

# Getting Ready for License Renewal

Presented by David Oxenford

State Broadcast Association Webinar

May 2011

Anchorage  
Bellevue  
Los Angeles

New York  
Portland  
San Francisco

Seattle  
Shanghai  
Washington, D.C.



# What We'll Talk About

- License Renewal Process
- What to do to get prepared
  - Administrative issues
  - Public file
  - Technical matters
  - EEO and Antidiscrimination
  - Ownership Reports
- What the renewal will ask
- License renewal issues
- Slides and supplemental information –  
[www.broadcastlawblog.com/](http://www.broadcastlawblog.com/)

# LICENSE RENEWALS FILING DATES – Radio, TV a Year Later

▪ Louisiana.....	▪ February 2012
▪ Michigan.....	▪ June 2012
▪ Illinois.....	▪ August 2012
▪ Wisconsin.....	▪ August 2012
▪ Colorado.....	▪ December 2012
▪ Idaho.....	▪ June 2013
▪ Oregon.....	▪ October 2013
▪ Maine .....	▪ December 2013
▪ New Jersey.....	▪ February 2014
▪ New York.....	▪ February 2014

# NO LICENSE, NO STATION, NO JOB

- License renewal is vital to the continued operation of your Station
  - If you don't file, the FCC can take away your station's authority to operate
  - If you forget to file, and file late, the FCC is likely to assess a significant fine
- The FCC will not permit you to close on a sale or purchase while the renewal is pending.
  - Delays in getting your renewal granted can delay sales and other regulatory approvals

# PROCESS: STEP 1 - PRE-FILING ANNOUNCEMENTS

- Air a total of 4 times – once each day **on the first and 16<sup>th</sup> of the two months preceding the filing of the renewal**
- Standard announcement text set out by the FCC - provided in our Advisory – tells listeners that you will be filing your renewal, that they can look at your public file, and that they can file comments on our renewal
- Run two announcements between 7:00 and 9:00 AM and/or 4:00 and 6:00 PM
  - If you are not on the air during those hours, run at least 2 during the first 2 hours you are on the air
- Keep copies of text and times for subsequent certification

# PROCESS: STEP 2 – FILE THE RENEWAL

- Due on or before the dates set out earlier
- Need to file EEO Form with the Renewal
- Noncommercial stations will file an Ownership report too, unless the rules change
- Electronic filing – must be filed electronically
- With a filing fee
- Then run post-filing announcements for three months, on the 1<sup>st</sup> and 16<sup>th</sup> of each month

# PROCESS: STEP THREE - WAIT

- **The Public can file comments for three months after you file**
- **If you file late, the public gets more time to object**
- **Any objection will take months (maybe years) to resolve**
- **The FCC may have questions too – especially if there are enforcement issues (still renewals pending from last cycle, mostly based on indecency issues)**
- **Other issues may take months to resolve**
- **If no issues – look for renewal about 4 months after filing**
- **If you don't see it – ask why it's held up**

# PLANNING: WHO ARE YOU? GET THE DETAILS RIGHT

- Licensee Name
- Legal Address, Register working email
- Call Letters
- City of License
- Pay Your Fees: “Red Light Issue” will hold you up
- If there are inconsistencies, get them corrected before you file!
- Key identifiers needed to file:
  - FIN: Facility ID Number
  - FRN: FCC Registration Number
  - CDBS: Commission Database Broadcast System Password

# PLANNING: AVOID UNPLEASANT SURPRISES – RESEARCH NOW

- Task the station engineer with completing an RF radiation analysis of your site – to assure that there are no changes, or that it is in compliance using the FCC’s worksheets.
  - Set an early deadline so corrective action can be taken if necessary
- Send each officer, director or other person or entity holding an attributable interest in the licensee a background questionnaire to check on character issues
  - Set an early deadline for responses; push to get them back.

# PLANNING: MORE PREPARATION

- Inventory all licenses
  - Main station license
  - Boosters
  - Translators
  - Auxiliaries—STLs, RPUs, Inter-city Microwave
  - Non-broadcast – may be on different cycle
  
- Are they current and cover all activities of the station?

# PLANNING: STILL MORE PREPARATION

- Check and double check your public inspection file.
  - Is it complete and up to date?
  - Is the staff prepared if a request is made to see the file?
  - See our public inspection file guide
- Does your public file contain a full complement of quarterly programs/issues lists for the full renewal term?
  - See our QPI advisory

# QUARTERLY PROGRAMS ISSUES LIST

- 5 to 10 most significant issues of importance to your community
- Programs that addressed those issues
- Don't just make up the issues—assess the needs of your community through staff community contacts
- Programs don't just need to include your boring public affairs programs—list everything that addresses community issues, but longer programming is probably better, as is local programming
- HUGE issue last renewal cycle – by far more fines because of QPIs than for anything else – most around \$9000 for several missing quarters

# PUBLIC FILE

- FCC Authorizations and applications—including FCC correspondence relating to station issues
- Coverage map
- Letters from the public relating to station operations, including emails (for commercial stations)
- Ownership reports and related documents—documents can be listed and provided within 7 days on request
- The Public and Broadcasting Procedure Manual
- Political and EEO files—Including Sponsorship Identification Information for Controversial Issue Ads
- LMAs and JSAs
- TV Must Carry-Retransmission Consent Elections
- TV Children’s Television Reports—Informational Programming and Advertising Limits – lots of questions about these, too

# AREN'T WE READY YET?

- Prepare the Broadcast EEO Program Report
  - FCC Form 396
  - Attach two most recent Annual EEO public file reports (one prepared for the public file on the renewal date, one put in the file the year before)
  - Form 396 asks for these reports, asks for issues that have arisen with your program, and asks for contact person
  - File with FCC immediately before filing renewal
- EEO was a big issue in prior renewal cycles – not so big last round

# REVIEW – EEO ISSUES

- By renewal time, eight years worth of public file reports in your public file
- Each assesses sources you used to widely disseminate information about all of your job openings
  - Word of mouth, Internet-only recruiting, and internal stations sources are not enough
- Each lists the supplemental efforts that you engaged in, regardless of hiring, to educate the community about broadcast employment
- Most recent report on your website

# NEW ISSUE – ANTIDISCRIMINATION CERTIFICATION IN ADVERTISING CONTRACTS

- Must be in contracts from March 14 to the present
- Must certify in renewal that advertising contracts do not discriminate on basis of race or ethnicity, which means:
  - Must have the certification in the contract
  - Must have a reasonable basis to conclude that there is no discrimination
- Need to make sure rep firms and other agents have the clause in their contracts, too
- Meant to prohibit no urban, no Spanish dictates
- But what does it really mean?

# Nondiscrimination Clauses – Interpreted?

- Lots of Interpretation needed
- Meant to prevent general market advertiser from excluding urban and Spanish stations from advertising buys
  - Grocery stores, amusement parks, cars, cruise lines, hotels, restaurants, etc
- Not to prohibit targeted advertising meant to reach a particular market
- Debate over what diligence a station needs to do to make the certification – lots of discussion – perhaps some clarification coming

# WHAT'S ACTUALLY ON THE RENEWAL FORM?

- Basic information about the applicant
- Information about the station being renewed
  - Can renew translator or booster on the same form – if the translator is in the same renewal window
- Certify that the answers are correct and filled in based on FCC instructions
- Lots of substantive certifications
- If you can't truthfully certify – explain why not
  - Certifying incorrectly can be seen as a lie to the FCC, and that can lead to a license revocation – while answering “no” with an explanation will, at worst, usually lead to a fine

# CERTIFICATIONS – THE GUTS OF THE APPLICATION

- No adverse legal decisions – felony, mass-media related antitrust or unfair competition, fraud to another government agency, discrimination
- No FCC violations in renewal term – actual violations found by the FCC
- No alien ownership issues
- No forfeiture of rights because of Anti-Drug Abuse Act violations
- Non-Discrimination in Advertising certification

# More Certifications

- That you filed your Ownership Reports as required by the rules
- That you filed the Form 396, and posted your most recent EEO Public File Report on your website
- That your public file was kept up to date throughout the renewal period
- That you haven't been off the air for more than 30 days during the term
  - Or silent for more than a year
  - Or off the air at the time of the renewal – silent station won't be renewed

# And Even More Certifications

- That the station complies with RF radiation limits
- That the station is not co-owned with a local daily newspaper
- For TV only
  - No complaints or suggestions about violent programming
  - Complied with the children's commercial limits
  - Filed Children's Television Programming Reports
  - Broadcast sufficient CORE programs, and told program guides about it, and broadcast public notice of where kid's programming reports could be found
  - Continuing Class A Status
  - Show benefits if granted failing station duopoly waiver

# FOLLOW UP ITEMS

- Post-Filing Announcements—Appendix A
  - **To be run on the 1<sup>st</sup> and 16<sup>th</sup> of the month in which the renewal is filed, and the 1<sup>st</sup> and 16<sup>th</sup> of the next two months – six announcements in all**
  - At least three to air between 7:00–9:00 am, and/or 4:00–6:00 pm
  - At least one between 9:00 am–noon, noon–4:00 pm, and 7:00 pm–midnight
- Standard text – telling audience that you have filed the renewal, that they can view it in your public file, and that they can submit comments on the application to the FCC
- Statement of Compliance certifying the dates and times that the announcements were run must be placed in public file within 7 days of airing last announcement

# THINGS TO WORRY ABOUT LICENSE RENEWAL ISSUES

- Certifications
- Improper Computations
- Petitions
- Don't forget the fee and Form 159!

# Resources

- Slides and supplemental material on our blog – by Thursday: [www.broadcastlawblog.com](http://www.broadcastlawblog.com)
  - Guide to getting ready for renewal
  - Public file checklist
  - QPI advisory
  - EEO advisory
  - Links to more details about antidiscrimination certification
  - Other links to relevant issues
- Instructions to FCC Form with worksheets: [www.fcc.gov/Forms/Form303-S/303s.pdf](http://www.fcc.gov/Forms/Form303-S/303s.pdf)
- FCC Media Bureau website: [www.fcc.gov/mb/audio/renewal/](http://www.fcc.gov/mb/audio/renewal/)

# Get Ready for License Renewal

David Oxenford

202-973-4256

[davidoxenford@dwt.com](mailto:davidoxenford@dwt.com)

[www.broadcastlawblog.com](http://www.broadcastlawblog.com)

May 2011

Anchorage  
Bellevue  
Los Angeles

New York  
Portland  
San Francisco

Seattle  
Shanghai  
Washington, D.C.

