

ALERT

Comments Due December 29 on Proposals to Modernize Broadcast Ancillary/Supplementary Services Reporting and Local Public Notice Requirements

December 1, 2017

The Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) seeking comment on whether to modernize the requirements that broadcasters report annually on their provision of digital television (DTV) ancillary or supplementary services and provide local public notice of the filing of certain applications has been published in the Federal Register. As the FCC has announced, this sets deadlines of December 29, 2017 for comments and January 16, 2018 for reply comments. These proposals are a part of the FCC's Media Modernization initiative, initially launched in May 2017.

Ancillary and Supplementary Services Reporting

Since the inception of DTV, Congress has authorized DTV broadcasters to provide ancillary or supplementary services in addition their free over-the-air television service, subject to a requirement that broadcasters pay a fee in connection with such offerings. In 1998, the FCC established a program to assess the required fees which, among other things, mandated that all DTV broadcasters—regardless of whether they provide ancillary or supplementary services or not—file an annual report (currently, Form 2100, Schedule G).

The NPRM proposes to revise this requirement so that only stations that actually offer ancillary or supplementary services need to file an annual report. The FCC tentatively concludes that, "[r]egardless of how many stations provide feeable ancillary or supplementary

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services, . . . the costs imposed by applying [the filing requirement] to all DTV stations outweigh any associated public interest benefits.”

Local Public Notice Requirements

For decades, the FCC has required broadcast licensees to provide local public notice, in many cases in newspapers, concerning the filing of various types of applications. As the NPRM notes, however, the "Internet has become a major part of consumers' daily lives and now represents a widely used medium to obtain information." Accordingly, the FCC seeks comment on whether it should "provide broadcast licensees with more flexibility as to how they inform the public about the filing of certain applications." Among other things, the NPRM asks whether the FCC should:

- Allow applicants that currently must provide notice in newspapers to provide notice instead on an Internet website;
- Allow applicants to air shorter broadcast announcements and make additional content available online;
- Allow alternatives to on-air announcements; or
- Repeal the local public notice requirements in their entirety.

The FCC also seeks comment on issues related to implementation of a modernized local public notice requirement, including the following:

- Whether notice obligations should continue to vary based on the service (full power, Class A, etc.) or nature of application (new construction permit, assignment or transfer, etc.);
- If new rules allow sole reliance on online posting, whether they should differ for new construction permit applications;
- Whether the agency should model new local public notice rules on its modernized contest rule;
- Whether the online public inspection file can serve as an adequate substitute for newspaper publication or other forms of notice and, if so, whether the FCC should require licensees to broadcast announcements regarding the filing of applications and the location of the online public file; and
- Whether there are other related rules that should be revised.

This proceeding presents another opportunity for broadcasters to advocate for rule changes that will reduce the regulatory burdens to which they are subject. If you have questions or are interested in filing comments in this proceeding, please contact us.