

Recruiting Rules Waived for Rehires

The FCC's Media Bureau has issued an *Order* (DA 20-482) temporarily waiving in limited circumstances certain provisions of the Equal Employment Opportunity rules found in Section 73.2080(c)(1) of the FCC's Rules. The regulations require broadcast licensees employing five or more full-time employees in a station employment unit to conduct a program of broad outreach recruitment to fill vacancies, and to maintain records of those efforts. Due to challenging economic conditions directly resulting from the COVID-19 pandemic, including significant layoffs and workforce reductions in the media, the Media Bureau has found that good cause exists to waive these requirements in the situations described below.

In cases where an employee is laid off or released, and then rehired within nine months of the release date, the station may rehire that employee without the need to conduct the recruitment process for that vacancy normally mandated in the Rules. This blanket waiver is effective immediately. However, it applies only to employees who were laid off as a result of the pandemic and who then were rehired within nine months into vacancies created by the pandemic.

LPFM Stations Permitted to Use Directional Antennas

In a *Report and Order* (FCC 20-53) adopted in Docket 19-193, the FCC has amended its rules governing the low power FM ("LPFM") service. The most notable of these rule changes include allowing LPFM stations to deploy directional antennas, permitting the use of booster stations by LPFMs, and increasing the distance that an LPFM station can move within the context of a minor modification application.

This proceeding was initiated in response to a Petition for Rulemaking filed by LPFM advocate REC Networks in June 2018. REC asked the FCC to address difficulties that it said LPFM stations were experiencing in trying to maximize community coverage. The Commission adopted these provisions over the objections of commercial broadcast interests, including the

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Political File Questions Further Clarified

Late last year, the FCC issued a number of orders to clarify broadcasters' obligations under amendments to the Communications Act created by the Bipartisan Campaign Reform Act of 2002 ("BCRA") concerning the contents and maintenance of their political files. These orders were meant to resolve complaints against a number of television stations filed by a consortium of public advocacy groups, led by the Campaign Legal Center. The lead order in this string of releases addressed in specific detail complaints filed against 11 stations. It came to be identified in this proceeding as the *Political File Order* (FCC 19-100).

In the *Political File Order*, the FCC interpreted BCRA to require that stations must include in the political file, in addition to the sponsor's identity, information about all political matters of national importance referenced in each ad, including (1) the identity of the names of all candidates for federal office referenced in the broadcast message; (2) the respective office to which each such candidate is seeking election; (3) all federal elections referenced in such message;

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Request Denied for High Power Auxiliary Facilities During Pandemic

The Audio Division of the FCC's Media Bureau has denied a request to waive the FCC's rules in connection with an application for auxiliary facilities that would exceed those of the underlying main FM station. The Chief of the Audio Division issued a *Letter* (DA 20-484) dismissing the application for auxiliary facilities for WLYB, Livingston, Alabama.

WLYB is a Class A station, authorized to broadcast with 6,000 watts of effective radiated power ("ERP"). The application proposed auxiliary facilities from the same antenna at the same site with an ERP of 8,000 watts. This would have created a 60 dBu contour for the auxiliary facilities that was greater than the 60 dBu contour for the main station, in violation of Section 73.1675(a) of the FCC's Rules.

The applicant justified the need for higher power on the basis of the COVID-19 pandemic which is causing many people to work from home. According to the application, approximately 28 percent of the typical radio audience listens while commuting to and from work. If there is no commuting to work, that audience may be lost. The higher power would enhance reception inside homes and thereby enhance retention of the commuting audience when it is not commuting.

The applicant suggested that this approach using higher powered auxiliary facilities to reach home-bound audiences could be useful to many other stations, and proposed the following criteria for granting such waivers:

(1) waivers would be available only to LPFM, translator, Class A stations, and stations operating at less than maximum ERP for their class in Classes B1 and C3;

(2) auxiliary facilities would be limited to omnidirectional antennas operating at the licensed main station site and height;

(3) required coverage of the community of license must be satisfied with the existing licensed facilities rather than the proposed auxiliary;

(4) maximum permissible ERP levels would be set at appropriate ceilings for each class of station;

(5) proposed facilities may receive from, but not cause interference to, other stations;

(6) applications would be prioritized on a first-come, first-served basis.

(7) stations operating with such waivers would be secondary, and subject to interference complaints within the 45 dBu contour resolvable by a process like the one now used for interference caused by translators.

The Audio Division noted that the proposal would violate two fundamental elements of regulations for auxiliary facilities. First, the service contour for the auxiliary facilities is not to exceed the main station contour. Secondly, the principal purpose for auxiliary facilities is to provide a back-up transmission path in the event the primary transmission train – including the antenna – cannot function. This purpose is thwarted if the main and auxiliary facilities are using the same antenna. Thus, as the applicant requested, waivers of those rules would be needed to grant this application.

The Audio Division determined that this application was really just a request to circumvent the normal limitation on ERP for the main station in the guise of an auxiliary facilities waiver proposal. A waiver is appropriate only if (1) special circumstances warrant a deviation from the general rule, and (2) such a deviation would better serve the public interest.

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Expansion Into More Markets Proposed for Video Description

The FCC has adopted a *Notice of Proposed Rulemaking* (FCC 20-55) in Docket 11-43 proposing to require network-affiliated television stations in markets 61-100 to include video description in their transmissions, just as is required of stations in larger markets.

Video description is a process employed to make video programming more accessible to blind or visually impaired members of the audience. Audio-narrated descriptions of key visual elements are inserted into natural pauses between the program's dialogue. This narration is transmitted on a secondary audio stream.

The FCC's current rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA"), impose requirements on stations in the 60 largest markets affiliated with the top four commercial networks (ABC, CBS, Fox, and NBC). During each calendar quarter, these stations must broadcast at least 50 hours of video-

described programming during prime time or as children's programming, plus an additional 37.5 hours that can air anytime between 6 a.m. and midnight.

The Commission proposes to impose the same formula on stations in the smaller markets on a gradual basis over four years. Beginning on January 1, 2021, stations in markets 61-70 would be required to comply with this rule. Ten more markets would be added to the list each year as follows: January 1, 2022, markets 71-80; January 1, 2023, markets 81-90; and January 1, 2024, markets 91-100. Market rankings have been determined by the Nielsen audience measurement service. The Commission asks for input on whether to continue this reliance on Nielsen.

The CVAA required the FCC to report to Congress on the potential costs for program owners, providers and distributors to create and distribute video-described programming in markets smaller than the top 60. The Commission submitted

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FCC Looks To Update Rules for Significantly Viewed Stations

The FCC is considering updates to its rules governing “significantly viewed” television stations in a *Notice of Proposed Rulemaking* (FCC 20-41) in Docket 20-73. Television stations typically hold exclusive broadcast rights for network and syndicated programming within the market where they are located. If a multichannel video programming distributor (“MVPD”) seeks to import the signal of a station from outside of the market, it is required by the FCC’s network nonduplication and syndicated exclusivity rules to delete duplicated network and syndicated programming from the imported station’s signal. The exception to this requirement is for stations outside of the market that are “significantly viewed” in the market. Duplicated programming on a significantly viewed distant station need not be deleted.

In 1972, the FCC created a list of significantly viewed stations in each county (the “Significantly Viewed List”) as a reference for MVPDs to know when duplicated programming can be carried or must be deleted from the signals of distant stations. Stations that did not have a significant audience in a given county in 1972 and were therefore not on the List for that county can petition to be placed on the List for the desired county. Such petitions must include professional survey data to show that the station has the required minimum level of over-the-air viewing in the county. Likewise, a station can be deleted from a county’s segment of the List with data showing that its audience is less than the required minimum. A network-affiliated station is considered significantly viewed in the county if over-the-air viewership surveys demonstrate that the station exceeds a three percent share of viewing hours and a net weekly circulation of 25 percent. An independent station (i.e., one not considered to be affiliated with a network) is significantly

viewed if the survey shows that it exceeds a two percent share of viewing hours and a net weekly circulation of five percent.

The data to support requests to add or delete stations from the Significantly Viewed List has most often been furnished by Nielsen Media Research. However, Nielsen has recently completed a multi-year overhaul of the way it measures television viewing. The paper diaries that it formerly asked families to keep have been replaced by a variety of electronic devices and methods. Nielsen now measures audiences with a combination of people meters, set meters, code readers, and return path data from cable and satellite set-top boxes. When needed, Nielsen then applies statistical modeling and other data science techniques to estimate over-the-air viewership. For purposes of the Significantly Viewed List, the FCC’s rules require data about over-the-air viewing. However, the most experienced and most respected source of audience measurement data no longer directly measures over-the-air viewing.

How to approach this problem is the principal issue raised in this proceeding. The FCC solicits comment as to whether the required methodology for determining a station’s significantly viewed status is outdated or overly burdensome. It wants to know to what extent such burdens deter parties from seeking changes to the Significantly Viewed List. The Commission asks whether Nielsen’s statistically modeled, electronically collected figures should be accepted as accurate over-the-air data for purposes of the List. In the alternative, the Commission asks whether there are other sources of over-the-air viewing data aside from Nielsen, or whether the rule should be changed to rely one or more relevant datapoints other than over-the-air viewing.

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Expansion Into More Markets Proposed for Video Description *continued from page 2*

that report to Congress last October. It found that there was consumer demand for video description outside of the top 60 markets, while costs remained at a level that the Commission had previously found to be “minimal” relative to the overall cost of programming. In 2017, the FCC had estimated the cost of creating video-described content to be \$4,202.50 per hour. The cost of described pre-recorded programming could be as low as \$1,000 per hour. The Commission noted that the reception and pass-through of video-described programming as part of a network feed should mitigate a station’s expense. The CVAA had authorized the FCC as of October 8, 2020, to proceed to expand the video-description requirement to smaller markets if its research indicated such an expansion would be beneficial. The FCC is acting on that authority in this proceeding.

Public comment is solicited on the relative costs and benefits that would result from this proposal. The Commission asks whether its assumptions are correct about the cost associated with producing and/or passing through video-described programming. The Commission also seeks information about

the amount of video-described programming currently available in markets 61-100. It wants to know whether creating new obligations for stations in these markets would actually result in an increase of available video-described programming.

The Commission notes that its rules would continue to allow a station to petition for a full or partial exemption from the video-description requirement if the requirement is too financially burdensome.

The FCC proposes generally to replace the term, “video description,” with what it calls a synonymous expression, “audio description,” as the name for this process and service. The Commission observes that “audio description” is used by most federal government agencies. The Commission believes that consistency in terminology across the government will help avoid confusion among consumers and video providers.

Public comments on this proposal will be due 30 days after publication of notice of this proceeding in the Federal Register. The deadline for reply comments will be 45 days after that publication.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

May 1 & 16	Radio stations in Indiana, Kentucky, and Tennessee broadcast post-filing announcements regarding license renewal applications.	June 1 & 16	Radio stations in Indiana, Kentucky, Michigan, Ohio, and Tennessee and television stations in the District of Columbia, Maryland, Virginia, and West Virginia broadcast post-filing announcements regarding license renewal applications.
May 1 & 16	Requirement to broadcast pre-filing announcements regarding license renewal applications has been waived for radio stations in Michigan and Ohio and television stations in the District of Columbia, Maryland, Virginia, and West Virginia.	June 1 & 16	Radio stations in Illinois and Wisconsin and television stations in North Carolina and South Carolina broadcast pre-filing announcements regarding license renewal applications.
June 1	Deadline to file license renewal applications for radio stations in Michigan and Ohio , and television stations in the District of Columbia, Maryland, Virginia, and West Virginia.	July 1 & 16	Radio stations in Michigan and Ohio , and television stations in the District of Columbia, Maryland, Virginia, and West Virginia broadcast post-filing announcements regarding license renewal applications.
June 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 Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Virginia, Utah, West Virginia, and Wyoming.	July 1 & 16	Radio stations in Illinois and Wisconsin and television stations in North Carolina and South Carolina broadcast pre-filing announcements regarding license renewal applications.
June 1	Deadline for all broadcast licensees and permittees of stations in Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Virginia, Utah, West Virginia, and Wyoming 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 10	Deadline to place Issues/Programs List for first and second quarters of 2020 in Public Inspection File for all full service radio and television stations and Class A TV stations.
		July 10	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.
		July 10	Deadline for noncommercial stations to file quarterly report re third-party fundraising.
		July 10	Deadline to file quarterly Transition Progress Reports for television stations that have not completed repack modifications.

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
Broadcast construction permit applications; Form 301; 2100, Schedule A; Form 2100, Schedule 301-FM	May 18
Application for wireless radio service authorization, Form 601	May 18
Remittance Advice Form, Form 159	May 19
Broadcast Station Annual Employment Report, Form 395-B (Note: requirement to file Form 395-B is currently suspended)	May 26
Cable carriage of television signals, Sections 76.56, 76.57, 76.61, 76.64	May 26
Licensing requirements for noncommercial radio and television stations, Sections 73.503, 73.621	May 26
Public Inspection Files for noncommercial stations, Section 73.3527	May 26
Application for experimental radio authorization, Form 442	June 15
Repack transition progress report, Form 2100, Schedule 387	June 15
Ancillary/Supplemental Services Report for digital television stations, Form 2100, Schedule G; Section 73.624(g)	June 29



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 20-73; NPRM Significantly viewed stations	May 14	June 15
Docket 20-25; Public Notice (FCC 20-23) C-Band auction procedures		May 15
RM-11854; Petition for Rulemaking FM boosters and "ZoneCasting"		May 16
Docket 11-131; FNPRM (FCC 20-39) Docket 20-70; NPRM (FCC 20-30) Program carriage disputes	May 18	June 1
Docket 20-35; NPRM (FCC 20-19) Records of cable operator interests in video programming		May 18
U.S. Copyright Office Docket 2020-5; NPRM (85 FR 22518) Music licensing and usage under Music Modernization Act	May 22	N/A
Docket 20-60; Public Notice (DA 20-199) Competition in communications marketplace		May 28
Docket 15-80; 2nd NPRM (FCC 20-20) Access for state and other federal agencies to Disaster Information Reporting System		June 1
Docket 20-36; NPRM (FCC 20-17) Unlicensed device operations in television band white space		June 2
U.S. Copyright Office Docket 2020-8; NOI (85 FR 22568) Transparency of the Mechanical Licensing Collective	June 8	N/A
U.S. Copyright Office; NOI Docket 2019-7 (84 FR 66328) Status of online dissemination as "publication" for purposes of copyright registration		June 15
Docket 20-74; NPRM (FCC 20-43) Distributive transmission systems and NextGen TV	FR+30	FR+60
Docket 11-43; NPRM (FCC 20-55) Video description	FR+30	FR+45
Docket 18-295; FNPRM (FCC20-51) Unlicensed use of 6 GHz band	FR+30	FR+60
Docket 16-155; Public Notice (DA 20-452) Executive Branch review of applications for foreign ownership	FR+30	FR+44

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

TELEVISION REPACK

STATIONS ASSIGNED TO PHASE 10
TESTING PERIOD BEGINS: MAY 2, 2020
COMPLETION DEADLINE: JULY 3, 2020



DEADLINES TO WATCH



Revised 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 restrictions are in effect now or soon will be in the following jurisdictions. Some jurisdictions have rescheduled elections due to the COVID-19 pandemic. Additional rescheduling may occur. Therefore this schedule is subject to change as each jurisdiction makes its decision about how to proceed.

JURISDICTION	ELECTION EVENT	DATE	LUC PERIOD
Alabama	State Primary Runoff	Jul. 14	May 30 - Jul. 14
Alaska	State Primaries	Aug. 18	Jul. 4 - Aug. 18
Arizona	State Primaries	Aug. 4	Jun. 20 - Aug. 4
Colorado	State Primaries	Jun. 30	May 16 - Jun. 30
Connecticut	State & Pres. Primaries	Aug. 11	Jun. 27 - Aug. 11
Delaware	Presidential Primaries	Jul. 7	May 23 - Jul. 7
Delaware	State Primaries	Sep. 15	Aug. 1 - Sep. 15
District of Columbia	Dem. Pres. Primary	Jun. 2	Apr. 18 - Jun. 2
Florida	State Primaries	Aug. 18	Jul. 4 - Aug. 18
Georgia	State & Pres. Primaries	Jun. 9	Apr. 25 - Jun. 9
Hawaii	Dem. Pres. Primary	May 22	Apr. 7 - May 22
Hawaii	State Primaries	Aug. 8	Jun. 24 - Aug. 8
Idaho	State Primaries	May 19	Apr. 4 - May 19
Indiana	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
Iowa	State Primaries	Jun. 2	Apr. 18 - Jun. 2
Kansas	Dem. Pres. Primary	May 2	Mar. 18 - May 2
Kansas	State Primaries	Aug. 4	Jun. 20 - Aug. 4
Kentucky	State & Dem. Pres. Primary	Jun. 23	May 9 - Jun. 23
Louisiana	Presidential Primaries	Jul. 11	May 27 - Jul. 11
Maine	State Primaries	Jul. 14	May 30 - Jul. 14
Maryland	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
Massachusetts	State Primaries	Sep. 1	Jul. 18 - Sep. 1
Michigan	State Primaries	Aug. 4	Jun. 20 - Aug. 4
Minnesota	State Primaries	Aug. 11	Jun. 27 - Aug. 11
Mississippi	State Primary Runoff	Jun. 23	May 9 - Jun. 23
Missouri	State Primaries	Aug. 4	Jun. 20 - Aug. 4
Montana	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
Nebraska	State & Pres. Primaries	May 12	Mar. 28 - May 12
Nevada	State Primaries	Jun. 9	Apr. 25 - Jun. 9
New Hampshire	State Primaries	Sep. 8	Jul. 25 - Sep. 8
New Jersey	State & Pres. Primaries	Jul. 7	May 23 - Jul. 7
New Mexico	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
New York	State Primaries	Jun. 23	May 9 - Jun. 23
North Carolina	State Primary Runoff	Jun. 23	May 9 - Jun. 23
North Dakota	State Primaries	Jun. 9	Apr. 25 - Jun. 9
Oklahoma	State Primaries	Jun. 30	May 16 - Jun. 30
Oregon	State & Pres. Primaries	May 19	Apr. 4 - May 19
Pennsylvania	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
Rhode Island	Presidential Primaries	Jun. 2	Apr. 18 - Jun. 2
Rhode Island	State Primaries	Sep. 8	Jul. 25 - Sep. 8
South Carolina	State Primaries	Jun. 9	Apr. 25 - Jun. 9
South Dakota	State & Pres. Primaries	Jun. 2	Apr. 18 - Jun. 2
Tennessee	State Primaries	Aug. 6	Jun. 22 - Aug. 6
Texas	State Primary Runoff	Jul. 14	May 30 - Jul. 14
Utah	State Primaries	Jun. 30	May 16 - Jun. 30
Vermont	State Primaries	Aug. 11	Jun. 27 - Aug. 11
Virgin Islands	Dem. Pres. Caucus	Jun. 6	Apr. 22 - Jun. 6
Virginia	State Primaries	Jun. 23	May 9 - Jun. 23
Washington	State Primaries	Aug. 4	Jun. 20 - Aug. 4
West Virginia	State & Pres. Primaries	Jun. 9	Apr. 25 - Jun. 9
Wyoming	State Primaries	Aug. 18	Jul. 4 - Aug. 18

LPFM Stations Permitted To Use Directional Antennas continued from page 1

National Association of Broadcasters.

When the LPFM service was created in 2000, the FCC sought to make the engineering for it as simple as possible – both for the benefit of applicants and for the agency’s processing staff – by restricting stations to omnidirectional antennas. Subsequently, the FCC allowed two exceptions to this ban on directional antennas: (1) stations in the Travelers’ Information Service, and (2) stations needing directionality to obtain waivers of the second-adjacent channel spacing rule. However, in these cases, stations were limited to the use of “off-the-shelf” antennas with directional patterns preset by the manufacturer.

The FCC has concluded that by now, LPFM is a mature service with licensees who have developed the expertise and/or resources to responsibly deploy directional antennas without causing harm to other stations. Under the new rules, LPFM operators may use either off-the-shelf or custom-designed antennas. Stations that deploy directional antennas for the purpose of complying with U.S. treaty obligations with Canada and Mexico will not need to submit a proof of performance. Stations applying to use directional antennas to protect other stations from interference (whether or not in the context of a second-adjacent channel waiver request) will be required to file proofs of performance with their license applications.

Until now, the rules limited the maximum distance that an LPFM station could move in the context of a minor change application to 5.6 kilometers. A proposed modification must be classified as “minor” in order to be acceptable outside of a filing window. To give stations more flexibility to adapt to changes in their communities and/or technical conditions, such as the availability of suitable antenna sites, the Commission doubled this allowed distance to 11.2 kilometers. Even longer moves will be acceptable if the proposed new 60 dBu contour overlaps the existing 60 dBu contour. Applicants must continue to comply with the distance separation criteria with respect to other stations.

The FCC’s rules have previously allowed an LPFM licensee to own up to two translator stations. The translator must rebroadcast the LPFM station, and the 60 dBu contours of the two stations must intersect. An LPFM station may now also own up to two booster stations, which operate on the same frequency as the parent station, with the usual restriction that the booster should not interfere with the parent station’s signal and that the booster’s 60 dBu contour is completely encompassed within the parent station’s 60 dBu contour. An LPFM licensee can own two translators, two boosters, or one of each – but not more than a

total of two of the secondary stations.

In a move to reduce EAS costs for co-located LPFM stations, the FCC amended Section 11.33 of its rules to allow co-located LPFM stations, including time-sharing stations, to share a common EAS decoder. The FCC’s rules have generally required that co-located stations may share an EAS unit only if the stations are co-owned. Stations that take advantage of this cost-saving measure must enter into a written agreement providing that (1) each licensee has access to the decoder, and (2) that the stations will jointly meet their EAS obligations laid out in Part 11 of the Rules. Each party to such an agreement will remain fully and individually responsible for compliance with the EAS rules. This option is explicitly not available to time-sharing stations that are not co-located.

Significant proposals discussed in this proceeding which the Commission declined to adopt included the following:

- An increase in the maximum effective radiated power for LPFM stations from 100 watts to 250 watts. The Local Community Radio Act of 2010 prohibits the reduction in distance separations between LPFM and full power stations. The FCC concluded that an increase in power for LPFM stations without a comparable increase in spacing would effectively be comparable to a reduction in distance separation and therefore inconsistent with the Act.
- A change in the protection criteria between LPFM and translator stations. Translators must protect LPFM stations by contour overlap standards. LPFM stations must protect translators by distance separation. The Commission said that in situations where an LPFM station is, from its distance-based perspective, short-spaced to a newer translator, it may consider requesting a waiver and use of the newly-authorized directional antenna.
- Elimination of the requirement for FM stations on 91.9 MHz and below to protect television channel 6 stations. The FCC said it would rather address this issue in the pending rulemaking proceeding about the use of channel 6 audio as an aural, radio-like service. The Commission did allow LPFM applicants to participate in the current practice of exempting FM stations from this requirement to protect a channel 6 station if they obtain a concurrence from each affected television station.
- Deleting “-LP” from the LPFM call sign. The FCC believes that the “-LP” suffix continues to be necessary for proper identification of stations by the public and for reference purposes in FCC correspondence and records.

FCC Looks To Update Rules for Significantly Viewed Stations continued from page 3

Another factor that has become outdated since 1972 is the definition of the term, network-affiliated station. When the rule was adopted, this meant that the station was affiliated with one of the three major networks then in existence, ABC, CBS, and NBC. Now, Fox is also acknowledged as a major network. However, as the regulation is presently written, Fox affiliates are considered to be independent stations, requiring much smaller audiences to qualify for the List. The Commission

invites comment about whether not only Fox affiliates should be considered network affiliates for purposes of the Significantly Viewed List, but also affiliates of other networks, such as Univision, Telemundo, The CW, and MyNetwork TV.

The FCC solicits public comment about these and other technical issues concerning updating and modernizing the rules governing the Significantly Viewed List. Comments must be filed by May 14. Reply comments will be due by June 15.

Political File Questions Further Clarified continued from page 1

and (4) all national legislative issues of public importance referenced in such message.

Broadcasters submitted a Petition for Reconsideration of the *Political File Order*. Upon the FCC's invitation, additional comments came in from both the original complainants and broadcasters. The broadcasters expressed concern that the FCC was applying a strict liability standard of review to their compliance with the political file requirements, including the use of abbreviations and acronyms to identify sponsors. Enforcement of a strict liability standard would condemn a station for technically violating a rule even though its action was inadvertent or the result of a good faith misunderstanding of a potentially confusing regime of regulations. The parties on both sides were also confused about whether the requirements discussed in the orders pertain to commercial messages on behalf of candidates for public office as well as to issue ads.

In a further effort to clarify the BCRA requirements, the FCC has now adopted an *Order on Reconsideration* (FCC 20-49) in Docket 19-363, responding to the Petition for Reconsideration and the follow-up comments. The Commission confirmed that the *Political File Order* pertains only to issue ads. The complaints that were addressed in the *Political File Order* concerned only the political file records about third-party issue advertisers. Record-keeping requirements related to such advertisements are set out in Section 315(e)(1)(B) of the Communications Act (a provision added to the Act by BCRA). Political file requirements regarding candidate ads are covered in Section 315(e)(1)(A). None of the complaints adjudicated in the *Political File Order* referenced that section or discussed candidate ads. In the absence of a complaint in this proceeding about candidate ads, the Commission declined to address issues related to candidate ads.

Instead of a strict liability standard, the FCC said that it intended to apply a standard of reasonableness in the context of evaluating broadcasters' efforts to comply with the *Political File Order*. The Commission stated that it would apply this

standard of reasonableness and good faith to broadcasters in:

(1) determining whether, in context, a particular issue ad triggers disclosure obligations under Section 315(e)(1)(B) of the Communications Act;

(2) identifying and disclosing in their online political files all political matters of national importance that are referenced in each ad; and

(3) determining whether it is appropriate to identify an issue advertiser or provide other information relating to an issue ad using an acronym or abbreviated notation.

The question specifically about acronyms and abbreviations arose from one of the rulings in the *Political File Order*. A station was admonished for identifying a sponsor in its political file by what the Commission described as an "insufficiently descriptive" acronym. The Democratic Senatorial Campaign Committee was identified as "DSCC-IE." In the *Order on Reconsideration*, the Commission provided commentary on this. The appropriateness of an acronym or abbreviation is left to the reasonable good faith judgment of the broadcaster to determine whether the general public would readily comprehend the meaning of an acronym or abbreviation. If the broadcaster judged that the general public would understand the acronym or abbreviation, it could be used as the sole identifier of the sponsor. (As examples of readily identifiable acronyms, the Commission listed AARP, NRA, and NFL.) Otherwise, the sponsor should be identified more completely.

The FCC emphasized that full disclosure and transparency are fundamental goals of the law. It stated that it expects "broadcasters to take their online political file obligations seriously and to exercise their reasonable, good faith judgments and efforts with appropriate diligence." In dealing with complaints, the Commission explained that it would "consider the facts of each situation on a case-by-case basis and take appropriate action as warranted."

Request Denied for High Power Auxiliary Facilities During Pandemic

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The Audio Division could not find that this proposal satisfied either of those criteria.

The Audio Division said the proposal amounted to an effort to establish a broadly applicable set of standardized criteria to govern both the instant application and unknown numbers of future waiver requests. A waiver decision is a fact-specific adjudication and therefore not the proper vehicle to establish what would essentially be uncodified rules of general applicability. Such a system of potentially widespread waivers would impinge on the integrity of the delicate system

of assignments achieved in the decades-long balancing between ensuring the widest possible signal coverage for each station and maximizing the number of stations. The Audio Division concluded that sweeping revisions of this balance should be taken only after a complete and informed analysis of the technical, financial and public interest consequences of such action on all stakeholders. An individual waiver request is simply not the proper context for consideration of such far-reaching changes. The waiver request was denied and the application was dismissed.

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