

FEMA Recommends EAS Updates

The Federal Emergency Management Agency (“FEMA”) has issued a warning about a potential vulnerability in the Emergency Alert System (“EAS”). Without the most recent software updates, EAS encoder/decoder devices could allow an unauthorized actor to issue bogus EAS alerts over the broadcast and cable network infrastructure. This vulnerability has been publicly demonstrated and is now public knowledge.

To prevent false alerts that could exploit this vulnerability, FEMA strongly encourages EAS participants to take steps to ensure that:

- (1) EAS devices and supporting systems are up to date with the most recent software versions and security patches;
- (2) EAS devices are protected by a firewall; and
- (3) EAS devices and supporting systems are monitored and audit logs are regularly reviewed for unauthorized access.

Inquiries can be directed to FEMA’s IPAWS office at fema-ipaws-stakeholder-engagement@fema.dhs.gov.

Sponsors Must Be Identified

The FCC’s Media Bureau has entered into a *Consent Decree* (DA 22-830) with Reynolds Media, Inc., licensee of low power television station K26GS-D, Harrison, Arkansas, to resolve an investigation regarding whether the station had properly identified the sponsors of paid program content. The station admitted to broadcasting interviews with political candidates under the guise of being bona fide news programming when in fact the candidates had purchased their airtime. The station also agreed to pay a civil penalty of \$60,000.

This case arose when the Media Bureau received a complaint in April of this year about Reynolds’ conduct relating to its broadcast of a daily news interview and public affairs program entitled *Down on the Corner*. The complaint alleged that the station was selling an advertising package to political candidates that included being interviewed on the program. The audience was not informed that interviewees

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September 6 Is Last Date to Claim Repack Reimbursement

The FCC’s Incentive Auction Task Force and the Media Bureau issued a *Public Notice* (DA 22-817) to remind reimbursement program participants that the final deadline to claim reimbursement for costs incurred because of the television repack is September 6. This last opportunity to submit invoices for reimbursement from the TV Broadcaster Relocation Fund is for low power TV stations, TV translator stations, FM stations and multichannel video programming distributors. Full power and Class A television stations were required to file their claims by prior deadlines. The small group of full power stations that were granted extensions of their earlier deadlines must also complete their filings by September 6.

The close-out procedures for the reimbursement process were announced in February 2019, and this particular filing deadline was announced in October 2020. With so much lead time, the Commission does not anticipate that

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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

FCC Reminds Video Distributors About Accessible Emergency Information

The FCC has released a *Public Notice* (DA 22-839) reminding video programming distributors (“VPDs”) of their obligations under Section 79.2 of the Commission’s Rules to make televised emergency information accessible to members of the audience with disabilities. Section 79.1 of the Rules defines VPDs as television broadcasters, cable operators, satellite television providers, and “any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.”

Section 79.2 of the Rules defines emergency information as “[i]nformation about a current emergency, that is intended to further the protection of life, health, safety, and property, i.e., critical details regarding the emergency and how to respond to the emergency.” Events covered by this rule include pandemics, tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules because of such conditions, and warnings and watches of impending changes in the weather. Critical details would include, but not be limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter at home, road closures, and instructions on how to secure personal property or obtain relief assistance. The Commission cited the recent frequency of large-scale

wildfires and the predictions that this year’s hurricane season will feature above-average activity. With the incidence of such disasters seemingly on the rise, the Commission found this topic to be of high importance and has repeatedly encouraged VPDs to meet these requirements.

To ensure access to emergency information by the blind or visually impaired, emergency information provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible by aurally describing the emergency information in the main audio portion of the programming. When emergency information is conveyed visually during programming other than newscasts (e.g., through “crawling” or “scrolling” text during regular programming), an aural tone on the main audio stream must accompany the visual information. Additionally, such visual emergency information must be conveyed aurally in full at least twice through a secondary audio stream, preceded by an aural tone on that stream. Aural emergency information must supersede all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream.

Emergency information provided in the audio portion of programming also must be accessible to persons who are deaf or hard of hearing through closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen. Visual presentation of emergency information may not block any

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Renewal Application Dismissed for Lack of a Lawyer

The FCC’s Administrative Law Judge (the “ALJ”) has issued an *Order of Dismissal* (FCC 22M-25) dismissing with prejudice the license renewal application for low power FM station WWGH-LP, Marion, Ohio, for failing to prosecute its application in a hearing proceeding to determine the licensee’s qualifications to continue hold the license. The immediate reason for the dismissal was the applicant’s failure to engage an attorney to represent it in the hearing.

The genesis of this proceeding was a purportedly pro-forma transfer of control application. The original licensee of the station was a nonprofit corporation named Marion Midget Football. In May 2019, an application for Commission consent to a transfer of control was filed in which it was stated that there were no changes in the board of directors. Rather, only the name of the corporation was changed to The Marion Education Exchange (“MEE”).

MEE filed an application for license renewal in June 2020. An informal objection was filed against the renewal application, alleging that MEE had misrepresented the composition of its board in the assignment application. The objector demonstrated that the list of directors named in

the assignment application was inconsistent with the list of directors identified in MEE’s filings with the State of Ohio. The Media Bureau sent MEE a Letter of Inquiry seeking an explanation for the differences in the two lists of directors. MEE’s response did not address all of the questions raised in the Letter of Inquiry, so the Bureau issued a second Letter of Inquiry. However, MEE’s response to the second Letter was also incomplete and raised new questions. The Bureau then sent a third Letter of Inquiry. MEE’s response to the third Letter again failed to clarify to the Bureau’s satisfaction who the directors were and when changes to the board occurred.

Section 309(k) of the Communications Act specifies the standard for renewing a broadcast license. In reviewing an application for license renewal, the FCC must grant the application if during the expiring license term, (1) the station served the public interest, convenience and necessity, (2) there were no serious violations by the licensee of the Communications Act or the FCC’s Rules, and (3) there have been no other violations by the licensee which would constitute a pattern of abuse. The Media Bureau

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Silent Stations Get Short-Term Renewals

In two recent actions, the FCC's Media Bureau has granted applications to renew the licenses for radio stations for only a one-year term rather than the standard eight years because the stations had been silent for too much of their expiring license term.

Seven Texas radio stations of the Mekaddesh Group Corporation are the subject of the Media Bureau's *Memorandum Opinion and Order* (DA 22-772), including KZAM(FM), Pleasant Valley, Texas; KEVK-FM, Sanderson, Texas; KYLQ(FM), Encinal, Texas; KEVQ-FM, Crosbyton, Texas; KDSP-FM, Spur, Texas; KEVM-FM, Junction, Texas; and KYLB(FM), Turkey, Texas. The Bureau determined that each of these stations had been silent for at least 25 percent of the expiring license term. Six of them were silent for at least 40 percent of the extended license term (the period of time between when the old license has expired and Commission action on the renewal application has not yet occurred).

The Media Bureau said that "[s]ilence instead of operation in accordance with a station's FCC authorization is a fundamental failure to serve a broadcast station's community of license, because a silent station offers that community no public service programming, such as news, public affairs, weather information, and Emergency Alert System notifications." The Bureau further observed that brief periods of operation sandwiched between prolonged periods of silence are of little value to the community because the audience is not accustomed to tuning into the station.

Section 309 of the Communications Act governs the

process for renewing broadcast licenses. If the Commission finds that (1) the station has served the public interest, convenience, and necessity, (2) there have been no serious violations of the Communications Act or the Commission's Rules, and (3) there have been no other violations which would constitute a pattern of abuse, the Commission is to grant the renewal application. However, if the renewal applicant fails to meet that standard, the Commission may deny the application (after notice and opportunity for a hearing), or grant the application "on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted."

The Media Bureau determined that the licensee's conduct in keeping the stations off the air for such prolonged periods of time fell short of the standard that would warrant routine license renewal. The Bureau said that it could not find that these stations served the public interest, convenience and necessity during the license term due to their extended periods of silence. Accordingly, the Bureau granted the renewal licenses for a term of one year from the date of the release of the order. The Bureau said this would provide an opportunity to monitor the licensee's operation and encourage a prompt improvement in its service.

In imposing the short-term license renewals in this case, the Bureau considered the licensee's ongoing failure to properly maintain the Public Inspection Files for its stations. The Bureau's narrative does not state specifically what was

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Low-Level Detention Officer Deemed a Public Figure in Defamation Suit

The Court of Appeals of Michigan upheld a trial court's decision granting a motion for summary disposition in favor of the defendant Detroit News in a defamation lawsuit. In its decision in *Jones v. Detroit News*, the appellate court agreed with the trial court's holding that the plaintiff had failed to state a claim for which relief could be granted. Although it was ultimately not decisional, a potentially significant and interesting element of this ruling was the court's determination that the plaintiff, with the fact pattern in this case, qualified as a public figure, and therefore had the burden of showing that the defendant acted with malice toward her.

The case arises from an article published in the Detroit News on October 6, 2020, entitled, "Hijab removal for mugshot prompts lawsuit against Detroit city jail." The subject of the article was a criminal detainee who filed suit after being forced to remove her hijab for the booking photograph at the Detroit Detention Center ("DDC").

Plaintiff Jones is a Michigan Department of Corrections officer at the DDC. Although she was not present at the booking episode that featured the hijab dispute and had nothing to do with that matter, the article included an incidental image of

the plaintiff performing her duties as an officer working at the DDC. The photograph depicted her working at her desk, in uniform. This image of the plaintiff accompanied a Facebook post by the newspaper advertising the article. Ms. Jones indicated in her complaint that the Detroit News photograph showed her wearing a hijab. While Ms. Jones does occasionally wear a hijab, she subsequently acknowledged that she was not wearing one in the photograph and that the complaint was in error on this point.

Ms. Jones launched her lawsuit asserting one count of invasion of privacy via false light and misappropriation, and one count of defamation. She alleged that she had not authorized or consented to the defendant's use of her image, that the defendant appropriated her image for its own use and benefit, and that the defendant's publication of her image wrongly implied that she was a criminal. She further complained that despite her request that the Detroit News remove her photograph and publish a retraction, the defendant knowingly and recklessly continued publication. Ms. Jones contended that the defendant acted intentionally or negligently in publishing her image and caused her

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DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

August 1	Deadline to file license renewal applications for television stations in California .	October 3	Deadline for all broadcast licensees and permittees of stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Puerto Rico, Oregon, the Virgin Islands, and Washington to file an annual report of any 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	Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in California, Illinois, North Carolina, South Carolina, and Wisconsin .	October	Television stations in Alaska, American Samoa, Guam, Hawaii, the Mariana Islands, Oregon, and Washington begin broadcasting license renewal post-filing announcements within five business days of acceptance for filing of their license renewal application, with the notices continuing for four weeks.
August 1	Deadline for all broadcast licensees and permittees of stations in California, Illinois, North Carolina, South Carolina, and Wisconsin to file annual report of any 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).	October 10	Deadline to place quarterly Issues/Programs List in Public Inspection File for all full power radio and television stations and Class A TV stations.
August	Television stations in California begin broadcasting license renewal post-filing announcements within five business days of acceptance for filing of their license renewal application, with the notices continuing for four weeks.	October 10	Deadline for all noncommercial stations to place reports about third-party fundraising in Public Inspection File.
October 1	Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Puerto Rico, Oregon, the Virgin Islands, and Washington .	October 10	Deadline for all Class A TV stations to place quarterly statement of Class A qualifications in Public Inspection File.
October 3	Deadline to file license renewal applications for television stations in Alaska, American Samoa, Guam, Hawaii, the Mariana Islands, Oregon, and Washington .		

Deadlines for Comments in FCC and Other Proceedings

DOCKET	COMMENTS	REPLY COMMENTS
(All proceedings are before the FCC unless otherwise noted.)		
Docket 22-239; NPRM (FCC 22-55) DMA Assignments for TV stations	Aug. 29	Sep. 26
Docket 16-142; 3rd FNPRM (FCC 22-47) Next Gen Television		Sep. 6
Docket 22-261; 6th NPRM (FCC 22-58) Digital LPTV	FR+30	FR+45

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



DEADLINES TO WATCH



Paperwork Reduction Act Proceedings

The FCC is required by 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
Satellite network non-duplication protection, Section 76.122	Sep. 12
Satellite syndicated exclusivity, Section 76.123	Sep. 12
Invoking syndicated exclusivity and network non-duplication, Section 76.124	Sep. 12
Commercial leased access rates, Sections 76.970, 76.971, 76.975	Sep. 19
FM license application, Form 2100, Schedule 302-FM	Sep. 19

Lowest Unit Charge Schedule for 2022 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 that class of advertising for ads promoting the candidate's campaign for office. A lowest-unit-charge period is upcoming or already occurring in the following states.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Massachusetts	State Primary	Sep. 6	July 16 – Sep. 6
Delaware	State Primary	Sep. 13	July 30 – Sep.13
New Hampshire	State Primary	Sep. 13	July 30 – Sep. 13
Rhode Island	State Primary	Sep. 13	July 30 – Sep. 13
United States	General Election	Nov. 8	Sep. 9 – Nov. 8

DEADLINE FOR LPTV, FM TRANSLATOR STATIONS, AND MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS TO FILE CLAIMS FOR TV REPACK REIMBURSEMENT

SEPTEMBER 6, 2022

September 6 Is Last Date To Claim Repack Reimbursement continued from page 1

extensions of this deadline should be necessary. Nonetheless, a footnote in the *Public Notice* does offer instructions for limited extensions. An entity seeking more time will need to document that circumstances requiring an extension were beyond its control, such as a local zoning or a force majeure event occurring close to the deadline. Such requests should be filed as a request for legal Special Temporary Authority in the Commission's Licensing and Management System. The filing fee can be waived.

The Fund Administrator will initiate close-out procedures for any entity that has failed to initiate the process by its invoice filing deadline. Any unused allocations made to

that entity's account will be returned to the Fund and made available for allocation to other participants. The entire process for evaluating claims and remitting payments must be completed by July 3, 2023, when unobligated amounts in the Fund will be returned to the federal Treasury.

The Task Force and the Media Bureau also remind participants that they must retain documentation of their claims and expenditures for 10 years from the date of receipt of the final payment from the Fund. Entities that receive payments from the Fund may be selected for audits, data validations, and site visits.

Estate Executor Faulted for Failing to Transfer Stations to Estate

An executor of the decedent's estate of the late majority shareholder of several broadcast licensee companies and the FCC's Media Bureau entered into a *Consent Decree* (DA 22-797) to resolve issues concerning the unauthorized transfer of control of the licensee companies after the controlling shareholder's death. The unauthorized transfer occurred when the executor controlled the companies, and thus the companies' radio stations, for several months while failing to seek the FCC's consent for the involuntary transfer of control of the licensee companies to the estate. The *Consent Decree* provides for the licensee companies to collectively pay a civil penalty of \$25,000.

Steven Silberberg held controlling interests in 13 companies that collectively are the licensees of 27 full power radio stations, in addition to a number of associated FM translator and FM booster stations. The stations are located in Colorado, Idaho, Massachusetts, New Hampshire, South Dakota, Vermont, and Wyoming.

Mr. Silberberg died on January 13, 2021. On February 8, 2021, Mr. Silberberg's son, Jacob, Mr. Silberberg's daughter, Hatie Danziger, and Lisa Burgess were appointed executors of the Estate of Steven A. Silberberg. On March 17, 2021, three trusts were created, each of which was intended to eventually hold some of Steven Silberberg's interests in the licensee

companies. In October 2021, applications were filed with the FCC to transfer control of the licensee companies, to be variously divided among the three trusts. During the interim between January and October, Jacob Silberberg exercised de facto control over the stations. Without Commission consent, this was a violation of the Communications Act and the FCC's Rules.

Jacob Silberberg asserted that the interests held by his father in the companies did not transfer to the estate upon his father's death, but rather were "held in suspense." The FCC did not accept this explanation and instead, found that he should have, within 30 days of his father's death, filed applications for Commission consent to the involuntary transfer of control of the licensee companies to the estate.

To conclude the matter, on behalf of the licensee companies, Jacob Silberberg agreed to the *Consent Decree* which calls for a civil penalty of \$25,000, and the development of a collective compliance plan with a compliance manual, staff training, and annual status reports to the FCC for three years. In the absence of any other issues, the Media Bureau agreed to grant the applications to transfer control of the licensee companies to the trusts upon payment of the penalty.

FCC Reminds Video Distributors About Accessible Emergency Information continued from page 2

closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.

VPDs that are not permitted to rely on the electronic newsroom technique ("ENT") to caption live programming must provide closed captioning for emergency information presented during regularly scheduled newscasts and newscasts that interrupt regular programming. VPDs should take steps to ensure that they can obtain closed captioning resources quickly in the event of an emergency. The Commission emphasizes that, when closed captioning services are not provided, VPDs must make emergency information accessible by some other visual presentation method. Likewise, Because the ENT method does not automatically caption non-scripted news, VPDs that are permitted to use the ENT method to create captions for their live programming, must make the emergency information accessible by some other form of visual presentation.

This rule pertains primarily to emergency information

intended for distribution to an audience in the geographic area in which the emergency is occurring. However, the Commission explained that it may also apply to emergency information provided during programming that is distributed to an area outside the area immediately affected by the emergency. This is especially likely where a large-scale disaster in one region could have an impact on outlying areas. Furthermore, details about an ongoing emergency must continue to be accessible to individuals with disabilities in the aftermath of an emergency to ensure that people living in the affected communities have up-to-date information, when needed, to effectively respond to the event in a manner that can protect their life, health, safety, and property.

Unlike the closed captioning requirements set out in Section 79.1, there are no exemptions to the mandate of Section 79.2 to make televised emergency information accessible to disabled audience members.

Low-Level Detention Officer Deemed a Public Figure in Defamation Suit continued from page 3

severe emotional distress.

According to the plaintiff, the article was widely disseminated, with her image eventually appearing on “extreme militant anti-Islamic websites.” She indicated that she was recognized by friends, family (who knew that she sometimes wore a hijab) and detainees through her work as a detention officer. Ms. Jones argued that the article about a detainee wearing a hijab implicated her because she is shown in the article while there is no photo of the detainee that is the actual subject of the article. Ms. Jones asserted that this juxtaposition implied that she was the detainee and thus had committed a crime.

Instead of filing an answer to the complaint, the Detroit News submitted a motion for summary disposition. The defendant noted Ms. Jones’ alleged status as a public official and argued that her defamation and false light claims failed because (1) the article did not contain any false statements about her, (2) the article did not include any statement or implication about her that was defamatory in nature, and (3) she did not, and could not, present clear and convincing evidence that the newspaper acted with actual malice.

A plaintiff in a defamation action who is a public figure must demonstrate that the defendant acted with actual malice toward the plaintiff rather than mere negligence. The purpose of this principle is to allow for more flexibility in public discussion about public figures and issues under the theory that the public benefits from closer scrutiny of public figures, and that “debate on public issues should be uninhibited, robust, and wide-open.”

The trial court granted the defendant’s motion for summary disposition, finding that the newspaper article made no false statements about the plaintiff and never stated that she was the criminal detainee. The court rejected Ms. Jones’ contention that because she was the only person shown in connection with the article, the article implied she was the detainee. The court observed that the plaintiff was shown sitting at her desk in uniform and without a hijab. The court also concluded that the plaintiff was a public official and failed to adequately plead malice, as is required for such individuals to state a valid defamation claim.

The Court of Appeals affirmed the trial court. It said

that a cause of action for defamation by implication does exist under Michigan law, but only if the plaintiff proves that the defamatory implications are materially false. The article contained no materially false statement. Defamation by implication requires proof of both defamatory meaning and falsity. Furthermore, with the status of a public figure or public official, the plaintiff must demonstrate the defendant’s knowledge of the statement’s falsity or reckless disregard of whether it was false.

The appellate court also rejected the plaintiff’s claim of a false light invasion of privacy. To succeed on that claim, the defendant must have disseminated information that was unreasonable and highly objectionable by attributing to the plaintiff characteristics, conduct or beliefs that were false and placed the plaintiff in a false position. The court concluded that the plaintiff had failed to show that the defendant had acted in such a manner.

The plaintiff objected to the trial court’s finding that she was a public figure and therefore had the higher burden of showing malice by the defendant. However, the Court of Appeals described the circumstances that it said made her a public figure. The image in question showed her working at the DDC, purportedly where booking photographs were taken, which was the process explicitly at issue in the newspaper article. Despite plaintiff’s argument that she was never specifically involved with the actual booking referenced in the article, the appellate court concluded that the image of her as a corrections officer conducting her duties at the DDC was sufficiently connected to the article’s public interest focus so that it falls within the public-interest privilege.

As a result, the Court of Appeals concluded that the newspaper article and associated image presented no defamatory or false implication. The defendant could not therefore have published plaintiff’s image with knowledge, reckless disregard, or negligent intent. Consequently, defendant’s status as a private or public figure turned out to be irrelevant to the ultimate decision.

The unpublished decision is *Jones v. Detroit News*, 2022 Mich.App. LEXIS 4698; 2022 WL 3330482.

Silent Stations Get Short-Term Renewals continued from page 3

wrong with or missing from the Public Inspection Files. Nonetheless, the Media Bureau and Mekaddesh entered into a *Consent Decree* to address those issues. The Bureau acknowledged that the radio industry is recovering from exceptional circumstances that brought about an economic downturn in the business during the pandemic. The Bureau found that these circumstances warranted terms for the Consent Decree that include only a one-year compliance plan and no monetary penalty.

A second recent ruling from the Media Bureau granting

a short-term license renewal concerned Birach Broadcasting Corporation’s KJMU(AM), Sand Springs, Oklahoma. The FCC’s records showed that KJMU had been off the air 50 percent of the time during its expiring license term, and 40 percent of the extended license term. The station also had failed to properly maintain its Public Inspection File. In an *Order* and a *Consent Decree* (DA 22-761), the Bureau renewed the license for only one year, and imposed a one-year compliance plan to address the Public Inspection File issues. No monetary penalty was imposed.

Sponsors Must Be Identified continued from page 1

had purchased their airtime rather than being selected for their newsworthiness.

The Media Bureau's investigation revealed that in the spring of 2022, Reynolds began a campaign to increase station revenues by soliciting candidates to purchase advertising time on the station. The station offered a \$1,500 package that included a personal live interview on *Down on the Corner*. Several legally qualified candidates for public office purchased the package and were later interviewed on the program. No sponsorship identification announcement was broadcast to disclose to the audience that these appearances were paid events.

Unrelated to the political advertising package, the station also sold time to commercial entities for interviewing their spokespersons on *Down on the Corner*. The station accepted \$300 for each such appearance but did not air a sponsorship identification announcement in connection with any of them.

The *Consent Decree* states that Reynolds conflated paid content with news, information, and public affairs

programming. In doing so, it misled the public by creating the false impression for viewers that appearances of guests on *Down on the Corner* should be taken as an expression of the station's editorial judgment about their newsworthiness. Instead, these appearances were undisclosed sales pitches for which the station had been paid. Furthermore, the *Consent Decree* holds that Reynolds' failure to air appropriate sponsorship identification announcements on a program held out to the public as bona fide news interview and public affairs content was particularly egregious. This failure had the potential to undermine the public's confidence in the integrity of legitimate political discourse.

In addition to the \$60,000 penalty, the *Consent Decree* requires Reynolds to implement a four-year compliance plan that includes appointing a compliance officer to develop a compliance manual and staff training program concerning the sponsorship identification rule. The station will be required to file annual reports with the FCC on the status of its compliance during the four-year period.

Renewal Application Dismissed for Lack of a Lawyer continued from page 2

said that under these standards, it could not grant MEE's renewal application. However, the statute also provides that before a renewal application is denied, the FCC must provide the applicant with notice and an opportunity for a hearing. Consequently, the Media Bureau issued a Hearing Designation Order (DA 22-187) in February 2022 and sent the case to the ALJ for resolution.

The issues to be determined in the hearing were:

(1) whether MEE violated Section 73.1015 of the FCC's Rules by failing to fully and completely respond to the Letters of Inquiry;

(2) whether MEE violated Section 1.17 of the FCC's Rules by misrepresenting or lacking candor in the application and in its responses to the Letters of Inquiry;

(3) whether MEE violated Section 73.865 of the FCC's Rules by failing to timely notify the Commission of a pro forma transfer of control; and

(4) whether in light of the evidence adduced pursuant to the above-listed issues, the license renewal application should be granted.

The ALJ was also tasked with determining the amount of any fine to be imposed on MEE.

The ALJ stated that her efforts to conduct the proceeding were hobbled by MEE's failure to conduct itself within the parameters and rules of the hearing process. Most of the time, MEE attempted to function in the hearing without counsel. MEE was cited for being both unresponsive and

inappropriately aggressive in communicating with the Commission, including sending a letter about its case directly to the Commission Chairwoman.

After attempting to accommodate MEE for several weeks, the ALJ ordered MEE to engage an attorney to represent it in the hearing and to file a notice of appearance. One attorney did file a notice of appearance but then soon moved to withdraw from the proceeding. MEE asserted that it could not afford an attorney. The ALJ set a deadline for the submission of a notice of appearance by an attorney on behalf of MEE, and then extended it. But MEE remained without counsel.

Section 1.21(d) of the Commission's Rules provides that a corporation may be represented in a hearing by its officer rather than by an attorney only at the discretion of the presiding officer. Given MEE's conduct in the proceeding, the ALJ declined to allow it to participate without an attorney. Section 1.22(c) of the Rules requires a party to submit a notice of appearance in a hearing to state its intention to prosecute its application. In the absence of a notice of appearance, the application is subject to dismissal for failure to prosecute. Because MEE had no attorney to file a notice of appearance on its behalf, the ALJ found that MEE failed to prosecute its application, and the application to renew the license of WWGH-LP was dismissed.

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