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FCC Rules Regarding Main Studio and Local Public Inspection File For Broadcast Stations

Effective October 30, 1998, the Commission amended its rules in order to grant broadcast licensees additional flexibility in locating their main studios and public inspection files, allowing stations to voluntarily maintain all or part of their public inspection files in a computer database rather than in paper files, and clarifying and updating the rules regarding the contents of local public inspection files. Subsequently, the Commission clarified certain aspects of the new rules. This memorandum provides a summary of the new rules, including the subsequent clarifications.

Changes to the Main Studio Rule

Prior to the adoption of the revised rules, a station's main studio had to be located either within the station's community of license, or within the station's predicted city grade signal contour (its "principal community contour," established as 5 mV/m for AM radio, 3.16 mV/m for FM radio, and city-grade for TV).

In an effort to lessen the burden on licensees, particularly those licensees that own multiple stations, and in order to provide licensees with greater flexibility in locating their main studios, the Commission amended its rules to allow any commercial or noncommercial AM, FM, or TV station to locate its main studio at any location that is within either:

- (i) the principal community contour of any station, of any broadcast service (i.e., AM, FM or TV), licensed to its community of license; or
- (ii) within 25 miles from the reference coordinates (generally, the coordinates as listed in the U.S. Department of Interior publication entitled *Index to the National Atlas of the United States*) of the center of its community of license.

Thus, the revised rules expanded the area in which most licensees may locate their main studios, and the ensuing increased flexibility may allow some multi-station licensees to combine the resources of

their jointly-owned stations by co-locating main studios. In addition, the revised rules allow the licensee of a low power television station to locate its main studio anywhere within the larger principal community contour of higher power stations that share the same community of license.

The revised rules do not affect any stations operating pursuant to a waiver, including noncommercial educational stations operating as satellites of a main station. As regards main studio waiver requests, noncommercial stations will continue to be given distinct treatment from commercial stations.

Changes to the Local Public Inspection File Rules

Prior to the adoption of the revised rules, a broadcast station was required to maintain its local public inspection file at its main studio, when the main studio was located within the station's community of license, or at any accessible place in the community of license (e.g. an attorney's office or local public library) if the station's main studio was located outside the community of license. Pursuant to the revised rules, the Commission provided that the licensee of a station must locate its public file at its main studio, wherever located. Under the revised rules, an applicant for a new station or change of community must locate its public inspection file in the proposed community of license, or at the proposed main studio.

In addition, pursuant to the new rules, licensees have the option of maintaining all or part of their public file in a computer database rather than in paper files. The FCC encourages, but does not require, licensees opting to maintain computer files to also post their "electronic" public files on any World Wide Web sites they maintain on the Internet. We urge any station considering such an Internet posting to contact this office beforehand.

Under the revised rules, stations are required for the first time to make available, by mail upon telephone request, photocopies of documents in the public file, and licensees will be required to assist callers by answering questions regarding the actual contents of the station's public file. In 1999, the Commission restricted this "telephone request" obligation to apply only when a station's public file and main studio are located outside the city limits of the community of license. Further, a Station which locates its main studio and public file outside its community of license is only required to copy and mail material from its public file to addresses within the "geographic service area" the station serves, but not beyond. The geographic service area is essentially the station's protected service area: for television stations this is the Grade B contour; for Class B FM stations 0.5 mV/m contour; for Class B1 FM stations 0.7 mV/m contour; and for all other FM stations, the 1.0 mV/m contour. The protected contours for AM stations are based on frequency, power, radiation and ground conductivity and vary by station. The Commission encourages stations to accommodate persons who live outside the service area but are still able to view or listen to the station, but there is no requirement to do so. The public file of a station that locates its main studio and public file in its community of license is considered to be reasonably accessible to the public, therefore such a station does not have to

honor phone requests for documents from its public file.

Due to the burdensome nature of requests concerning material in the political file, Stations are not required to honor telephone requests for political file information. An individual wishing to obtain information from the political file must search for and photocopy the material themselves at the Station's main studio. Stations may require any party requesting copies of documents in the public file to prepay the reasonable cost of photocopying such documents (except that a copy of the new edition of *The Public and Broadcasting*, as discussed herein, must be provided by stations free of charge); the station, however, will be required to pay the postage associated with mailing all such documents.

Changes in the Rules Regarding Responsibility for Contents of Public File After Assignment

Prior to the adoption of the revised rules, after the Commission approved an application for assignment of license and the transaction had been consummated, the new licensee was responsible for ensuring that the public file contained all of the documents required to be maintained in the file by the assignor.

Pursuant to the revised rules, in the case of an assignment of license, the assignee must retain public file documents obtained from the assignor for the period required under the revised rules, but the Commission will no longer hold assignees responsible for correcting any omissions in the file that exist at the time of the assignment. The Commission, however, emphasized that it expects parties engaged in the purchase of a station to make a good faith effort to correct deficiencies in the assignor's file that exist at the time of the assignment through the due diligence process typically undertaken by the purchaser of a station.

Changes in the Rules Regarding Electronic Mail

Under the Commission's revised rules, licensees are required to retain e-mail messages as well as traditional printed communications; however, such rule applies only to e-mails sent either to a publicly advertised e-mail address, or to station management. Licensees have the option of retaining e-mail messages either in a computer or a paper file. Licensees that choose the computer file option may provide the public, upon request, with either printed hard copies of the e-mails, a computer diskette containing copies of the e-mails received by the station in a generally accepted simple text file format, or the licensee may make available to the public a computer terminal where these communications may be accessed. If a licensee receives identical e-mails or letters from different parties, the licensee has the option of retaining, either on paper or in a computer file, a single sample copy of the e-mail or letter, as well as a list of all parties that sent the same e-mail or letter to the station.

Changes in the Rules Regarding Electronic Public File Option

Under the revised rules, stations have the option of maintaining all or part of their public inspection file in a

computer database rather than in paper files. A station that chooses the option of maintaining an electronic public file will be required to make a computer terminal available to members of the public interested in reviewing the station's file (except that a station that chooses to maintain only e-mails in a computer file may provide copies of such e-mails to the public on a computer diskette, or in hard copy form in lieu of making a computer terminal available), and will be required to provide paper copies of such public file materials upon request. The Commission also encourages stations to place descriptions of their public file on the Internet.

Summary of Revised Public File Requirements

Under the Order, the station's public file is required to contain the following (this list incorporates changes not discussed above, and we urge you to review it carefully):

- Authorization: a copy of the station's current license or construction permit, as well as any other documents necessary to reflect any modifications thereto or conditions that the Commission has placed on the station's authorization.
- (ii) Applications and related materials: a copy of all applications filed with the Commission, and all related material, to be retained until final action has been taken on the application, except that applications granted pursuant to a waiver for either a new construction permit or for assignment or transfer of license must be retained for as long as the waiver remains in effect. (While the retention period for applications has been shortened, the number of applications subject to the rule has been significantly expanded, since the rule used to apply only to applications for which public notice had to be given).
- (iii) Citizen Agreements: a copy of the agreement, to be retained for the term of such agreement.
- (iv) Contour maps: copies of any service contour maps submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location, to be retained for as long as they reflect current, accurate information about the station.
- (v) Ownership Reports: for both commercial and noncommercial broadcasters, the most recent, complete ownership report, and any statement certifying the continuing accuracy of the report, to be retained until replaced by a new, complete report.
- (vi) List of contracts to be filed with the Commission: a station has the option of either retaining a copy of all contracts required to be filed with the Commission as under the previous rules, or an up-to-date list identifying all such contracts. Stations choosing to maintain a list, rather than the actual contracts, must provide copies of such contracts to requesting parties within seven days.

- (vii) Political file: as under the previous rules, a complete and orderly record of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges for such if the request is granted, and a record of free time provided, to be retained for a period of two years.
- (viii) Annual employment reports: copies of all annual employment reports for the current license term must be retained until grant of a licensee's renewal application becomes final (thus starting a new license term).
- (ix) "The Public and Broadcasting" manual: the currently issued edition must be kept in the file and a copy thereof provided free of charge by the station to any requesting party. An updated version of the manual may be downloaded from the FCC's web site at: <http://www.fcc.gov/mmb/prd/manual.html>>>
- (x) Letters from the public: copies of written comments and suggestions, as well as e-mail messages received by commercial licensees from the public regarding operation of the station, must be retained for a period of three years. Commercial licensees no longer need to separate letters into programming and non-programming subject categories. Noncommercial licensees are not required to retain letters from the public regarding operation of the station.
- (xi) Material relating to FCC investigations or complaints: a copy of material relating to any matter which is the subject of an FCC complaint or investigation must be retained until the licensee is notified by the Commission that the material may be discarded. A station no longer needs to retain materials related solely to private disputes not involving the Commission.
- (xii) Issues/programs lists: quarterly lists are to be placed in the station's public file no later than the tenth day of the quarter following the quarter in which the programming aired, and are to be retained during the current license term until the grant of the next renewal application becomes final.
- (xiii) Records regarding children's television programming commercial limits (commercial television only): copies are to be retained during the current license term until grant of the next renewal application becomes final.
- (xiv) Children's Television Programming Reports: copies are to be retained during the current license term until final grant of the next renewal application.
- (xv) Local public notice announcement certification: applicants for renewal of license must retain a copy of the certification that local public notice of pre- and post-filing announcements were made for the same period of time as the renewal application.
- (xvi) Time brokerage agreements: a copy of any time brokerage agreement entered by radio and television

stations is required to be kept in their local public inspection files, with confidential or proprietary information redacted where appropriate. These records must be retained as long as the contract or agreement is in force.

(xvii) Must-carry or retransmission consent election: a copy is to be retained for the duration of the three year election period to which the statement applies.

(xviii) Donor's Lists: for noncommercial stations, a copy is to be retained for two years.

(xix) Joint Sales Agreements: a copy of any joint sales agreements entered into between commercial radio and television stations (e.g., agreements for the joint sales of broadcast commercial time), until the expiration or termination of the agreement, with confidential or proprietary information redacted where appropriate.

Noncommercial Stations

Noncommercial television stations are no longer required to compile a summary of any written communications regarding violent programming. Noncommercial stations, unlike commercial stations, are not required to retain any letters or other communication from the public in their files.

Noncommercial educational stations continue to be required to maintain a list of donors supporting specific programs. The list for each program must be retained for two years following the broadcast of the program. Licensees are required to exercise "reasonable diligence" to determine that proper identification is made.