identified by Jordan in those documents as its officers and directors were different from those named in the FCC applications. In filings with the State of Missouri from 2012 to 2017, Jordan identified a rotating cast of officers and directors totaling 12 individuals in all. Of these 12, only one — Eliud Villatoro — was also ever named in an FCC application.

On November 14, 2017, the Bureau sent a letter of inquiry to Jordan requesting the name and citizenship of every person who had been an officer or director of the corporation from October 1, 2013, to the present. The Bureau intended this letter to put Jordan on notice about the its concerns that Jordan may have violated the citizenship requirements and may have misrepresented information in the applications. A week later, Jordan filed its November 2017 modification application, again listing the same five individuals as its directors, and again identifying all of them as U.S. citizens. On December 6, 2017, the Bureau issued a second letter of inquiry, enclosing a copy of the first letter of inquiry, and demanding a response within seven days. No response was received.

In October 2018, the Bureau issued an *Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing* (DA 18-834) designating a hearing before an FCC Administrative Law Judge ("ALJ") to adjudicate why the license for KEJM-LP should not be revoked and to hear evidence on the issues of (1) whether Jordan had engaged in misrepresentation or lack of candor with the Commission; (2) whether Jordan was owned or controlled by aliens in excess of the one-fifth allowed by Section 310 of the Communications Act; (3) whether Jordan had failed to amend its application(s) in violation of the requirement of Section 1.65 of the Commission's rules to maintain accuracy; and (4) whether Jordan had failed to respond to Commission inquiries in violation of Section 73.1015 of the rules. Further, the Bureau ordered the ALJ to determine whether Jordan should be fined in an amount not to exceed the statutory maximum for such violations. Jordan was ordered to file a written notice of appearance within 20 days.

Instead of filing an appearance with the ALJ, in November 2018, Jordan submitted a letter to the Commission stating that the station "has stopped broadcasting," and surrendering the license for cancellation. The author of the letter explains (the signature is not legible) that a broadcast engineer approached Jordan in 2013 about applying for a new low power FM station. The letter reads, "Not being familiar with FCC rules, I told him to go ahead. He completed the application and sent it to the FCC, signing my name. I am not fluent in English and did not review the application before hand [sic], as I would not have understood its questions."

The FCC's rules provide that a licensee who fails to file a notice of appearance in a license revocation proceeding waives its right to a hearing. In view of Jordan's failure to file such a notice, the Bureau has submitted a motion asking the ALJ to terminate the hearing and to certify the case to the full Commission for an ultimate resolution.

DEADLINES TO WATCH

Effect of Government Shutdown on Deadlines

The recent lapse in funding for the FCC caused the Commission to suspend most operations from January 3 through January 25, 2019. This resulted in the postponement of many filing deadlines. The agency announced these deadlines in a January 29 Public Notice which superseded prior Public Notices dated January 2 and January 28. Generally, filings that were due between January 3 and January 7 were rescheduled to be due on January 30. Filings that were otherwise due from January 8 until February 7 were reset for February 8.

All online public inspection file quarterly filings that were due to be filed by January 10, and all non-quarterly filings that were required to be placed in a station's online public inspection file between January 3 and January 28 were assigned a new due date of February 11. Items uploaded to online public inspection files during the shutdown must be resubmitted.

To the extent the due dates for filings to which reply or responsive pleadings are allowed have been extended, an equivalent extension applies to the due dates for the responsive pleadings.

Due dates for the payment of fees through the FCC's Fee Filer System that fell between January 3 and February 7 were extended on the same schedule as regulatory filings.

Filing deadlines pertaining to the post-incentive auction transition were not extended.

Any Special Temporary Authority that expired from January 3 through January 29 was automatically extended until February 8. This extension did not apply to STAs related to post-incentive auction transition activities.

The filing deadlines shown below have been calculated on the basis of the FCC's announced extensions.

License Renewal, FCC Reports & Public Inspection Files

February 1, 2019	Deadline to place EEO Public File Report in public inspection file and on station's Internet website for all nonexempt radio and television stations in **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York** and **Oklahoma**.
February 8, 2019	Deadline to file 2018 4th quarter Children's Television Programming Reports for all commercial full power and Class A television stations.
February 8, 2019	Deadline to file EEO Broadcast Mid-term Report for all television stations in employment units with five or more full-time employees in **New Jersey** and **New York**.
February 8, 2019	Deadline for all broadcast licensees and permittees of stations in **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York** and **Oklahoma** to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).
February 11, 2019	Deadline to place Issues/Programs List for previous quarter in public inspection file for all full service radio and television stations and Class A TV stations.
February 11, 2019	Deadline for noncommercial stations to file 2018 4th quarter report re third-party fundraising.
April 1, 2019	Deadline to place EEO Public File Report in public inspection file and on station's Internet website for all nonexempt radio and television stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee** and **Texas**.
April 1, 2019	Deadline to file EEO Broadcast Mid-term Report for all television stations in employment units with five or more full-time employees in **Delaware** and **Pennsylvania**.
April 1, 2019	Deadline for all broadcast licensees and permittees of stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee** and **Texas** to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).
April 1 & 16, 2019	Radio stations in the **District of Columbia, Maryland, Virginia** and **West Virginia** broadcast pre-filing announcements regarding license renewal applications.
April 10, 2019	Deadline to place Issues/Programs List for previous quarter in public inspection file for all full service radio and television stations and Class A TV stations.
April 10, 2019	Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.
April 10, 2019	Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack.
April 10, 2019	Deadline for noncommercial stations to file quarterly report re third-party fundraising.

DEADLINES TO WATCH

Paperwork Reduction Act Proceedings

The FCC is required under the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
Reimbursement from TV Broadcaster Relocation Fund, Form 1876	Feb. 25
Broadcast incubator program	Mar. 11
Open video systems, Form 1275	Mar. 11
Terrestrial microwave fixed radio service	Mar. 11
Class A television service	Mar. 11

Rulemakings to Amend Post-Transition Digital TV Table of Allotments

The FCC is considering amendments proposed to the Digital TV Table of Allotments to add and/or delete the following channels. The deadlines for filing comments and reply comments are shown.

COMMUNITY	PRESENT CHANNELS	PROPOSED CHANNELS	COMMENTS	REPLY COMMENTS
Cookeville, TN	*22, 36	*22	Feb. 15	Feb. 25
Franklin, TN		36	Feb. 15	Feb. 25
Gadsden, AL	26, 45	26	FR+15	FR+25
Hoover, AL		45	FR+15	FR+25

FR+N means that filing deadline is N days after publication of notice of the proceeding in the Federal Register.

Deadlines for Comments in FCC and Other Proceedings

(All proceedings are before the FCC unless otherwise noted.)

DOCKET	COMMENTS	REPLY COMMENTS
Docket 13-249; 2nd FNPRM Protection of Class A AM stations		March 8
Docket 17-105; FNPRM Deregulation of cable television framework for setting rates		March 11
Docket 18-314: NPRM Streamlining rules governing satellite services	March 18	April 16
Docket 17-317; Public Notice Modernization of carriage election notice	March 18	March 26
Docket 06-160; 2nd NPRM Processing applications in the Direct Broadcast Satellite Service	March 25	April 22
Docket 11-43; Public Notice Video description marketplace	April 1	May 1
Docket 18-349; NPRM 2018 Quadrennial Review of broadcast ownership rules	FR+60	FR+90

FR+N means the filing deadline is N days after publication of notice of the proceeding in the Federal Register.

Cut-Off Date for FM Application to Deliver Programs to a Foreign Station

The FCC has accepted for filing the following application for a permit to deliver programming to a foreign broadcast station. The deadline for comments about and petitions to deny this application is indicated.

APPLICANT	FOREIGN STATION(S)	FILING DEADLINE
Local Media San Diego, LLC	XETRA-FM, Tijuana, Mexico XHITZ-FM, Tijuana, Mexico XHRM-FM, Tijuana, Mexico	March 4

TELEVISION REPACK

STATIONS ASSIGNED TO PHASE 2

TESTING PERIOD BEGINS: DECEMBER 1, 2018
COMPLETION DEADLINE: APRIL 12, 2019

STATIONS ASSIGNED TO PHASE 3

TESTING PERIOD BEGINS: APRIL 13, 2019
COMPLETION DEADLINE: JUNE 21, 2019

Maximum Fine Imposed on Unlicensed LPTV *continued from page 1*

On a tip that the station might still be on the air, the Media Bureau referred the matter to the Enforcement Bureau for investigation in the summer of 2016. In August, two Enforcement Bureau agents visited Morehead and confirmed that the station continued to operate. They interviewed Pennington's cohort, Williamson, at the station's studio and gave him a Notice of Unlicensed Radio Operation ("NOUO"). This served to inform him that it was illegal to operate the station without a license and to warn him that continued unlicensed operations could be met with additional enforcement action. Williamson submitted a written response to the NOUO, asserting that he believed the station remained licensed because it had never received confirmation of the grant of its 1993 renewal application. Treating the NOUO as a request rather than a firm directive to cease broadcasting, Williamson continued to operate the station. In September 2016, an Enforcement Bureau agent returned to Morehead and confirmed that it was still on the air.

In May 2017, the Commission issued the NAL, addressed to both Pennington and Williamson. In response to the NAL, Pennington stated that he had filed a license renewal application for W10BM in May 2004. He also claimed to have tendered $1,155 to the Commission in August 2004, which he said was intended to pay the "renewal fees for 3 stations [at] [sic] $50 per station per renewal period through the year 2022." The application was not accepted for filing, and was therefore not processed because the appropriate application filing fee was never paid. The Commission explained that Pennington's purported payment plan could not be recognized, even if actually undertaken. The alleged payment was not for the correct amount, and application filing fees cannot be paid in advance. In any event, the Commission inferred that if this payment was actually submitted, it more likely was intended to cover regulatory fees.

Pennington also opposed the proposed forfeiture because the station was providing a public service to the residents of Morehead. Further, he sought cancellation of the fine on the grounds that he was unable to pay it. He described himself as a retiree with so little income that he was not required to file tax returns, and therefore could not produce such evidence of his lack of resources.

In his own separate opposition to the NAL, Williamson argued that the FCC did not have jurisdiction over the station because its signal did not reach beyond the "land of Kentucky." Williamson also pursued the public service argument, submitting a petition signed by over 100 local residents of the Morehead area, urging the FCC to allow the station to continue to broadcast. Like Pennington, Williamson too averred that he was unable to pay the fine.

The Commission rejected all of these objections to the forfeiture. It said that providing a public service to the community is never a mitigating factor in cases involving unlicensed broadcasting. Pennington and Williamson continued to operate the station for some 18 years with no authorization, even in the face of an explicit directive to cease broadcasting. Although the Commission has the discretion to adjust fines from the base amounts listed in its forfeiture guidelines, the inability to pay is only one of several factors that the Commission may consider in making adjustments — and only a minor factor at that. The Commission declined to reduce the proposed forfeiture in light of the "egregious, intentional and repeated nature of the violation."

The forfeiture guidelines in Section 1.80 of the Commission's rules specify $10,000 per day as the base fine for operating a transmitter without an authorization. Although W10BM operated for 18 years without a license, the Communications Act requires that certain monetary forfeitures be based on violations that occur within a year preceding the issuance of the NAL. In this case, that limited the period for relevant violations to the year just preceding May 12, 2017. Therefore, the initial calculation of the fine was based upon the 22-day period between August 16, 2016, and September 7, 2016, during which the agency's field agents confirmed the illegal operation. At $10,000 per day, the forfeiture would amount to $220,000. However, that figure had to be reduced to $144,344, which was the maximum forfeiture then permitted under the Communications Act for continuing violations arising from a single act or failure to act.

Messrs. Pennington and Williamson are jointly and severally liable for the full amount of the fine.

FCC To Host Symposium on Media Diversity

The FCC's Media Bureau and its Advisory Committee on Diversity and Digital Empowerment will host a symposium to explore a range of issues concerning best practices for minorities and women in broadcasting and related industry sectors. The meeting will be convened in the Commission Meeting Room at FCC Headquarters on March 7, 2019, at 9:00 a.m. and conclude by 5:30 p.m.

The Commission's Public Notice about this event states that it will feature success stories of small women-owned and minority-owned businesses and examine new entrepreneurial opportunities for such businesses. There will be panels with presentations by female and minority media industry pioneers, well-known broadcast experts, leaders of large multi-media companies, and financial experts. Organizations that provide training for media employment and ownership will have representatives present.

This program will be streamed live on the Internet. The public can log in at www.fcc.gov/live.

Licensee Liable for Time Broker's Rule Violation

The FCC's Enforcement Bureau has issued an *Order* (DA 18-1188) adopting a *Consent Decree* it has entered into with Sound Ideas, LLC, the licensee of FM station WYDK, Eufaula, Alabama. This action resolves an investigation about an improperly-conducted contest broadcast on WYDK in 2016. In exchange for the Bureau's termination of the investigation, WYDK admitted to rule violations and agreed to pay a civil penalty of $12,000.

This matter began when the Bureau received a complaint from a third party in August 2016, alleging that the station had prematurely ended an on-air contest and failed to award the advertised prizes. Instead, it was alleged that the station kept the prizes for its employee. Section 73.1216 of the FCC's rules requires a station to fully and accurately disclose the material terms of a contest that it conducts, and to conduct the contest substantially as announced or advertised.

In June 2017, the Bureau sent a letter of inquiry to the station regarding the issues raised in the complaint. The licensee responded that it had no knowledge of the contest and was unable to locate records of the event. The nature of this response raised questions at the Bureau about the licensee's control over the station.

The Bureau sent a second letter of inquiry to investigate an apparent unauthorized de facto transfer of control of the station. In response to this inquiry, Sound Ideas admitted that it had allowed a time broker to operate the station without adequate oversight, resulting in a de facto transfer of control, and that an on-air contest had been conducted in a manner that violated the Commission's contest rule. As the licensee of the station, Sound Ideas had to assume responsibility for everything that was broadcast, including content provided by the time broker.

To resolve this investigation, Sound Ideas agreed to the following:

(1) It admitted that it had violated Section 73.1216 of the Commission's rules concerning contests, and Section 73.3540 concerning unauthorized transfers of control.

(2) It will pay a civil penalty of $12,000 – $8,000 for the unauthorized transfer, and $4,000 for the contest violation.

(3) It will submit a copy of the *Order* and the *Consent Decree* with any future application it files with the FCC.

(4) It will implement a three-year compliance plan that includes appointing a compliance officer, compiling a compliance manual, conducting an ongoing staff training program, and submitting periodic reporting to the Commission.

The *Consent Decree* will be binding upon any other party who comes to own the station during the life of the compliance plan.

FCC Issues Status Report on Repack Reimbursement Program

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$1 billion for repack expenses. Of this amount, not more than $150 million is to be directed to costs incurred by low power television and television translator stations; not more than $50 million is for affected FM stations; and not more than $50 million is to be used for consumer education.

There are 987 full power and Class A repacked stations eligible to receive reimbursement. Each station has been scheduled within a specific time period, or phase, for implementing its transition. The second phase is currently in progress, ending on April 12. The Commission is allocating funds to stations on the basis of their estimated costs, initially up to a maximum of 92.5% of the estimate. As of February 6, 2019, the total verified cost estimates submitted by full power and Class A stations and MVPDs amounted to just over $1.9 billion. Stations must submit claims for reimbursement on Form 2100, Schedule 399 (the Reimbursement Form), with supporting documentation from vendors and service providers. As of February 11, 2019, the Commission has paid out a total of $382 million in reimbursements. In this Public Notice, the Commission announced the allocation of another $68.1 million for 316 stations.

When a station has completed its required activities to move to its final facilities and submitted all of its supporting documentation (but no later than a deadline to be announced by the Media Bureau), it should file a Reimbursement Form to notify the Media Bureau it has completed the transition and submitted all reimbursement requests and documentation. At that point, the station will no longer be able to request additional reimbursement. Each station will receive a reconciliation statement.

The Commission is allocating funds to eligible entities on a pro rata basis of actual costs incurred based on the total fund availability. The agency intends to withhold a certain portion of potentially eligible funds until the conclusion of the program, or until such time as the Commission can reasonably extrapolate that the total available funding will be sufficient to meet all costs. The final close-out for each entity must occur no later than July 3, 2023, the statutory end of the reimbursement program. All entities receiving reimbursement funds will be subject to audit.

The Commission is still in the process of completing the rulemaking proceeding to establish eligibility requirements and develop reimbursement procedures for LPTV and FM stations. The statutory deadline for completing this rulemaking is March 23, 2019.

New Procedures Adopted for Ownership Changes in Antenna Structure Registrations

To improve security and to reduce the risk of unauthorized transfers, the FCC is implementing changes in its Antenna Structure Registration ("ASR") process as of February 14, 2019. ASR applications involving a change in ownership of the structure will now require approval by both the current owner and the new owner.

The new procedure for the electronic Form 854, the Ownership Change application, is a two-step process that requires both the assignor and the assignee to log into ASR, complete their respective portions of the form, and provide the signature of an authorized person. The assignor must complete its portion of the form first, and then notify the assignee. The assignee then will complete its portion of the form and submit the application to the Commission.

The assignor may delete a partially completed form at any time until the form is sent to the assignee. After that, only the assignee can delete the form. The ASR system will automatically delete a saved application after 30 days if the assignee does not complete it.

Parties may continue to file the paper version of Form 854. That procedure will require hard signatures by both the assignor and the assignee.

Media Bureau Seeks Input on Video Description for Report to Congress

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description contained in programming received from the network.

This year's report to Congress will be the second in a two-part series mandated by the Twenty-First Century Communications and Video Accessibility Act of 2010. After implementation of the video description rules, this legislation directed the Commission to study how the video description marketplace developed. The first report was submitted to Congress in June 2014, addressing video description on both television and the Internet. Thereafter, the Commission updated its regulations in 2017. This second report is to assess the state of the industry under the impact of those new rules. If the evidence and findings compiled in this second report support increasing the utilization of this technology, the law would allow the FCC to add 10 markets per year to the list of markets where television stations would be required to air some amount of video-described programming.

The Bureau specifically inquires about the following issues.

(1) What types of video-described programming are available? How much programming is available? How much video description is provided voluntarily without being required by the rules? The Bureau asks for specific examples to be identified.

(2) How do consumers use video-described programming? To what extent is it watched by household members who are not sight-impaired? How do providers promote such programming? To what extent is there competition with foreign-language tracks for use of the secondary audio channel?

(3) The Commission recently estimated the maximum cost for adding description to video programming at $4,202.50 per hour. Is this an accurate and realistic estimate? Who typically adds description to programming — the producer, distributor, or broadcaster?

(4) Is there need and/or demand for video-described programming outside of the top 60 markets? What would be the costs and benefits of requiring video description beyond the top 60 markets?

Comments addressing these and other issues about video description are to be filed in Docket 11-43 by April 1. Reply comments will be due by May 1.