Update on FCC Issues for Broadcasters - Just What Are They Thinking!!!???

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What are they thinking?

- Lots of fundamental issues for broadcasters on the table, many Congressional issues – Performance royalty, TV spectrum, retransmission consent – many of which Mike from the NAB will discuss in next session
- Lots of deadlines coming, including new rulemakings and new compliance obligations
- And lots of seemingly inconsequential (in the big picture) new rules and policies to make your life a pain
- So here's my mix of practical and policy issues to worry about….

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So Who Needs that Spectrum Anyway?

- FCC Broadband Plan Proposes Taking 20 Channels from TV for Broadband – Need Congressional approval, though FCC considering implementation already
- Impact on LPTV and Class A TV – Make sure Class A requirements are met – FCC looking to take spectrum
- Channel 5 and 6 controversy – use it for radio, or keep it for TV?
- LPTV/TV Translator digital conversion by 2015
- White Spaces Implementation

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Future of Media and Localism

- Renamed Future of Media Report came out in the Spring
- Suggested ending localism proceeding
- More interest in sponsorship and disclosure
- Suggests move to put public file online, and revise QPIs
- Silence about implementation for many months (except for Fairness Doctrine abolition)
- Guess What? Proposals to be dealt with ***this week*** at the FCC meeting (for TV only – so far….)
  - Online public file
  - New public interest form?
  - Public interest groups suggest political file online too

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What you did and when you did it - Quarterly issues programs lists

- Until there are new rules, don't forget QPIs
- 10 days after the end of each quarter – they go in your public file
- 5 to 10 most important issues in your community and the programs that you broadcast to address those issues
- Every station should have them – these are the only official documents of how you served the public interest
- Biggest source of fines last renewal cycle – for commercial and noncommercial stations
- Fines up to $13,000 for no QPIs in Public File

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Remember License Renewal?

- Coming sooner than you think – February 2013 for Radio, and February 2014 for TV
- New obligations on advertising contracts and being on the air
- Potential new scrutiny by interested groups
- Lots of little issues that can get you into trouble

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Antidiscrimination Certification

- Must include a clause in contracts that says you don’t discriminate in the sale of advertising, and that the advertisers don’t either
- If you don’t have sales contracts, put it on other sales documents (but think about some form of contract)
- Must make sure that rep firms and other agents do the same with their customers when selling on behalf of the station

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So what if no one ever looks? – the Public File

- Accessible during normal business hours to all who ask
- Ownership information – did you file your Biennial Ownership Report on the new form back in July 2010? Are you ready to file again in December? Required for all commercial stations
- FCC applications
- Letters from the public about station operations
- LMAs/JSAs
- QPIs
- Contracts relating to station ownership and control – Articles and By-Laws, Stock Pledges, other documents that put significant restraints on your unencumbered operations – must be available in a week upon request, if not in the file

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Be Nice to Your Engineer

- Coming soon – implementing CAP protocols for EAS
  - Extended until June 30 from September deadline
  - FCC still hasn't issued final rules – though everyone says devices on sale now will work under final rules
- November 9 National EAS Test – make sure it works! Reports will be filed
- Stay on frequency
- Stay within authorized power
- AM stations with day/night power or pattern differences – observe them!
- If something goes wrong – ask for STA – don't ignore problems and hope that no one will notice

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The Ups and Downs – Tower Issues

- Keeps lights lit
- Keep fences locked
- Keep fences in good repair
- Label High RF areas
- Make sure tower registration is correct after sale of station or tower – no automatic transfer with the FCC license
- Post Tower registration information where visible from outside the fences

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New Accessibility Issues for TV

- Close captioning for all programs should be a reality for most stations
- Decision last week limiting exceptions
- Remember emergency information must be made available visually
- Complaints from the public made more easy
- Video description requirements coming to larger markets and networks – to help visually impaired
- Captioning to be required for TV programs repurposed for the Internet
- CALM Act implementation

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Watch Why You Say Things – Sponsorship Identifications

- Tell who paid you for what you say on the air – sponsorship ID issues and payola
- Noncommercial stations – be careful in saying thank you – don't be too enthusiastic in thanking donors and sponsors – no qualitative claims or calls to action
- Identify sponsor when Video News used by station when releases that are too promotional of a specific company's product or service, and when using free video or audio from proponents of a controversial issue
- Remember you have a duty to inquire if there are undisclosed sponsors of syndicated and network programs

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Watch What You Say

- Not just indecency – though that issue has certainly not gone away – Supreme Court decision this year
- Don’t give away what you don’t have – contest issues – announce all material rules and make sure that you follow them
- Future issues? Fast food ads, prescription drug restrictions, emergency information in multiple languages

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For a little guy, you sure make lots of noise – LPFM/translator issues

- LPFM law passed Congress last December – deleting adjacent channel interference protections to full-power stations, and providing for some second channel waivers
- FCC still trying to figure it all out – along with what to do with 2003 translator applications that are still pending
- Pending proposal dismisses many big market translators, but processes the rest – look for resolution in 2012
- FM Translators can be used by AM stations – and FCC asking if it should expand to new translators
- HD-2 translators allowed on translators
- FCC Concerns about multiple hops when moving translators

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Other Issues to Watch

- Multiple Ownership
  - Newspaper cross ownership
  - Minority ownership
  - Radio market sub-caps for AM and FM
  - Small market TV duopoly and shared services agreements
- Noncommercial fundraising issues
- Patent issues – more and more issues for broadcasters in a digital world
- Music use issues

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So It's Not Election Time Yet, But It Sure Looks Like It….

- Third party ads on Federal issues – need to keep in your public file all the same records that you keep for candidate ads
- Unlike candidate ads, stations can have liability for contents of third party ads – especially once you are on notice of possible falsity – worry most about attacks on personal attributes of the candidate, less about policy positions
- No rate issues, no equal time until you have legally qualified candidates (except for President – once qualified in 10 states, qualified everywhere)
- Remember local candidates get same treatment as Feds once you agree to sell them time (including LUC)

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Now it’s your turn…

- Time for your questions……

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Washington Issues for Broadcasters

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