

## All-Digital Transmissions Proposed for AM Radio

The FCC has proposed to allow AM radio stations to broadcast an all-digital signal using the HD Radio in-band on-channel (“IBOC”) mode known as MA3. Adoption and implementation of all-digital operations would be voluntary for each station. The Commission promulgated this proposal in a *Notice of Proposed Rulemaking* (FCC 19-123) in Docket 19-311. This action follows in the wake of a Petition for Rulemaking filed earlier this year by radio station group owner Bryan Broadcasting Corporation, urging the agency to permit AM stations to operate in the all-digital mode, and comments submitted by parties in response to Bryan’s Petition.

The Commission identifies this proposal as an element of its long-standing effort to revitalize AM radio. As a general rule, digital signals are less vulnerable to interference and other impairments, and therefore could significantly improve an AM station’s audio quality and the range of its usable signal.

*continued on page 7*

## Radio Program Duplication Restrictions Under Scrutiny

By adopting a *Notice of Proposed Rulemaking* (FCC 19-122) in Docket 19-310, the FCC has launched a rulemaking proceeding to consider eliminating or amending its restrictions on radio programming duplication by commonly owned stations in Section 73.3556 of the FCC’s Rules. The current version of this rule was adopted in 1992. It prohibits any commercial AM or FM radio station from devoting “more than 25 percent of the total hours in its average broadcast week to programs that duplicate those of any other station in the same service (AM or FM) which is commonly owned or with which it has a time brokerage agreement if the principal community contours . . . of the stations overlap and the overlap constitutes more than 50 percent of the total principal community contour service area of either station.”

The Commission recounts the evolutionary history of this rule since the first iteration of it was adopted in 1964. The formula as to the variables, i.e., the amount of time devoted to duplicated programming, the geographic relationship of the stations and

*continued on page 3*

## Broadcasters Seek Reconsideration of Political File Orders

In October of this year, the FCC released two orders resolving complaints by public interest groups about the maintenance of the political files of 12 commercial television stations. The Commission used this opportunity to clarify what it characterized as ambiguous provisions about broadcasters’ political file obligations that had been codified by the Bipartisan Campaign Reform Act of 2002 (“BCRA”) into Section 315(e) of the Communications Act. An article about the Commission’s October orders appeared in the November issue of this newsletter. A group of broadcast interests, led by the National Association of Broadcasters (“NAB”), has filed a Petition for Reconsideration of those orders. The Commission has solicited public comment about the Petition in Docket 19-363.

The NAB’s leading complaint is that the FCC violated the Administrative Procedure Act (“APA”) by making significant changes to the political file requirements in an

*continued on page 6*

### IN THIS ISSUE

Translator Must Disclose Its Primary Station.....	2
Displaced Rural LPTV Applications.....	2
Radio Service on LPTV To Be Reviewed.....	3
Deadlines to Watch.....	4-6
Old Kidvid Reports Deadline .....	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)

# Translator Must Disclose Its Primary Station

The FCC's Media Bureau has fined the licensee of FM translator station W225DF, Raleigh, North Carolina, \$2,000 for failing to report correctly the primary station being rebroadcast by the translator. This ruling came in a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (DA 19-1235) against Carolina Radio Group, Inc.

The facts in this case came to the Commission's attention in pleadings filed by Triangle Access Broadcasting, Inc. seeking reconsideration of the FCC's grant of construction permit and license applications for the station. Triangle alleged that Carolina had violated Section 74.1232(b) and Section 74.1251(c) of the Commission's Rules. The Bureau eventually found that Carolina had in fact violated both regulations.

Section 74.1251(c) requires the licensee of a translator station to inform the FCC in writing when there is a change in the primary station being rebroadcast. In the translator construction permit application, Carolina had indicated that the station would rebroadcast WQDR-FM (HD3). The station went on the air on May 1, 2019. It later came to light that W225DF was carrying WPLW(AM) from that date until June 4, 2019. On June 4, WQDR-FM (HD3) began simulcasting WPLW and the translator began rebroadcasting WQDR-FM (HD3). The Bureau found that Carolina had violated the rule by failing to report to the FCC that contrary to the designation in its construction permit application, the translator was retransmitting WPLW during the 34-day period from May 1

to June 4. Ironically, it appears that WPLW programming was rebroadcast throughout this period, whether received directly from WPLW, or via WQDR-FM(HD3).

According to Section 74.1232(b), a translator applicant must demonstrate a technical need for a station if it already has a translator covering substantially the same area as the proposed station and retransmitting the same primary station. The party that ultimately controls Carolina also controls another translator station for which WPLW is the primary station and which serves substantially the same area served by W225DF. Thus during the 34-day period from May 1 to June 4, Carolina was operating two translators rebroadcasting WPLW with substantially the same coverage area. Carolina never submitted a demonstration of technical need for this dual-station operation. Thus Carolina also violated Section 74.1232(b) during that period.

The FCC's *Forfeiture Policy Statement* and Section 1.80 of its Rules provide that the base forfeiture amount for failure to file a required form or information is \$3,000. The base forfeiture for unauthorized emissions is \$4,000. The Commission may adjust the amount of a forfeiture in either direction as the circumstances may warrant. In this case, given the relatively short duration of the violations and Carolina's history of no prior offenses, the Bureau adjusted downward the amount of the forfeiture imposed to \$2,000.

---

## Filing Window Opened for Amendments for Displaced Rural LPTV Applications

The FCC's Media Bureau has announced a filing window that is open now and will close on January 31, 2020, for amendments to pending applications for new low power television stations in rural areas that have been displaced by the Incentive Auction and/or the post-auction repack. The Bureau released a Public Notice (DA 19-1215) with the details.

During a filing window in 2009, the Commission accepted applications for new LPTV stations in rural areas. However, these filings were soon frozen, and the Bureau suspended processing them in anticipation of the displacements that would occur with the restructuring of the television band. The post-repack environment is now stable, and it is practical for these applicants to apply for alternative channels if they have been displaced. To be eligible to file an amendment in this window, the applicant must have a pending application for a new digital LPTV or TV translator station that was displaced by the Incentive Auction and/or the repacking process.

Applicants must propose to move to a new vacant channel in the core from channel 2 to channel 36. They can relocate the proposed transmitter site up to 48 kilometers from the site specified in the original application. The 2009 filing window

was intended to foster LPTV in rural areas. Consistent with this purpose, transmitter sites may not be proposed within 75 miles of the reference coordinates of any of the 100 top markets. These coordinates are listed in Section 76.53 of the Commission's Rules. The amended proposal may not cause predicted interference to the authorization or previously filed application for any full power, Class A or LPTV station. All amendments conforming to these requirements will be treated as minor amendments.

All amendments filed during this window will be considered as filed on the last day of the window. There is no preference for being the first to file. Mutually exclusive applicants will be given an opportunity to resolve their conflicts through settlements or engineering amendments that may be filed during a settlement window to be subsequently announced. Applicants that continue to be mutually exclusive after the settlement window will be subject to competitive bidding.

Pending applications that are not amended to a core channel during this filing window will be dismissed.

# Radio Service on LPTV To Be Reviewed

The FCC's Media Bureau has requested comments to update the record in Docket 03-185 on the operation of analog radio-like services offered by channel 6 low power television stations. In its Public Notice (DA 19-1231), the Bureau invited input on what to do about this phenomenon given the imminent demise of analog LPTV broadcasting.

The audio stream of an analog television station operating on channel 6 is transmitted at 87.76 MHz, very near the low end of the FM band. Most FM receivers can receive signals on that frequency. A number of analog channel 6 LPTV stations have taken advantage of this situation to offer audio programming akin to normal radio broadcasting for audiences listening on FM receivers. The video portion of these stations' transmissions is typically quite limited. The regular audio segment of a digital transmission on television channel 6 is not receivable by the ordinary FM receiver. The Commission has set July 13, 2021, as the deadline for low power television stations to terminate analog broadcasting.

With this sunset for LPTV radio looming, channel 6 LPTV broadcasters have urged the Commission to make accommodations that would allow the radio services to continue. Some have proposed to allow post-transition digital LPTV stations to continue to transmit an analog FM radio-type service on an ancillary or supplementary basis. Digital LPTV stations are permitted to offer ancillary and supplementary services under Section 74.790(i) of the Commission's Rules.

The Bureau seeks comment about whether this radio-

like service should be allowed to continue after LPTV has completely transitioned to digital. The Commission has a statutory mandate to regulate television consistent with the technology and method used to provide advanced television services. The Bureau asks whether an ancillary analog audio service is consistent with digital technology and, if allowed, whether aural analog services should be limited to channel 6 stations that are presently offering them. It also asks whether the authorization for such services should be nontransferable, i.e., not available to be assigned to a new owner of the station. The Bureau invites comments about whether the current technical rules would permit a station to transmit independent aural and visual carriers, and whether Section 74.7980(i) authorizes this specific kind of service. The Bureau also seeks comment on whether this analog service can co-exist with digital television without causing harm to either television or FM services, and whether such services should be subject to the rules applicable to FM radio stations. Further, if this service does qualify as an ancillary and supplementary service, the Bureau asks whether revenues from such operations would be subject to the five percent fee levied on revenues from ancillary and supplementary services provided by full service stations.

Comments on these and related issues must be submitted in Docket 03-185 within 30 days of publication of notice of this proceeding in the Federal Register. Reply comments will be due 45 days after that publication.

---

## Radio Program Duplication Restrictions Under Scrutiny continued from page 1

their coverage areas, and the size of the community they served, has changed over time. However, the basic underlying purposes of the rule have always been to promote program diversity, the efficient use of spectrum, and inhibit inherent wastefulness.

In view of the current maturity of the radio broadcasting industry, the Commission now questions whether this rule continues to be necessary. It noted the changes that have occurred since 1992, when there were approximately 11,700 commercial radio stations in the nation. Today there are close to 19,500 commercial stations. The number of noncommercial stations over this time period has grown from 1,588 to 4,122. Also, there are some 2,000 low power FM stations now that did not exist in 1992. Further, radio broadcasters now expand their content offerings with websites, streaming, and mobile applications. The Commission concluded that this significant growth in the number of radio broadcasting outlets, combined with the new and varied formats in which broadcasters distribute their programming, has led to greater radio broadcasting competition and programming diversity, and substantially reduced the need for this regulation.

The Commission requests public comment about how such changes in the radio ecosystem have affected the need for this rule. The Commission asks whether the rule is still needed to ensure program diversity and competition and how elimination of this rule would affect local news gathering and journalism.

The Commission also asks whether elimination of this rule would have any impact on current or prospective station owners who are women or minorities. In the event that the rule is retained, the FCC seeks comment on whether the variable values (percentage of time devoted to duplicated programming or percentage of coverage area overlap) should be adjusted.

Given the economic and technical challenges facing AM stations, the Commission asks whether this regulation should treat AM stations differently from FM stations, such as whether the rule should be eliminated for AM, but retained for FM. The Commission also asks whether that would allow more listeners to hear popular AM programming.

Commenters who support retention, modification or elimination of the rule are asked to explain the anticipated economic impact on broadcasters of any proposed action by the Commission, quantifying benefits and costs.

While Commissioners Rosenworcel and Starks did not oppose adopting this *Notice*, each of them released a cautionary Concurring Statement expressing concern about how elimination of the rule might be detrimental to the public interest. They agreed that the proceeding should be conducted so as to develop a complete record on this topic.

Comments in this proceeding will be due 30 days after notice is published in the Federal Register. Reply comments will be due 45 days after that publication.



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

December 1	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>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont.</b>	January 1 & 16	Radio stations in <b>Arkansas, Louisiana</b> and <b>Mississippi</b> broadcast pre-filing announcements regarding license renewal applications.
December 2	Deadline to file license renewal applications for radio stations in <b>Alabama</b> and <b>Georgia.</b>	January 10	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.
December 2	Deadline for all broadcast licensees and permittees of stations in <b>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont</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).	January 10	Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack except for stations in Phase 8.
December 2	Deadline for television stations that provided ancillary or supplementary services during the 12-month period ending September 30, 2019, to file annual Ancillary/Supplementary Services Report.	January 10	Deadline for noncommercial stations to file quarterly report re third-party fundraising.
December 1 & 16	Radio stations in <b>Alabama, Florida, Georgia, Puerto Rico, and the Virgin Islands</b> broadcast post-filing announcements regarding license renewal applications.	January 30	Deadline to file 2019 Biennial Ownership Reports
December 1 & 16	Radio stations in <b>Arkansas, Louisiana</b> and <b>Mississippi</b> broadcast pre-filing announcements regarding license renewal applications.	January 30	Deadline to file Children's Television Programming Reports for all commercial full power and Class A television stations for the period September 16 - December 31, 2019.
December 17	Deadline to file missing or amended Children's Television Programming Reports for all past quarters to and including third quarter, 2019.	February 1	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>Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma.</b>
January 1 & 16	Radio stations in <b>Alabama</b> and <b>Georgia</b> broadcast post-filing announcements regarding license renewal applications.	February 3	Deadline to file license renewal applications for radio stations in <b>Arkansas, Louisiana</b> and <b>Mississippi.</b>
		February 3	Deadline for all broadcast licensees and permittees of stations in <b>Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma</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).

## Cut-Off Date for AM and FM 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 **January 21, 2020**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Apopka, FL	Fairview Shores, FL	WBZW(AM)	n/a	1520
Port St. Joe, FL	Youngstown, FL	WTKP	229C3	93.7
Metropolis, IL	Paducah, KY	WJLI	252C1	98.3
Cleveland, MS	Shaw, MS	New	226C3	93.1
Lewistown, MT	Harlowton, MT	KZLM	300A	107.9



# DEADLINES TO WATCH



## Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

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

Docket 19-282; NPRM (FCC 19-106) Use of common antenna sites		Dec.23
Docket 19-363; Public Notice (DA 19-1224) Petition for Reconsideration of political file orders	Dec. 30	Jan. 28
Docket 19-105; FNPRM (FCC 19-1183) Regulatory fees		Jan. 6
U.S. Copyright Office Docket 2019-7; NOI (84 FR 66328) Status of online dissemination as "publication" for purposes of copyright registration	Feb. 3	Mar. 3
Docket 11-154; Public Notice (DA 19-1152) Waiver of IP closed captioning requirement for Pluto TV	Feb. 21	Mar. 6
Docket 03-185; Public Notice (DA 19-1231) Radio service on LPTV	FR+30	FR+45
Docket 19-310; NPRM (FCC 19-122) Duplication of programming on commonly owned radio stations	FR+30	FR+45
Docket 19-311; NPRM (FCC 19-123) All-digital AM broadcasting	FR+60	FR+90

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

## 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
Significantly viewed signals, Section 76.54	Dec. 17
Alternative broadcast inspection program	Dec. 17
Emergency alert system, Part 11	Dec. 20
Satellite space station and earth station applications, Forms 312, 312-EZ, 312-R	Dec. 24
Licensing regulations under Section 310(b) of the Communications Act	Dec. 31
Regulations under Section 310(b) of the Communications Act	Dec. 31

**DEADLINE TO AMEND  
DISPLACED RURAL LPTV APPLICATIONS  
JANUARY 31, 2020**

**DEADLINE TO UPDATE  
SOFTWARE CERTIFICATE TO RECEIVE  
EMERGENCY ALERTS VIA CAP  
JANUARY 7, 2020**

### TELEVISION REPACK

**STATIONS ASSIGNED TO PHASE 7**  
TESTING PERIOD BEGINS: **OCTOBER 19, 2019**  
COMPLETION DEADLINE: **JANUARY 17, 2020**

**STATIONS ASSIGNED TO PHASE 8**  
TESTING PERIOD BEGINS: **JANUARY 18, 2020**  
COMPLETION DEADLINE: **MARCH 13, 2020**



# DEADLINES TO WATCH



## Lowest Unit Charge Schedule for 2020 Political Campaign Season

During the 45-day period prior to a primary election or party caucus and the 60-day period prior to the general election, commercial broadcast stations are prohibited from charging any legally qualified candidate for elective office (who does not waive his or her rights) more than the station's Lowest Unit Charge ("LUC") for advertising that promotes the candidate's campaign for office. Lowest-unit-charge periods begin soon in the following jurisdictions. Some of these dates may be subject to change.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Alabama	State & Pres. Primaries	Mar. 3	Jan. 18 - Mar. 3
American Samoa	Dem. Pres. Caucus	Mar. 3	Jan. 18 - Mar. 3
American Samoa	Rep. Pres. Caucus	Mar. 24	Feb. 8 - Mar. 24
Arizona	Dem. Pres. Primary	Mar. 17	Feb. 1 - Mar. 17
Arkansas	State & Pres. Primaries	Mar. 3	Jan. 18 - Mar. 3
California	State & Pres. Primaries	Mar. 3	Jan. 18 - Mar. 3
Colorado	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Florida	Presidential Primaries	Mar. 17	Feb. 1 - Mar. 17
Georgia	Presidential Primaries	Mar. 24	Feb. 8 - Mar. 24
Guam	Rep. Pres. Caucus	Mar. 14	Jan. 29 - Mar. 14
Hawaii	Rep. Pres. Caucus	Mar. 10	Jan. 25 - Mar. 10
Idaho	Presidential Primaries	Mar. 10	Jan. 25 - Mar. 10
Illinois	State & Pres. Primaries	Mar. 17	Feb. 1 - Mar. 17
Iowa	Presidential Caucuses	Feb. 3	Dec. 20 - Feb. 3
Kentucky	Rep. Pres. Caucus	Mar. 21	Feb. 5 - Mar. 21
Maine	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Massachusetts	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Michigan	Presidential Primaries	Mar. 10	Jan. 25 - Mar. 10
Minnesota	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Mississippi	State & Pres. Primaries	Mar. 10	Jan. 25 - Mar. 10
Missouri	Presidential Primaries	Mar. 10	Jan. 25 - Mar. 10
Nevada	Dem. Pres. Caucus	Feb. 22	Jan. 8 - Feb. 22
New Hampshire	Presidential Primaries	Feb. 11	Dec. 28 - Feb. 11
North Carolina	State & Pres. Primaries	Mar. 3	Jan. 18 - Mar. 3
North Dakota	Dem. Pres. Primary	Mar. 10	Jan. 25 - Mar. 10
Ohio	State & Pres. Primaries	Mar. 17	Feb. 1 - Mar. 17
Oklahoma	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Puerto Rico	Dem. Pres. Primary	Mar. 29	Feb. 13 - Mar. 29
Puerto Rico	Rep. Pres. Primary	Mar. 8	Jan. 23 - Mar. 8
South Carolina	Dem. Pres. Primary	Feb. 29	Jan. 15 - Feb. 29
Tennessee	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Texas	State & Pres. Primaries	Mar. 3	Jan. 18 - Mar. 3
Utah	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Vermont	Presidential Primaries	Mar. 3	Jan. 18 - Mar. 3
Virgin Islands	Rep. Pres. Caucus	Mar. 12	Jan. 27 - Mar. 12
Virginia	Dem. Pres. Primary	Mar. 3	Jan. 18 - Mar. 3
Washington	Presidential Primaries	Mar. 10	Jan. 25 - Mar. 10

## Broadcasters Seek Reconsideration of Political File Orders continued from page 1

adjudication rather than a rulemaking proceeding. An adjudication proceeding typically involves the review of specific past incidents involving specific parties, similar to a proceeding in a court. A rulemaking proceeding is used to deliberate and adopt rules proscriptively that are generally applicable to broad groups of parties, similar to the legislative process conducted by a legislature. The APA generally requires administrative agencies to conduct rulemaking proceedings with notice and the opportunity for

public comment when they make significant revisions to their policies and regulations. NAB asserts that the Commission created sweeping new recordkeeping and disclosure requirements for broadcasters without the benefit of input from the industry that will have to comply with them. NAB says that the new requirements are, in some cases, unlawful, overbroad, and difficult if not impossible to apply.

Under BCRA, stations are required to identify in their

continued on page 8

# All-Digital Transmissions Proposed for AM Radio continued from page 1

Digital broadcasting would also allow AM stations to transmit auxiliary information, such as song and title information, or other metadata, to accompany the main channel programming. In 2002, the FCC approved a digital radio system originally developed by iBiquity, tested by the National Radio Systems Committee (“NRSC”), and currently owned and licensed to stations by Xperi under the brand name “HD Radio.”

The HD Radio system has service modes for AM hybrid (“MA1”), and all-digital (“MA3”). The hybrid system consists of a combination of analog and digital signals, with the analog signal occupying center band of 5 KHz, with digital carriers on either side of and underneath the analog signal. In 2002, the FCC authorized AM stations to implement on a voluntary basis the hybrid MA1 mode for daytime operations. Fewer than 250 stations have done so. In the all-digital mode, there is no modulated analog carrier signal, and the digital carriers are moved toward center frequency with increased power. This results in a “more robust signal” that is less vulnerable to adjacent channel interference. Both modes permit stations to operate within the existing allocations and channel spacing framework in the Commission’s Rules. An analog receiver cannot receive an all-digital MA3 signal. Since July 2018, WWFD(AM), Frederick, Maryland, has been operating in the all-digital mode with an experimental license. Bryan cited this experiment favorably in its Petition, and the Commission’s current approach to all-digital AM is informed by testing and observations from that station’s experience.

The NRSC has been instrumental in developing the digital radio technical paradigm, known as the NRSC-5-D Standard. The Standard provides technical specifications for IBOC transmission systems. It includes transmission system characteristics and transport and service multiplex characteristics. The FCC proposes to adopt the NRSC-5-D Standard for both digital modes at AM stations – hybrid and all-digital. The text of the NRSC-5-D Standard is available online at <https://www.nrscstandards.org/standards-and-guidelines/documents/standards/nrsc-5-d/nrsc-5-d.pdf>. The Commission asks whether it should to continue to rely on this Standard as the adoption of digital AM broadcasting increases.

The Commission has tentatively concluded that all-digital operation would improve the quality of the audio on AM radio. Tests demonstrate that the all-digital transmission generally produces a reliable signal out to the station’s analog 0.1 mV/m contour. However, some questions remain. Some parties have suggested that an all-digital signal may be disruptive to co-channel and adjacent-channel analog signals. The characteristics of digital nighttime skywave propagation have been cited for causing increased interference. WWFD has reported some impairment in the null of its nighttime directional coverage pattern. The agency seeks public comment on these issues to build a more complete record. If interference is caused, the Commission asks whether it is a reasonable cost for the benefit of better quality for most listeners.

The agency has also tentatively concluded that the operating power limits for AM stations established in Section 73.21 of the Commission’s Rules and specified in individual station authorizations should be applied to the unmodulated analog carrier signal for stations that have converted to all-digital. The Commission also suggests that the HD Radio Emissions Mask referenced in the NRSC-5-D Standard should determine the power levels for the digital sidebands. It requests comments as to whether this formula would preserve the Commission’s existing allocations priorities, and whether it would be necessary to adjust digital power levels in an effort to replicate existing analog coverage. Protected service contours reflect a balance between providing adequate service area for each station while maximizing the potential number of station assignments, so the FCC is also requesting comments as to how this balance should be struck as the AM service converts to all-digital, and whether a change in power limits would encourage or discourage adoption of all-digital operations.

The Commission invites comment on the impact that the cost of converting to digital may have on the decision by stations to convert. It has tentatively concluded that such costs are not prohibitive, and in any event, conversion will be voluntary. Commenters have suggested that an analog AM station can be converted to digital at a cost of approximately \$12,000. Stations already operating in the hybrid mode will need only minimal equipment changes to convert to all-digital. The record does reflect some commenters’ concerns about the cost to use Xperi’s proprietary system – which is currently the only all-digital transmission system available to broadcasters. According to Xperi’s previous comments, it charges an initial license fee of \$10,000 for single main channel broadcasting, with additional annual fees based on a percentage of revenues for each additional subchannel.

Commenters are asked their views about the possible loss of listeners who do not migrate to the AM station’s FM translator (if it has one) or do not acquire an all-digital receiver. Xperi states that there are 55 million vehicles in the United States equipped with HD Radio receivers. The Commission asks whether that is enough penetration to achieve a critical mass audience for digital radio and asks to what extent digital receivers are in use outside of automobiles. Conversely, if most of the stations in a market convert to all-digital, the FCC seeks comment on what impact the process will have on stations that remain analog and on the analog-only audience. In sum, the agency asks whether preserving the long-term economic viability of an AM station and the improved service to some listeners would justify the present-day loss of service to other listeners.

Comments on these and related technical issues are solicited in Docket 19-311, and must be filed within 60 days of publication of notice of this proceeding in the Federal Register. The deadline for submitting reply comments will be 90 days after that publication.

## Broadcasters Seek Reconsideration of Political File Orders continued from page 6

political files references to political matters of national importance included in political advertising. In the October orders, the Commission clarified that it expected stations to identify and document in the political file all matters of national importance referenced in an advertisement. According to the NAB, this burdens station staff with having to search for and identify every conceivable national issue in a spot, under the threat of penalties for noncompliance, even in the case of good faith errors. NAB argues that this requirement should be limited to just the primary matter(s) addressed in the advertisement. NAB also took issue with what it described as the FCC's extremely broad and ill-defined determination of what constitutes a political matter of national importance. Any issue discussed around the office water cooler might be construed to qualify for this definition except perhaps for extremely local matters such as a school bond issue. NAB urged the Commission to narrow this definition.

BCRA calls for recordkeeping in the political file about spots featuring candidates for federal elective office and presentations about national legislative matters. The Commission ruled that spots featuring state or local candidates might also fall under this requirement if the ad communicates a message that is political in nature and has national importance. NAB points out that many issues can have overlapping fields of interest and importance in both federal and state or local spheres. A state candidate's mention of such an issue might not be intended to have national context. In any event, once elected, state and local office holders have minimal impact on national political matters.

NAB argues that Congress did not intend to extend these requirements to state and local candidate ads and urged the FCC to reverse this enlargement of the requirement.

NAB also noted the potential constitutional implications for rules arising from BCRA that are overly broad or vague. BCRA survived a First Amendment challenge in a 5-4 Supreme Court ruling that held, in principle, that the government had a legitimate interest in requiring such recordkeeping. However, the Court left open the determination of how these regulations should be applied. Government regulation of matters related to speech must be no more burdensome than is necessary to accomplish the permitted purpose. NAB warned that the Commission's new requirements are vulnerable to a First Amendment challenge, "given the lack of a substantial, let alone compelling, government interest in requiring the disclosure of myriad potential issues that could be mentioned in ads about local and state candidates and races."

In sum, the NAB suggested that these new requirements may be counterproductive to the underlying purpose of BCRA, i.e., to make political dialog more transparent. The burden of personnel costs needed to flag and document the contents of each relevant ad, coupled with the risk of FCC enforcement action against per se violations, may discourage stations from carrying such advertisements, resulting in a reduction of public discourse.

The Petition for Reconsideration is available on the FCC's website at <https://www.fcc.gov/ecfs/filing/1205833614610>. The Commission requests public comment on the Petition in Docket 19-393 by December 30. The deadline for reply comments is January 28.

---

## Deadline To Clean Up Old Kidvid Reports Is December 17

Earlier this year, the FCC revised its rules governing children's television programming. These revisions included changing the schedule for stations to file Children's Television Programming Reports from quarterly to annual. This has necessitated revision of the form on which reports are filed and updating the procedures in the online filing portal, the Licensing and Management System ("LMS").

The last quarterly reports were due to be filed by October 10 for the third quarter of 2019. A report covering the period from September 16 through December 31 is to be filed in January, and will be due by January 31. This assumes that the Office of Management and Budget has reviewed and approved the new report form by then.

To accommodate these changes, the LMS function must be

updated, and it will be closed for that purpose after December 17. Stations needing to file missing reports or amend reports for previous quarters must do so by that date.

After December 17, 2019, if a station must amend a previously filed quarterly Children's Report or file a missing Children's Report that was not previously filed, it will have to provide the necessary information in the form of an explanatory document. That document must be uploaded to the station's online Public Inspection File and placed in the "Children's Reports" section, in the folder entitled, "Additional Documents." An exhibit about this explanatory document must be included in the station's next license renewal application.

The Pillsbury Law ANTENNA™ is an information service about current events in communications law published by Atlantic Star Media, Inc. This publication is produced only to report on current events and factual matters in the field of communications law. Publication and dissemination of this material is not intended to constitute the practice of law or the rendering of legal advice. No attorney-client relationship shall be deemed to exist between the provider and the reader or between the publisher and the reader as a result of the publication, dissemination, distribution or other use of this material. The publisher makes its best effort to ensure that the information reported is accurate, but no warranty, express or implied, is given as to the accuracy or completeness of any information or statement published herein. Copyright 2019 by Atlantic Star Media, Inc. All rights reserved.