

## **Broadcast Localism**

Legal Alert  
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Garvey Schubert Barer Legal Update, February 19, 2008.

After twenty-five years of de-regulation, the FCC proposes an about-face in order to ensure that broadcasters address the needs of their local communities. The most dramatic changes can be distilled into the following "then and now" list: Then – Formal ascertainment; Now – Community Advisory Boards; Then – Promise vs. Performance; Now – Quarterly reporting on all news and public affairs programs with renewal processing guidelines; Then & Now – Main Studio in Community of License with 24/7 staffing.

In the Report on Broadcast Localism and Notice of Proposed Rulemaking (Localism Report), the FCC describes actions it intends to take, summarizes rules changes pending in other proceedings, and solicits comments on new rules that will increase operating costs and potentially influence programming. The major proposed rules changes are described below. View the full text of the FCC's Localism Report. [pdf]

### **Community Advisory Boards**

The FCC proposes that stations convene permanent advisory boards consisting of officials and leaders from all segments of the community. Stations would need to meet quarterly with their advisory boards to determine matters of local interest to be covered in programming. The FCC seeks comments on whether such boards will be able to alert broadcasters to issues of importance to the community, how board members should be selected or elected, whether the old formal ascertainment guidelines should be used to identify the 20+ delineated segments of the community who should be represented on the boards, and how frequently station management should meet with the board.

The FCC also wants to know whether other approaches designed to foster communication between licensees and their communities – e.g., listener/viewer surveys; town hall meetings; station management service on various boards and committees of local organizations; and/or phone lines, websites, email addresses, publicized during programming to facilitate community dialogue – could be substituted for having community advisory boards.

### **Standardized Quarterly Reporting**

In lieu of preparing quarterly issues programs reports for the public files describing stations' most significant treatment of a limited number of issues, the FCC has proposed that radio stations prepare and file with the FCC quarterly a standardized disclosure form like the Form 355 it just adopted for TV stations. The form requires a breakdown of the average number of hours per week aired each quarter of various types of programming, such as:

National news  
Local news produced by the station  
Local news produced elsewhere  
Local civic affairs  
Local electoral affairs  
Independently-produced programs  
Public service announcements  
Paid PSAs

The licensee must provide the program title, date, time, and duration of each aired program fitting the above-listed categories, as well as for:

programs targeting underserved demographic segments of the community  
free religious programming

The licensee must also describe what steps it took to determine programming needs of the community, and what programs it designed to address those needs. The form also requires stations to list whether they broadcast information about emergencies, and details concerning the emergency triggering the broadcast. The FCC summarized the standardized disclosure proposal in the Localism Report, but this proposed rule change is already pending in the Digital Audio Notice of Proposed Rulemaking issued in Spring 2007.

#### **Renewal Processing Guidelines**

To ensure that all broadcasters provide some locally-oriented programming, the FCC plans to reintroduce renewal processing guidelines. The FCC solicits comments on whether renewal processing guidelines should be expressed as hours per week or as a percentage of overall programming. It further asks whether guidelines should cover particular types of programs (local news, political, public affairs, and entertainment) or simply locally-oriented programs, what amounts in which categories, whether specific types of local programs should be aired at particular times of the day, how to define local programs, and whether such programs must be locally-produced.

#### **Remote Station Operation and Main Studio Location**

Claiming it had already requested comments in Spring 2007 in its pending Digital Audio Notice of Proposed Rulemaking, the FCC floats explicitly for the first time in the Localism Report that it is considering requiring licensees to maintain a physical presence at each broadcasting facility during all hours of operation. It requests comments on whether to extend the proposal to TV stations which were not included in the Digital Audio Notice. The FCC asserts that requiring stations to be attended can only increase their ability to provide information of a local nature to

the community of license, particularly in the event of severe weather or a local emergency.

The Commission seeks comments on whether it should revert to the pre-1987 main studio rule as a means to encourage broadcasters to produce locally-originated programming and whether the accessibility of the main studio increases interaction between the station and the community of license.

### **Increase Public Involvement in Renewal Proceedings**

The FCC wants to increase public involvement in license renewal proceedings. To that end, the FCC will update *The Public* and Broadcasting, and is proposing some changes in the official text for pre- and post-filing license renewal announcements. It would require stations to include in the text of the announcement the FCC's web address and to post on station websites the same information six months before the renewal has to be filed until after deadline for filing petitions to deny.

### **Other Localism Proposals: Network Affiliation Rules; Voice-Tracking; National Play Lists; Payola/Sponsorship Identification; Spectrum Allocation for New FM Stations; and Class A TVs**

The Localism Report includes a broad review of other proceedings that propose or have already adopted rule changes that would enhance localism, not all of which are summarized here, such as making it easier for new entrants to gain access to financing and spectrum, proposing that AM stations be able to use FM translators, changing EAS rules, adopting customer service standards for leased access on cable systems, changing cable carriage requirements to favor in-state TV stations even if the cable subscriber lives in a DMA with all out-of-state TV stations, and adopting measures to strengthen LPFM. In addition, the Localism Report requests comments on:

Proposed rules that would require TV stations to have the ability to review in advance programming supplied by the networks.

Prevalence of voice-tracking and whether the FCC should limit the practice or require disclosure when voice-tracking occurs.

Whether licensees should provide it with data on music playlists, performances by local artists, and how stations compile playlists. The FCC proposes to use the data to evaluate overall performance of stations under localism criteria when reviewing license renewal applications.

The FCC also plans to issue another notice of proposed rulemaking on sponsorship identification. Specifically, the FCC is concerned about embedded advertising and the effectiveness of current sponsor ID regulation regarding product placement ads.

It also reaches the tentative conclusion to allow LPTV stations to upgrade to Class A status, and has requested comments on what should be the eligibility criteria and whether it has the statutory authority to grant such upgrades.

In an effort to help new entrants, the FCC has directed the Media Bureau's Audio Division to develop a new computer program to locate available commercial FM spectrum. The FCC believes that by reducing the cost of performing a frequency search, it will increase localism and diversity in broadcasting.