

## Next EAS Nationwide Test Set for August 7

The next nationwide test of the Emergency Alert System (“EAS”) will be conducted on August 7 by the Federal Emergency Management Agency (“FEMA”) in coordination with the FCC. The Commission’s Public Safety and Homeland Security Bureau has released a Public Notice (DA 19-505) to announce the schedule and process for this event. The test will begin at 2:20 p.m., Eastern Time on August 7, with August 21 designated as a backup date. All EAS participants are required to take part in this test.

The 2019 nationwide test will be disseminated only via the broadcast-based hierarchical daisy chain. In this process, FEMA initiates the release of an alert through Primary Entry Point (“PEP”) radio stations that are monitored by other broadcast stations and multichannel video programming distributors that then retransmit the message to the public. In this test, FEMA is especially interested to assess the broadcast-based system’s capabilities in the event that the Internet-based delivery channels were to become unavailable.

There are 77 PEP stations scattered throughout the nation. FEMA is in the process of a multiyear program to

*continued on page 6*

## DOJ To Review ASCAP, BMI Consent Decrees

The Antitrust Division of the U.S. Department of Justice (“DOJ”) is undertaking a review of the consent decrees that govern the operations of the American Society of Composers, Artists and Publishers (“ASCAP”) and Broadcast Music, Inc. (“BMI”), two of the performing rights organizations (“PROs”) that collect music copyright royalty fees from broadcasters and other copyright users. These Decrees were originally adopted by the U.S. District Court in New York in 1941 as settlements to lawsuits brought against ASCAP and BMI by the government, alleging that they had engaged in uncompetitive practices in violation of the Sherman Act. Ever since then, the process for setting royalty rates by these organizations has been subject to supervision by the court. The Decrees have been reviewed and amended from time to time. Most recently, the ASCAP Decree was amended in

*continued on page 8*

## FCC Begins Accepting Next Gen TV License Applications

The FCC’s Media Bureau is now accepting applications for ATSC 3.0 television facilities, often called Next Generation TV or Next Gen TV. The Commission had adopted rules for this service in November 2017, but revisions to the Form 2100 and to the Licensing and Management System (“LMS”) online portal were necessary before applications could be submitted. Those revisions have now been completed. The Bureau has revised Form 2100, Schedule B (for full power stations), Schedule D (for low power and television translator stations) and Schedule F (for Class A stations). All licensed television stations are eligible to apply using these forms except for channel-sharing stations.

Channel-sharing stations may file requests for ATSC 3.0 authorizations, although LMS will not be configured to accept such applications for several months. Until then, channel-sharing stations can request ATSC 3.0 facilities by using the form to request a legal Special Temporary Authority. Such

*continued on page 7*

### IN THIS ISSUE

Repack Reimbursement Process Revised .....	2
Radio Time Broker as Foreign Agent .....	2
Attempted Tower Heist .....	3
Deadlines to Watch.....	4-5
Aviation Radio and FM .....	6
Workshop for Multilingual EAS .....	8

For more information about or help with any of the items reported in **Antenna™** please contact:

**pillsbury**

1200 Seventeenth St. NW  
Washington, D.C. 20036

Tel: 202.663.8167

Fax: 202.663.8007

E-mail: [scott.flick@pillsburylaw.com](mailto:scott.flick@pillsburylaw.com)

# Repack Reimbursement Process Revised

The FCC has announced revisions to the process for disbursing reimbursement funds from the Television Broadcaster Relocation Fund in a Public Notice (DA 19-489). Expenses related to the repack incurred by full power and Class A television stations and multichannel video programming distributors (“Eligible Entities”) are to be reimbursed by way of payments sent to the Eligible Entities’ bank accounts. (The Commission has not yet announced the procedures for low power television and FM stations to claim reimbursement funds.) To certify their agreement with the payment terms and to identify the bank account where funds are to be sent, each Eligible Entity must submit a Form 1876 in the Commission Registration System Incentive Auction Financial Module (“CIAFM”).

Under the new procedures set out in this Public Notice, a Form 1876 should be submitted by an Eligible Entity only in one of the following three circumstances that pertain to the Eligible Entity’s bank account: (1) to submit banking information for the first time; (2) to change banking information provided on a previously-filed Form 1876; or (3) to provide initial banking information by an Eligible Entity that has consummated an assignment or transfer-of-control transaction to acquire a facility entitled to reimbursement.

Previously, an Eligible Entity was required to file a new Form 1876 to report changes to any of the information on the form. Under the revised procedures, a new Form 1876 is not needed to report changes that do not involve reporting the Eligible Entity’s bank information. Changes to items such as the authorized agent, mailing address and contact information should now be submitted by email to FO-REPinvoices@fcc.gov. The email must come from either the authorized agent or the contact person for the Entity. If the

email addresses originally listed for both the authorized agent and the contact person are no longer valid, the Eligible Entity must submit a new signed and notarized Form 1876, following the procedures described below.

When filing a Form 1876 is necessary, there is now a newly revised three-step process that Eligible Entities must follow to create, submit and verify it:

(1) The Eligible Entity’s FCC Registration Number Administrator must log in to the CIAFM and enter all requested information. The CIAFM will then generate the Form 1876 PDF.

(2) A person with authority to bind the Eligible Entity must sign the completed, printed Form 1876 and have it notarized. The original signed and notarized form, along with a bank account verification letter or a redacted recent bank statement, must be mailed to:

Federal Communications Commission  
Travel & Operations Group  
Attn: Chief of TOG, Tim Dates  
9050 Junction Drive  
Annapolis Junction, Maryland 20701.

(3) Upon receipt and review of the Form 1876, FCC staff will send an email notification to the Eligible Entity directing the authorized agent to review and verify the bank information in the CIAFM within 10 business days. If the authorized agent determines that the bank account information is incorrect, a new Form 1876 must be submitted. No reimbursement payment will be made if the bank account information in the CIAFM is not verified by the authorized agent.

The Commission will only accept the Form 1876 as generated by the CIAFM. The prior version will no longer be accepted.

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## Radio Time Broker Ordered To Register as Foreign Agent

A federal judge of the U.S. District Court for the Southern District of Florida has ordered radio time broker RM Broadcasting, LLC, to register as an agent of a foreign country because it is selling airtime to a Russian government-owned news agency. The Foreign Agents Registration Act of 1938 (“FARA”) requires registration with the National Security Division of the U.S. Department of Justice (“DOJ”) of individuals and entities who engage in the dissemination of propaganda and other activities on behalf of or for the benefit of foreign governments, foreign political parties, or other foreign principals. The purpose of this law is to provide a mechanism to inform the American government and the public so that they can properly evaluate the agent’s statements and activities in the light of the agent’s associations.

RM is in the business of brokering broadcast airtime. One of the radio stations on which it purchases airtime for resale is WZHF(AM), Arlington, Virginia (in the Washington, D.C. market). In November 2017, RM entered into an agreement with Rossiya Segodnya for the purchase of airtime on WZHF. Rossiya Segodnya is a news agency owned and operated by

the government of Russia.

Although the DOJ’s FARA Registration Unit had been asking RM to register as a foreign agent for several years, these requests became more demanding after implementation of the Rossiya Segodnya contract, with Russian government programming on the air in Washington. RM took the position that as the mere reseller of broadcast time, with no involvement in the production of the programming, it was not an agent of a foreign principal. To resolve the matter, RM filed a Complaint for Declaratory Judgment in the U.S. District Court in south Florida where the company’s owner, Arnold Ferolito, resides. In court, RM reiterated its argument that the nature of its relationship with Rossiya Segodnya as an arms-length reseller of airtime did not bring it within the mandate of FARA. The DOJ opposed RM’s assertions, and directed the court to various provisions of RM’s contract with Rossiya Segodnya. Both parties filed motions for judgement on the pleadings.

The court disagreed with RM’s claim that it simply buys and sells airtime, citing a contract provision that obligates

*continued on page 8*

# Attempted Tower Heist Nets \$235K Fine

The FCC has imposed a \$235,668 fine against a company that attempted to obtain FCC Antenna Structure Registrations (“ASRs”) in its own name for towers that it did not own. In a recent *Forfeiture Order* (FCC 19-37), the Commission adopted the sanction proposed in an April 2018 *Notice of Apparent Liability for Forfeiture* (FCC 18-40) (“NAL”), to which the accused violator, Aura Holdings of Wisconsin, Inc., never responded.

In December 2016, an airplane pilot complained to the Commission’s Operations Center about an unlit telecommunications tower near Footville, Wisconsin. The tower owner listed on the ASR was a company named Puri, LLC. Operations Center staff was unable to make contact with Puri. The FAA subsequently issued a Notice to Airmen to alert pilots about the unlit hazard. The Commission’s Enforcement Bureau initiated an investigation and dispatched a field agent to visit the tower site. The agent confirmed that the tower’s lights were not functioning.

In January, the agent again researched the ASR database and discovered that the ownership information for the Footville tower had been changed, showing Aura as the tower owner. William Nix was listed as the company’s CEO, project manager and contact person. Upon being contacted by the field agent, Nix said that Aura had recently acquired the tower. He explained that he knew about the lighting outage, but would not be able to make repairs until weather permitted tower climbers to operate safely.

On March 20, 2017, the field agent asked Nix to provide an update about the Footville tower repairs. Nix responded by email on March 25 to say that the repairs would be completed by July 1. Nix sent another email on May 12 to report that the repair work was underway, and he included attachments to demonstrate progress being made.

On April 19, 2017, Subcarrier Communications, Inc. complained to the Commission that the ASR ownership data for 41 of its towers had been improperly changed so as to indicate that Aura owned the towers. One of these was the Footville tower. On May 19, the Enforcement Bureau field agent contacted Subcarrier’s CEO. The CEO alleged that, in addition to changing the ASR ownership information for a number of Subcarrier’s towers, Nix had changed the locks and stolen equipment from those sites, including equipment at the Footville tower which Subcarrier has purchased for making the repairs on the lights on that tower.

Upon further review of the records in its ASR system, the Commission’s Wireless Telecommunications Bureau staff determined that Aura had filed 42 applications to change the ownership for towers that it apparently did not own despite certifying in each application that it did own them. Furthermore, in the early months of 2017, Aura filed six requests with the Federal Aviation Administration for no-hazard studies. At least three of those requests involved towers that Aura did not own.

The Enforcement Bureau’s Spectrum Enforcement Division sent a Letter of Inquiry to Nix on October 3, 2017,

seeking information on the accuracy of the information that Nix had provided to the field agent concerning the Footville tower and concerning the 42 change-of-ownership applications that Aura had filed in the ASR system. A response was requested by October 24, 2017. No response has ever been received. Aura has failed to present any explanation for these discrepancies.

The Commission found that Aura had violated Section 1.17 of its rules. Section 1.17(a)(2) provides that no person shall, in any written statement of fact submitted to the agency, provide material factual information that is incorrect or omit material information that is necessary to prevent a statement from being incorrect or misleading. The Commission said there was no evidence demonstrating any grounds for believing that Aura was the actual owner of the towers that it claimed to own through the ASR system, and therefore the agency concluded that Aura lacked any reasonable basis for its representations to the Commission. This holding pertained to both Aura’s ASR filings and Nix’s exchanges with the field agent.

Section 503 of the Communications Act authorizes the Commission to assess forfeitures of up to \$19,639 per violation or per day of a continuing violation, up to a statutory maximum of \$147,290 for a single act or failure to act. The statute of limitations governing this case limited the FCC to imposing fines for violations occurring within the 12-month period immediately preceding release of the NAL. This limited the Commission’s purview to only 10 of the 42 false ASR filings. The Commission proposed and levied the maximum fine of \$19,639 for each of those 10 filings, totaling \$196,390.

A separate false statement violation occurred when Nix emailed the field agent with a purported update on the status of repairs to the lighting at the Footville tower. Aura did not own the tower, and it was not undertaking to make the repairs. The Commission imposed an additional fine of \$19,639 for this deception.

The Commission’s rules require parties to respond to official requests for information. Aura’s failure to respond to the Letter of Intent constituted another separate violation, for which it was fined an additional \$19,639.

Altogether, the FCC imposed the maximum permissible fine of \$19,639 for each of 12 violations, bringing the total forfeiture to \$235,668. It does not appear that the Commission has heard from Aura since Nix’s email to the field agent of May 12, 2017.

At the time of the incidents in this case, the assignee of a tower could file a change of ownership application in the ASR system without the assignor’s participation. The integrity of the system relied upon the honesty and good faith of the parties. The Commission has now altered the process for reporting a change in tower ownership by requiring participation by both the assignor and the assignee, and the input of an FCC Registration Number for each of them.



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

June 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 <b>Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, and Wyoming.</b>	July 10, 2019	Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.
June 1 & 16, 2019	Radio stations in <b>the District of Columbia, Maryland, Virginia and West Virginia</b> broadcast post-filing announcements regarding license renewal applications.	July 10, 2019	Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack (waived for stations in Phase 5).
June 1 & 16, 2019	Radio stations in <b>North Carolina and South Carolina</b> broadcast pre-filing announcements regarding license renewal applications.	July 10, 2019	Deadline for noncommercial stations to place quarterly report regarding third-party fundraising in Public Inspection File.
June 3, 2019	Deadline to file license renewal applications for radio stations in <b>the District of Columbia, Maryland, Virginia and West Virginia.</b>	August 1, 2019	Deadline to file license renewal applications for radio stations in <b>North Carolina and South Carolina.</b>
June 3, 2019	Deadline for all broadcast licensees and permittees of stations in <b>Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, and Wyoming</b> 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).	August 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 <b>California, Illinois, North Carolina, South Carolina and Wisconsin.</b>
July 1 & 16, 2019	Radio stations in <b>the District of Columbia, Maryland, Virginia and West Virginia</b> broadcast post-filing announcements regarding license renewal applications.	August 1, 2019	Deadline for all broadcast licensees and permittees of stations in <b>California, Illinois, North Carolina, South Carolina and Wisconsin</b> 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).
July 1 & 16, 2019	Radio stations in <b>North Carolina and South Carolina</b> broadcast pre-filing announcements regarding license renewal applications.	August 1 & 16, 2019	Radio stations in <b>the District of Columbia, Maryland, North Carolina, South Carolina, Virginia and West Virginia</b> broadcast post-filing announcements regarding license renewal applications.
July 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.	August 1 & 16, 2019	Radio stations in <b>Florida, Puerto Rico and the Virgin Islands</b> broadcast pre-filing announcements regarding license renewal applications.

## Cut-Off Date for Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change each station's community of license. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **July 8, 2019**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Milan, NM	Towaoc, CO	KZNM	265	100.9
Refugio, TX	Balcones Heights, TX	KXAI	279	103.7
San Marcos, TX	Austin, TX	KBPA	278	103.5
Gretna, VA	Halifax, VA	WMNA-FM	292	106.3
Elma, WA	Montesano, WA	KGHE	206	89.1



# 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
Broadcasting emergency information, Section 73.1250	June 25
TV Broadcast Relocation Fund Reimbursement Form, Form 2100, Schedule 399, Section 73.3700(e)	June 25
FM translators and interference, Sections 74.1203, 74.1204	June 27
Rules governing satellite space and earth stations, Part 25, Forms 312, 312-EZ and 312-R	July 1
Station identification, Sections 73.1201, 74.783, 74.1283	July 1
Technical and equipment modifications of FM translators and boosters, Section 74.1251	July 8
Broadcast ownership reports, Form 323, Sections 73.3615, 74.797	July 8
Amendments to FM and TV Table of Allotments, Section 1.420	July 15
Wireless license application, Form 602	July 29
Satellite communications, Part 25	Aug. 6

## Deadlines for Comments in FCC and Other Proceedings

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

Docket 19-3; NPRM Comparative standards for applicants for noncommercial stations	May 20	June 18
Docket 19-143; Public Notice Cumulus Media, Inc. Petition for Declaratory Ruling to permit up to 100% foreign investment	June 20	July 8
Docket 19-105; NPRM FY 2019 Regulatory Fees		June 24
Docket 18-122; Public Notice Additional terrestrial use of the C-Band	July 3	July 18
Antitrust Division U.S. Department of Justice Review of ASCAP and BMI Consent Decrees	July 10	
Docket 07-42; 2d FNPRM Leased commercial access	FR+30	FR+45
Docket 19-140; NPRM Aviation Radio Service	FR+60	FR+90

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

## Rulemakings to Amend FM Table of Allotments

The FCC is considering an amendment proposed to the FM Table of Allotments to add the following channel. The deadlines for filing comments and reply comments are shown.

COMMUNITY	CHANNEL	MHZ	COMMENTS	REPLY COMMENTS
Kahlotus, WA	283A	104.5	June 24	July 9

### TELEVISION REPACK

#### STATIONS ASSIGNED TO PHASE 3

TESTING PERIOD BEGINS: **APRIL 13, 2019**

COMPLETION DEADLINE: **JUNE 21, 2019**

#### STATIONS ASSIGNED TO PHASE 4

TESTING PERIOD BEGINS: **JUNE 22, 2019**

COMPLETION DEADLINE: **AUGUST 2, 2019**

#### STATIONS ASSIGNED TO PHASE 5

TESTING PERIOD BEGINS: **AUGUST 3, 2019**

COMPLETION DEADLINE: **SEPTEMBER 6, 2019**

### FILING DEADLINES RELATED TO NATIONWIDE EAS TEST

ETRS Form One **July 3, 2019**

ETRS Form Two **August 7, 2019**

ETRS Form Three **September 23, 2019**

# Aviation Radio Proposals May Affect Broadcasters

The FCC has released a *Notice of Proposed Rulemaking* (FCC 19-53) in Docket 19-140 to consider a variety of amendments to its Part 87 rules governing the Aviation Radio Service. This heterogeneous family of services uses a variety of spectrum bands for, among other things, guidance to aircraft while taking off, landing and in route; radionavigation and the avoidance of obstacles; providing weather and other in-flight information critical to safety; directing aircraft and service vehicle traffic on the ground; search and rescue operations; and testing aircraft and aircraft equipment. This article discusses the elements of this proceeding that may have an impact on broadcast stations.

The spectrum band adjacent to the upper end of the FM band, from 108 to 136.975 MHz, is allocated to the Aeronautical Mobile (Route) Service on a primary basis, with the limitation that systems must operate in accordance with recognized international aeronautical standards and that such systems must conform to certain resolutions of the International Telecommunications Union ("ITU"). The ITU resolutions require that these systems must be able to operate in spectrum

adjacent to the FM broadcast band without interference from broadcast operations. Use of the frequencies in the sub-band, 108 to 112 MHz, is limited to systems composed of ground-based transmitters and associated receivers that provide navigational information.

The Commission observes that in 2015, it amended the Table of Frequency Allocations in Section 2.106 of its rules to include this service allocation. However, it did not adopt service rules at that time, such as the limitations specified in the ITU resolutions. The agency seeks comment now as to whether the amendments to Section 2.106 are sufficient to codify the relevant ITU actions, or whether the Part 87 service rules should be updated to expressly incorporate the relevant ITU resolutions.

Section 87.151 of the Commission's rules presently protects ground-based differential Global Positioning System ("GPS") receivers on frequencies in the 108 to 117.975 MHz band from interference caused by FM broadcast stations by specifying maximum permissible levels of undesired FM

*continued on page 7*

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## Next EAS Nationwide Test Set for August 7 *continued from page 1*

expand and modernize the PEP facilities. This effort includes developing additional PEP stations and hardening all PEP stations to enhance their ability to provide sustained service during emergencies. Infrastructure is being installed at PEP stations to accommodate everything that might be needed for remote broadcasting, including a backup transmitter and generator, a studio, air conditioning and filtration, and a 60-day supply of food and water for a two-person staff. All of this is housed in a hardened shed-like structure constructed at the station's antenna site. FEMA intends for these facilities to be capable of surviving and providing continued service not only during natural disasters, but also in the face of man-made catastrophes such as radiological, biological or electromagnetic pulse events.

EAS participants must report their test experience to the FCC online in the EAS Test Reporting System ("ETRS"). As in past years, the ETRS process will involve three reports. The first of these, on Form One, will be due by July 3. This form solicits information about the participant and its facilities. Every participant is required to complete and submit Form One, even if the requested information has not changed since last year's Form One. The "day-of-test" report on Form Two will be due by 11:59 p.m. Eastern Time on August 7. Finally, post-test data will be submitted on Form Three, due by September 23. The ETRS online filing system can be accessed at <https://www.fcc.gov/general/eas-test-reporting-system>.

All EAS participants are required to register and file ETRS reports, including low power FM stations, Class D FM stations, and stations that are off the air pursuant to the grant of a Special Temporary Authority to be silent. Exceptions to this mandate include the following types of stations which will not be required to file reports:

- low power television stations that operate as television translator stations;
- FM booster and FM translator stations that rebroadcast entirely the programming of another local station; and
- broadcast stations that operate as satellites or repeaters of other stations and rebroadcast 100 percent of the programming of a parent station which is registered and submitting reports.

The Bureau encourages EAS participants to take steps, in coordination with their State Emergency Communication Committees, to prepare for this nationwide test, such as:

- ensuring that a copy of the EAS Operating Handbook is located at normal duty positions, or EAS equipment locations, and is otherwise immediately available to operators;
- reviewing the EAS Operating Handbook for the actions to be taken by operators upon receipt of the test alert;
- reviewing the State EAS Plan for monitoring assignments, and ensuring that EAS equipment is accurately configured to monitor those sources;
- ensuring that EAS equipment can receive and process the National Periodic Test code, the six zeroes national location code, and otherwise operate in compliance with the FCC's rules;
- upgrading EAS equipment software and firmware to the most recent version;
- manually synchronizing EAS equipment clocks to the official time provided by the National Institute of Standards and Technology, if such clocks do not automatically synchronize to an Internet time source; and
- reviewing the 2018 ETRS Form One to identify and make updates to the information previously provided.

# FCC Begins Accepting Next Gen TV License Applications continued from page 1

a request must include all of the information and material that other stations must submit with the regular Next Gen application form. Stations that use this interim procedure will need to file a regular Next Gen license application when LMS is set to accommodate applications from channel-sharing stations.

The Commission adopted a system for building out Next Gen facilities that involves cooperation between two stations with similar service areas. In a written agreement between them, the stations would arrange that one of them would simulcast the ATSC 1.0 signals of both stations while the other converts to ATSC 3.0. Subsequently, the first station will convert to ATSC 3.0 while the second station simulcasts the ATSC 3.0 signals of both stations.

The Commission has adopted a one-step streamlined licensing approach for these applications. An applicant wanting to transmit an ATSC 3.0 signal from its own authorized facility or the facility of another station is required only to file a modification of license application (and not a construction permit application). A station must receive FCC approval prior to taking any of the following actions:

(1) moving its ATSC 1.0 simulcast signal to a temporary ATSC 1.0 simulcast host station, moving its ATSC 1.0 simulcast signal to a different host station, or discontinuing an ATSC 1.0 simulcast signal;

(2) initiating an ATSC 3.0 signal on an ATSC 3.0 host station that has already converted to 3.0 service, moving its 3.0 signal to a different ATSC 3.0 host station, or discontinuing an ATSC 3.0 guest signal on an ATSC 3.0 host station; or

(3) converting a station that has transitioned to ATSC 3.0 back to ATSC 1.0.

A station's application must be granted by the Commission before it may commence ATSC 3.0 service or ATSC 1.0 simulcasting. Program test authority prior to the

grant of an application is not available with any of these applications.

An applicant for a Next Gen license must select one of six purposes for the application, as described below:

(1) A station may file an application to convert an existing ATSC 1.0 facility to ATSC 3.0 service and identify an ATSC 1.0 simulcast host station.

(2) After having converted its facility to ATSC 3.0, a station may file a new application to identify or change the host station for its ATSC 1.0 simulcast.

(3) A station seeking to commence ATSC 3.0 on a host station or to change the host station for its ATSC 3.0 signal may file an application to identify or change the ATSC 3.0 host station.

(4) A station may file an application to discontinue ATSC 3.0 on a host station and not commence new ATSC 3.0 service on another host station.

(5) A station may apply to convert an authorized ATSC 3.0 facility back to ATSC 1.0. A separate application to discontinue a related ATSC 1.0 simulcast signal is not required.

(6) A station may apply to discontinue ATSC 1.0 simulcast service on a host station.

Stations that commence hosting ATSC 1.0 or 3.0 services need not file a separate application to do so when they are identified in the application filed by the originating station. However, other modifications that they may undertake in connection with being the host and that would otherwise normally require an application will still require a construction permit application for those modifications. Further, such modifications must be granted and constructed before the guest station can identify the modified host station in its application.

Implementation of and operating in the Next Gen mode is entirely voluntary.

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# Aviation Radio Proposals May Affect Broadcasters continued from page 6

signal strength at the receiver input. To conform its rules to the ITU resolutions that are specific to the 108 to 112 MHz sub-band, the Commission suggests two options and requests comment about them. One option would be to expressly extend the restrictions on FM broadcast signals specified in Section 87.151 to cover additional Aeronautical Mobile (Route) Service operations in the band. The second option would be to limit the use of the 108 to 112 MHz band exclusively to differential GPS operations, and thereby avoid the need for additional restrictions on FM broadcasting in Section 87.151.

In 2015, the Federal Aviation Administration ("FAA") updated its Advisory Circular regarding obstruction marking and lighting to include requirements for Aircraft Detection Lighting Systems. These systems are designed to detect aircraft as they approach an obstruction and automatically activate appropriate obstruction lights until they are no longer needed by the aircraft. The Circular imposes performance standards on the Detection Systems that are not addressed in the FCC's rules, such as the volume of airspace in which an

aircraft must be detected and the period for which the lights must be illuminated. The FAA will not approve installation of an Aircraft Detection Lighting System that does not comply with the Advisory.

The Advisory provides for an optional audible warning feature, for which it sets requirements for the duration and content of the warning. The FAA's duty cycle for this audible warning differs from the FCC's permissible duty cycle. The FCC proposes to amend its rules to conform them to the Advisory Circular. The Commission solicits comment on whether any changes to its Part 17 rules concerning the marking and lighting of antenna structures would be necessary to make them consistent with the provisions of the Advisory Circular concerning Aircraft Detection Lighting Systems.

Comments about these proposals in Docket 19-140 will be due within 60 days of publication of notice of this proceeding in the Federal Register. The deadline for reply comments will be 90 days after publication.

# FCC To Conduct Workshop for Multilingual EAS

The FCC's Public Safety and Homeland Security Bureau will convene a free public workshop to promote the use of multilingual emergency alerting. The event will include presentations about the multilingual capabilities of the Emergency Alert System, alternative methods for delivering emergency information to the non-English-speaking public, and accounts of real-world examples demonstrating

successful use of these tools during disasters.

The program will be held on June 28, 2019, from 9:00 a.m. to 2:30 p.m., Eastern Time, in the Commission Meeting Room at FCC Headquarters in Washington. Audio/video coverage of the meeting will be transmitted live with open captioning over the Internet, accessible from the FCC's website at [www.fcc.gov/live](http://www.fcc.gov/live).

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## DOJ To Review ASCAP, BMI Consent Decrees continued from page 1

2001, and the BMI Decree in 1994. The current review of these Decrees comes in the context of DOJ's wider consideration of hundreds of antitrust consent decrees in effect with respect to many industries.

To help inform its review process, the DOJ has invited the public in general, and music industry stakeholders in particular, to submit comments relevant to how the Consent Decrees continue to protect competition. The following questions are posed for comment:

- Do the Consent Decrees continue to serve important competitive purposes today? Why or why not? Are there provisions that are no longer necessary to protect competition? Which ones and why? Are there provisions that are ineffective in protecting competition? Which ones and why?
- What, if any, modifications to the Consent Decrees would

enhance competition and efficiency?

- Would termination of the Consent Decrees serve the public interest? If so, should termination be immediate or should there instead be a sunset period? What, if any, modifications to the Consent Decrees would provide an efficient transition period before any decree termination?
- Do differences between the two Consent Decrees adversely affect competition? How?
- Are there differences between ASCAP/BMI and other PROs that are not subject to the Consent Decrees that adversely affect competition?
- Are existing antitrust statutes and applicable caselaw sufficient to protect competition in the absence of the Consent Decrees?

Comments are to be submitted via email to [ATR.MEP.Information@usdoj.gov](mailto:ATR.MEP.Information@usdoj.gov). The due date is July 10.

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## Radio Time Broker Ordered To Register as Foreign Agent continued from page 2

RM to "broadcast/transmit Radio Programs." RM attempted to rebut this by explaining that it has not actually broadcast Rossiya Segodnya's programs and that its contractual obligations may be different from its actual conduct. However, the court said that FARA's definition of agent of a foreign principal includes "any person who agrees . . . to act as, . . . whether or not pursuant to a contractual relationship, an agent of a foreign principal."

RM asserted that it had no knowledge as to the content of Rossiya Segodnya's programs, no input in their content, and no intent to advance the interests of Rossiya Segodnya or of Russia. The court determined that FARA's definition of "agent of a foreign principal" lacks any requirement for such knowledge, input, or intent.

RM argued that it disclaimed an agency relationship in the contract with Rossiya Segodnya through a provision that stated that nothing in the agreement "is intended to or

shall operate to create a partnership between the Parties or to authorize either party to act as agent for the other" and that "neither Party shall have authority to act for or on behalf of or otherwise to bind the other in any way." The court disposed of this argument with the observation that to the extent this provision disclaims a common-law agency relationship, it is irrelevant. A common-law agency relationship is unnecessary to satisfy FARA's definition of "agent of a foreign principal." The general theory of common-law agency is that the agent can bind the principal. However, the purpose of FARA is the public disclosure of the relationship without concern about whether the agent can create liability for the principal.

The court concluded that RM was indeed acting as an agent for a foreign principal and that it is required to register as a foreign agent. The ruling is entitled *RM Broadcasting, LLC v. United States Department of Justice*, 2019 U.S. Dist. LEXIS 80706.

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