

ALERT

FCC Eliminates Radio Programming Duplication Rule

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As part of its Modernization of Media Regulation Initiative, the Federal Communications Commission (FCC or Commission) has adopted an Order eliminating Section 73.3556 of its rules, which restricts the duplication of programming on commonly owned stations operating in the same geographic area. More specifically, the so-called radio duplication rule prohibits radio stations in the same service (AM or FM) that have over 50% overlap of their principal community contours (the 70 dBu for FM stations and the 5 mV/m contour for AM stations) from duplicating more than 25% of the total hours in their average programming week, if the stations are commonly owned or in a time brokerage arrangement. The Order will become effective upon its publication in the Federal Register. We will advise when that date is set.

The Commission noted that the broadcast industry has changed significantly since the FCC adopted the current radio programming duplication rule in 1992, particularly with respect to the evolution of new and varied formats for the distribution of audio programming. Notably, the draft order released several weeks ago proposed elimination of the rule only for AM stations. But the majority of Commissioners voted to repeal the rule for FM stations as well, citing the need to provide greater flexibility to address issues of local concern in a timely fashion (without needing to wait for the FCC to rule on a waiver request), particularly in times of crisis, as highlighted by the current COVID-19 national emergency. The Commission did remark that it anticipates such duplication will occur only rarely for FM stations, as there is still an economic incentive to program different formats on different stations to maximize revenue. Regardless, elimination of the rule means that licensees may make their own

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judgments about whether there are benefits to duplicating programming as circumstances warrant.