

To: All Broadcast Clients

February 14, 2008

## **FCC SEEKS COMMENTS ON LOCALISM PROPOSALS RELATING TO PROGRAMMING RESPONSIVE TO NEEDS OF LOCAL COMMUNITIES**

**COMMENTS DUE MARCH 14, 2008 AND REPLY COMMENTS DUE APRIL 14, 2008**

The FCC has released a *Report on Broadcast Localism and Notice of Proposed Rulemaking*, which sets forth a number of proposals that the FCC describes as designed to increase local programming content and diversity. These proposals, if implemented, would likely have a significant impact on the operations and programming of broadcast stations, and would impose new compliance burdens on station licensees.

Among other proposals, the Commission seeks comments on whether the following rules should be adopted:

### Communication with Local Community

- Require that licensees establish a permanent advisory board in each station's community of license, and require that licensees consult with the board periodically regarding community needs and issues. The FCC seeks comments on how these boards should be selected, the process for determining which segments of the community need to be represented on the boards (such as local officials, minority, and underserved segments), and how often the boards should meet with the licensee. Noting that some licensees

already have formal community groups in place, the FCC also seeks comment on whether these existing groups should be treated as compliant with respect to any new rules adopted.

- Require that licensees carry out informal public outreach efforts, such as listener or viewer surveys, focus sessions, or "town hall" meetings, and establish dedicated telephone numbers and Internet mechanisms -- to be announced during on-air programming -- to facilitate community dialogue.
- Require that licensees post renewal application filing announcements on their station websites during the six months before the deadline for filing petitions to deny a station's renewal application, in addition to the required on-air announcements. Website announcements would include links to FCC website pages explaining the license renewal process, including the procedures to challenge a renewal application.

### Community-Responsive Programming

- Impose renewal application processing guidelines designed to ensure that all

broadcasters provide at least a minimum of locally-oriented programming. If a renewal application shows that the station has met or exceeded the local programming guidelines, the application will be processed routinely by the staff of the Media Bureau. Those applications that do not establish that the station has met the guidelines will require approval by the full Commission. The FCC seeks comments on whether the programming guidelines should be a specific number of hours per week, possibly at specific times of day, or a percentage of overall programming; what programming constitutes "local" programming; and whether specific kinds of programming -- such as local news, political and public affairs -- should be required.

In separate "enhanced disclosure" proceedings, the Commission has adopted a standardized form for the reporting of detailed information concerning civic affairs, local, public service and other issue-responsive programming for TV stations, and it is actively considering requiring the same disclosure obligations for radio stations. The Commission has made clear that these forms will help it evaluate how responsive licensees have been in presenting programming addressing local needs and concerns. It is therefore likely that the information gathered will inform subsequent decisions concerning the imposition of stated minimum programming guidelines.

- Require that TV licensees maintain a full-time staffing presence at their main studios, ending the practice of automated operation. A similar proposal for radio stations is being considered as part of a separate inquiry on digital audio broadcasting. In addition, the Commission seeks comment on whether it should require

that each station establish – and staff – its main studio within its designated community of license, as last required in 1987, as a means to encourage the production of locally-originated programming.

#### Network Affiliation Rules

- Require that a licensee have sufficient time in advance of airtime to review network programming to determine whether it should be preempted on grounds that it is unsatisfactory, unsuitable, or otherwise contrary to the public interest, or to permit the licensee to substitute a different program which it believes to be of greater local or national importance. The FCC seeks comments on the length of time of the review period, what types of programming the review requirement should apply to, and whether licensees should be prevented from entering network affiliation agreements that waive the right to advance review.

#### National Music Playlists

- The Commission concludes that Licensees will not be restricted from using national playlists or be required to give specific airplay opportunities to local musicians. However, the Commission seeks comments on whether it should require licensees to provide data regarding their airing of the music and other performances of local artists, and how they compile their stations' playlists, which the Commission would use in its consideration of the renewal applications of the stations to which they relate, in evaluating the overall station performance under localism.

#### Additional Spectrum Allocations.

- Allow "qualified" LPTV stations to upgrade to Class A status, which

carries with it certain protections against interference from new and existing stations. Under existing FCC rules, Class A stations are required to operate at least eighteen hours a day, provide at least three hours weekly of locally-produced programming, and comply with all full-power TV operating rules, including children's television standards, political rules, etc. At present, only LPTV stations which met these requirements in 1999 were able to elect such status during a limited period of time. The Commission seeks comment on allowing other LPTV stations to qualify, as a means of providing additional local programming.

In addition, the Report states that the Commission will:

- Better educate members of the public as to the obligations of broadcasters and the Commission's procedures so that viewers and listeners can become more actively involved in ensuring that stations offer locally oriented

programming. Specifically, the "The Public and Broadcasting" guide will be updated, and a point of contact at the FCC for public inquiries about FCC processes will be established.

- Develop a new, free to the public, Allotment Channel Finder software program, accessible through the FCC's website, to aid prospective radio licensees in identifying suitable available commercial FM spectrum in the communities in which they wish to broadcast.

This is an important proceeding with potentially far reaching consequences on stations' programming schedules and financial bottom lines. We urge you to give careful consideration to filing comments. If you would like to do so, or if you have any questions concerning these proposals, please contact any attorney in our office.

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This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact any attorney in our office.