

Kidvid Rules Modernized

As a part of its ongoing initiative to modernize media regulations, the FCC has amended its rules governing children's television programming in a *Report and Order and Further Notice of Proposed Rulemaking* (FCC 19-67) in Docket 18-202. The new rules afford stations more flexibility in scheduling the required children's programming and streamline processes for record-keeping and reporting. This action follows up on the *Notice of Proposed Rulemaking* (FCC 18-93) adopted in this proceeding in July of last year.

The Children's Television Act of 1990 ("CTA") requires the Commission, when reviewing television station license renewal applications, to consider the extent to which the station "has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." The FCC's prior rules implementing the CTA define educational and informational programming as any programming that furthers the educational and informational needs of children up to 16 years of age in any respect, including the child's intellectual/cognitive or social/emotional needs. Such programming qualified as "Core Programming" if it met the following criteria:

(1) a significant purpose of the programming is to meet the educational and informational needs of children up to 16 years of age;

continued on page 6

Nationwide EAS Test Is August 7

The Federal Emergency Management Agency ("FEMA") and the FCC's Public Safety and Homeland Security Bureau will conduct a nationwide test of the Emergency Alert System ("EAS") on August 7 at 2:20 p.m. Eastern Time. All EAS participants, including all broadcast stations, are required to participate. FEMA will transmit the signal only via the hierarchical daisy chain of broadcast stations, and not on the Internet.

All EAS participants were to have registered and filed Form One with the FCC's EAS Test Reporting System ("ETRS") by July 3. Participants have 30 days after filing the Form One to submit updates and corrections. The day-of-test form, Form Two, must be submitted by 11:59 p.m. Eastern Time on August

continued on page 8

FCC To Review EEO Enforcement and Compliance

The FCC has launched a review of its equal employment opportunity (EEO) compliance and enforcement policies and practices pertaining to broadcast stations and multichannel video programming distributors with a *Notice of Proposed Rulemaking* (FCC 19-54) in Docket 19-177. The Commission describes this action as its response to issues raised in comments filed in the recent rulemaking proceeding about eliminating the Broadcast Mid-term Report. Rather than dealing with those issues substantively in that proceeding, the agency committed to address them within 90 days in a new proceeding.

The Commission's EEO rules generally prohibit discrimination on the basis of race, color, religion, national origin or sex. In addition, broadcast employment units with five or more full-time employees must adopt and follow an EEO program to ensure equal employment opportunity and nondiscrimination in their employment policies and

continued on page 7

IN THIS ISSUE

FCC Accepting Incubator Proposals	2
Relocating FM Translators	3
Deadlines to Watch.....	4-5
Cable Copyright Claims	8

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FCC Accepting Incubator Proposals

The FCC's Media Bureau has released a Public Notice (DA 19-546) to announce that it is accepting so-called "incubator" proposals. In August 2018, the Commission adopted a *Report and Order* (FCC 18-114) in Docket 17-289 to create the incubator program, the purpose of which is to foster "the entry of new and diverse voices into the broadcast industry." Under the program, established and experienced broadcasters will undertake to help – or to incubate – new entrants or small, struggling station owners to become successful independent owners and operators of radio stations. In return for that help, the established broadcaster will be eligible for favorable treatment on a request for a waiver of the radio station multiple ownership limit in the same market or in a comparable market. The program is presently not available for television stations.

To qualify for incubation under this program, an entity must be both a new entrant in broadcasting and a small business. To meet the new-entrant criterion, the entity must not have an attributable interest in more than three full-service AM or FM stations (including unbuilt construction permits) aside from the station that is the subject of the incubation, and it must not have an attributable interest in any television station. To qualify as a small business, the entity must have annual revenues of not more than \$38.5 million.

The proposal for an incubation must be submitted to the FCC in connection with a Form 301, 314, or 315 application if the project involves building a new station or acquiring an existing station. If the incubation plan does not involve such an application, the proposal is to be submitted to the Commission with a petition for declaratory ruling and filed in Docket 17-289. Each proposal must include a contract to set out the relationship and obligations of the parties, certified statements from both the incubated entity and the incubating entity, and, if necessary, a request for a temporary waiver of the local radio ownership limit if the proposal would cause the incubating entity to exceed the limit.

The contract must include the following elements:

- (1) the financial contribution to be made by each party;
- (2) the details of the operational support to be provided by the incubating entity;
- (3) a commitment that the incubated entity will retain control of the station and ultimate authority over the station's personnel, programming and finances, and hold at least 50 percent of the voting control of the licensee;
- (4) a prohibition on local marketing agreements and time brokerage agreements;
- (5) a prohibition on joint sales agreements and shared services agreements after the first two years of the incubation relationship;
- (6) a prohibition on any officer, director, managing partner or managing member of the incubating entity from holding an attributable interest in or being an employee of the incubated entity;
- (7) a term of three years, with allowances for the parties to jointly ask the Media Bureau to terminate the arrangement early or to extend it for up to three additional years;

(8) an option, but not an obligation, for the incubated entity to purchase any equity interest that the incubating entity holds in the station;

(9) an option for the incubated entity to sell its interest in the station and use the proceeds to acquire another full service AM or FM station, with a commitment from the incubating entity to assist in identifying a station to acquire and in obtaining financing;

(10) a plan for unwinding the relationship upon conclusion of the incubation.

The incubated entity must submit a statement certifying to the following:

(1) compliance with the eligibility criteria to be an incubated entity;

(2) a narrative about the entity's background, qualifications, and resources, and why it needs the assistance to be provided by incubation;

(3) compliance with the contract and a commitment to retain control of the station;

(4) disclosures about general qualifications to be a broadcast licensee.

The incubating entity's statement must include the following certifications:

(1) a narrative about the entity's background, experience, resources, and ability to help the incubated entity;

(2) compliance with the contract and a commitment to allow the incubated entity to control the station;

(3) compliance with the limit on incubating not more than one station per market;

(4) a statement of tier size of the incubated station's market and the number of independent full service station owners in the market.

The parties will have a high degree of flexibility to structure an incubation plan that takes into account the needs of the incubated entity, the realities of the marketplace, and the needs of the community in which the station operates. Elements of support might include, among other things, training in management, sales, programming or engineering. The incubating party might provide financing by way of a loan or an equity investment, or assist in obtaining bank financing.

Upon receiving a proposal, the Media Bureau will place it on public notice. The public will then have an opportunity to file comments, informal objections, and petitions to deny. The Commission has said that key factors involved in deciding whether to approve incubator proposals will be whether: (1) the potential incubated entity could obtain the necessary financing and support from another source absent the incubator program; (2) the proposal provides for a relationship that addresses the incubated entity's needs for support (including financial, technical, managerial, etc.) to become capable of owning and operating a station independently after the relationship has ended; and (3) the incubated entity retains de jure and de facto control over the station.

continued on page 8

Criteria Elaborated for Relocating FM Translators

The FCC's Media Bureau has issued a Letter Decision (DA 19-520) granting an application filed by Edgewater Broadcasting, Inc., to move its FM translator station, W256CL, into downtown Chicago. The grant of this application culminates a series of applications prosecuted over a four-year period, at the beginning of which the station was located in a rural area some 40 miles from the Chicago metro center.

The last application was opposed by Sound of Hope Radio ("SOH"), the licensee of low power FM station WQEG-LP. In its Informal Objection, SOH argued that this series of minor change applications effectively circumvented the major change rule (Section 74.1233(a) of the Commission's rules) and therefore should be denied. The relevant element of the major change rule provides that an application proposing to modify an FM translator station such that the existing and proposed new 60 dbu contours do not overlap is a major change. Major change applications may be filed only during a filing window. In this case, none of the applications was filed during a filing window, and yet there was no overlap in the 60 dbu contours of the original facility and the facilities proposed in the last application. SOH cited the 2011 *Mattoon* ruling in which the Bureau had explicitly stated that "the filing of serial [FM translator minor] modification applications [to accomplish what would otherwise be a major change] represents an abuse of process."

While authorized at a site near Beecher, Illinois, Edgewater applied in February 2015 for a construction permit to move the station toward Chicago. This first application was granted in March 2015, and Edgewater filed a license application to cover the construction permit in January 2016, which was granted in February. After operating at that site for about a year, Edgewater filed the second minor modification application, proposing a coverage area extending further toward Chicago. That application was granted in May 2017 and the application for a license to cover the permit was submitted on July 17. The next day, Edgewater filed the third application for a minor modification. After operating at the second site for about a month, on August 25, 2017, Edgewater requested a license to cover the third construction permit. Four months later, in December 2017, Edgewater filed the fourth modification application, which was the subject of this Letter Decision. None of the earlier applications had been opposed.

The determination of whether a party has abused the Commission's processes turns on the motivation for the suspect conduct. To help decipher an applicant's motives in cases involving serial applications, the Bureau has developed criteria for building an evidentiary record.

The first criterion concerns the quality and permanence of the station construction. The Bureau had found abusive

conduct in its 2011 ruling in *Broadcast Towers* where the applicant's allegedly constructed facilities in the Florida Keys were temporary, both physically (telescoping antennas transported by vehicle at a roadside site, powered with a portable generator) and legally (without reasonable assurance of site availability). The applicant dismantled these facilities in each case immediately upon filing the application for a license to cover. By contrast, in this case, the Bureau could find no evidence that Edgewater's facilities were incapable technically or legally of long-term operation. A key indicator of non-temporary construction is long-term operation. Edgewater operated the station at the first and third sites for more than a year. Durable construction was also indicated by the fact that the facilities at the second and third sites were mounted on existing communications towers owned by third-parties.

The second criterion listed by the Bureau is the duration of the operation. The Bureau has found that operation at a site for less than a year may be an indicator of temporary construction. The Bureau has observed that long periods of silence (whether authorized or not) can also be evidence that the site is merely interim. As noted above, Edgewater operated from each of the first and third sites for periods longer than a year.

If an applicant must relocate the station for reasons beyond its control, such as the loss of use of a tower or because of interference, an issue about abuse of process is not triggered. This criterion was not a factor in this case as Edgewater's moves were not undertaken to address issues beyond its control.

The last criterion concerns the pattern of the relocation moves. The purpose of the overlap requirement in the major change rule is to prevent a station from abandoning its service area. In this case Edgewater moved the station from a sparsely populated area into the heart of a major metropolis where the operation would presumably be more lucrative. The Bureau acknowledged that this factor weighed in favor of an abuse-of-process finding.

The Bureau concluded that the record evidence in this case, taken as a whole, does not support a finding that Edgewater deliberately and abusively attempted to evade the major change rule. Critical to this finding were the facts that (1) none of the intermediate facilities were constructed in a temporary manner, and (2) the station was operated at two of the interim locations for longer than a year. The Bureau added the cautionary note however that it would continue to monitor the actions of Edgewater and other translator licensees to ensure that they do not abuse the Commission's processes.

SOH has filed a Petition for Reconsideration of this decision by the Media Bureau, which remains pending.

**DEADLINE TO FILE CABLE COPYRIGHT
ROYALTY CLAIMS WITH COPYRIGHT ROYALTY
BOARD FOR DISTANT SIGNAL CARRIAGE**

JULY 31, 2019

**FILING DEADLINES RELATED TO
NATIONWIDE EAS TEST**

**ETRS Form Two
ETRS Form Three**

**August 7, 2019
September 23, 2019**



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

July 1 & 16, 2019	Radio stations in the District of Columbia, Maryland, Virginia and West Virginia broadcast post-filing announcements regarding license renewal applications.	August 1, 2019	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in California, Illinois, North Carolina, South Carolina and Wisconsin .
July 1 & 16, 2019	Radio stations in North Carolina and South Carolina broadcast pre-filing announcements regarding license renewal applications.	August 1, 2019	Deadline for all broadcast licensees and permittees of stations in California, Illinois, North Carolina, South Carolina and Wisconsin to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).
July 10, 2019	Deadline to place Issues/Programs List for previous quarter in Public Inspection File for all full service radio and television stations and Class A TV stations.		
July 10, 2019	Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.		
July 10, 2019	Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack (waived for stations in Phase 5).	August 1 & 16, 2019	Radio stations in the District of Columbia, Maryland, North Carolina, South Carolina, Virginia and West Virginia broadcast post-filing announcements regarding license renewal applications.
July 10, 2019	Deadline for noncommercial stations to place quarterly report regarding third-party fundraising in Public Inspection File.	August 1 & 16, 2019	Radio stations in Florida, Puerto Rico and the Virgin Islands broadcast pre-filing announcements regarding license renewal applications.
August 1, 2019	Deadline to file license renewal applications for radio stations in North Carolina and South Carolina .		

Paperwork Reduction Act Proceedings

The FCC is required under the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
Website for FAA frequency coordinate requests, webfcr.faa.gov	July 26
Wireless license application, Form 602	July 29
TV Broadcast Relocation Reimbursement Fund Form, Form 2100, Schedule 399	July 29
Satellite communications, Part 25	Aug. 6

Cut-Off Date for Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change each station's community of license. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **August 19, 2019**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Thatcher, AZ	Viriden, NM	KFMM	256	99.1
St. Petersburg Beach, FL	Palm River-Clair Mel, FL	WRXB(AM)	n/a	1590
Viriden, NM	Central Heights-Midl, AZ	KFMR	247	97.3



DEADLINES TO WATCH



Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

(All proceedings are before the FCC unless otherwise noted.)

Docket 19-167; Public Notice Leading Media Group Corp. and Grupo Multimedios Estrella de Oro S.A. de C.V. Petition for Declaratory Ruling to permit up to 100% foreign ownership	July 22	Aug. 6
Docket 07-42; 2d FNPRM Leased commercial access	July 22	Aug. 5
Docket 19-159; Public Notice Petition for Declaratory Ruling re DMA modifications and reciprocal retransmission consent	July 22	Aug. 12
Docket 11-154; Public Notice Waiver of IP closed captioning requirement for Pluto TV	July 26	Aug. 9
Docket 11-43; Public Notice Waiver of video description requirements for USA Network		July 26
Docket 19-194; Public Notice Hemisphere Media Group, Inc. Petition for Declaratory Ruling to permit 100% foreign ownership	Aug. 9	Aug. 26
Antitrust Division, U.S. Department of Justice Review of ASCAP and BMI Consent Decrees	Aug. 9	
Docket 19-197; Public Notice Transfer of control of Cox Radio, Inc. to Terrier Media Buyer, Inc.	Aug. 12 (Petitions to Deny)	Aug. 22 (Oppositions)
Docket 19-196; Public Notice Terrier Media Buyer, Inc. Petition for Declaratory Ruling to permit 100% foreign ownership	Aug. 12	Aug. 27
Docket 19-140; NPRM Aviation Radio Service	Sep. 3	Sep. 30
Docket 19-177; NPRM EEO compliance and enforcement	FR+30	FR+45
Docket 17-317; FNPRM Must-carry notifications	FR+30	FR+45
Docket 19-165; NPRM Electronic delivery of MVPD notices to television stations	FR+30	FR+45
Docket 18-202; FNPRM Kidvid rules	FR+30	FR+60

FR+N means the filing deadline is N days after publication notice of the proceeding in the Federal Register.

Cut-Off Date for Noncommercial FM Application

The FCC has accepted for filing the application for a new noncommercial FM station identified below. Petitions to deny must be filed by the deadline shown. Informal objections may be filed anytime prior to grant of the application.

COMMUNITY	CHANNEL	MHZ	APPLICANT	FILING DEADLINE
Selawik, AK	269	101.7	Nome Seventh-day Adventist Church	Aug. 9

Kidvid Rules Modernized continued from page 1

(2) it is broadcast between the hours of 7:00 a.m. and 10:00 p.m.;

(3) it is a regularly scheduled weekly program;

(4) it is at least 30 minutes in length;

(5) it is identified with an “E/I” symbol;

(6) instructions for listing the program as educational/informational, including an indication of the age-group for which it is intended, are provided to publishers of program guides;

(7) the educational and informational objective and the target child audience are stated in the station’s Children’s Television Programming Report.

The FCC’s Media Bureau employed two categories of processing guidelines to measure CTA compliance during the review of license renewal applications. Category A featured a safe harbor processing guideline under which a station broadcasts at least three hours per week of Core Programming (averaged over six months).

Under Category B, stations that did not meet the three-hour-per-week Category A processing guideline could demonstrate that they have aired some other package of programming that is at least equivalent to the Category A regimen.

If by following the Category A or B processing guidelines, the Media Bureau staff could not determine that a renewal applicant had met the minimum CTA requirements, the application was referred to the full Commission. The applicant then had to demonstrate CTA compliance by relying on non-broadcast activities and/or sponsorship of children’s programming on another station.

The Commission observes that the children’s television programming marketplace has undergone dramatic transformation since enactment of the CTA in 1990. Digital broadcast multicasting, cable networks and the Internet have presented families with an abundance of new sources for children’s programming. The FCC found that, as with American television audiences in general, children’s viewing has become less appointment oriented, less linear, and more diffuse across multiple sources of video content, many of which are not subject to broadcast television regulations. While this trend may justify a certain amount of deregulation of children’s television broadcasting, the Commission acknowledges that many children, especially in low-income households, still rely on traditional over-the-air television. Consequently, the Commission says that the rule changes adopted in this proceeding are intended to strike a balance between the agency’s interest in modernizing its regulations and the reality that over-the-air broadcast television continues to play an important role in the lives of many children.

Under the new rules, some of the parameters of Core Programming are changed. One of these concerns scheduling. The time frame for airing Core Programming is expanded to begin an hour earlier, at 6:00 a.m., and continue until 10:00 p.m. The Commission found that the record demonstrated that a significant percentage of children now watch television before 7:00 a.m. The addition of seven more hours per week in which to schedule Core Programming gives stations more flexibility and may result in fewer preemptions.

Stations are given the flexibility to air some children’s programming that is not regularly scheduled every week. Under the new Category A of the safe harbor processing guidelines, a station can now show rule compliance by airing either (1) three hours per week of regularly scheduled Core Programming (averaged over six months) (the current criterion), or (2) a total of 156 hours of Core Programming annually, including a minimum of 26 hours per quarter of regularly scheduled weekly programs and up to 52 hours annually of Core Programs that are not regularly scheduled on a weekly basis. All Category A programs must be at least 30 minutes in length.

In the alternative, under the Category B processing guidelines, a station can demonstrate compliance by airing 156 hours per year of Core Programming, only 26 hours per quarter of which would have to be regularly scheduled weekly programs of at least 30 minutes in length. The remaining time for the year, up to 52 hours, can be filled with programming that is not regularly scheduled on a weekly basis, and may include short-form material of less than 30 minutes in length. Appropriate PSAs and interstitials can even be counted to meet this quota. The Commission believes that deleting the straitjacket of regularly scheduled weekly programs of 30 minutes or more will remove a disincentive for stations to schedule appropriate content that may not lend itself to multiple weekly installments and/or the 30-minute format.

The Commission has eliminated the element of the processing guidelines under which a station was subject to incremental increases in Core Programming obligations for every 28 hours per week that it aired on multicast channels. On the other hand, under the new rules, any station seeking to comply with either the Category A or Category B processing guidelines may opt to place up to 13 hours per quarter of regularly scheduled weekly programming on a multicast channel. All Core Programming that is not regularly scheduled weekly must appear on the primary program stream. There is no requirement about the status of cable or satellite carriage of the multicast channel.

If a regularly scheduled weekly Core Program is preempted for any reason other than to cover breaking news, under the old rules, it must be rescheduled if the station is to continue to count it for the processing guidelines. The program had to be rescheduled in a previously-selected time slot, or “second home,” with appropriate on-air notice. Under the new rules, a station that preempts an episode of a regularly scheduled weekly program on its primary stream may reschedule the episode on its primary stream at any time during Core Programming hours within seven days before or after the originally scheduled time, with appropriate on-air notices. A preemption on a multicast channel would trigger the same procedure, with the rescheduled program airing on the same multicast channel.

Core Programming preempted by breaking news did not have to be rescheduled under the old rules. The Commission has now enlarged this exemption to include preemptions for non-regularly scheduled live programming. This might include,

continued on page 7

FCC To Review EEO Enforcement and Compliance continued from page 1

practices. Each employment unit is required to implement and document a recruitment plan to reach out to sources of applicants for each full-time vacancy that, in its reasonable good faith judgment, are sufficient to widely disseminate information about the job opening. Broadcasters must undertake specific EEO recruiting initiatives and maintain records to show compliance with these initiatives. The FCC conducts random audits of the EEO practices of approximately five percent of all broadcast stations each year.

Among the suggestions offered by commenters in the previous proceeding was a proposal to transfer the Commission's EEO staff from the Media Bureau to the Enforcement Bureau. That transfer has now been completed.

Commenters also suggested that the FCC evaluate its audit program to ensure that the agency's staff can verify that hiring decisions are made after job openings are posted, and not beforehand. They urged that the audit should be designed to uncover discrimination at the points of recruitment, interviewing, and selection. The

Commission asks for input on this topic. Is it necessary to modify the audit program? If so, what changes are needed? Commenters proposing modifications to the existing audit program should provide data and/or studies to demonstrate that their proposals would further the Commission's goal of nondiscrimination in employment, provide suggestions for overcoming implementation difficulties, and compare the relative costs and benefits of such proposals.

More generally, the Commission requests public comment on improvements that could be implemented with respect to any aspect of its EEO enforcement and compliance activities. Are there other initiatives that the Commission should undertake to ensure that its rules effectively deter discrimination?

Comments in Docket 19-177 will be due 30 days after notice of this proceeding is published in the Federal Register. The deadline for reply comments will be 45 days after that publication.

Kidvid Rules Modernized continued from page 6

but is not limited to, coverage of an elected official swearing-in, public affairs specials, live coverage of a local parade, or live coverage of a local sports team's championship game. This programming must be produced locally by the station.

Noncommercial stations will not be required to show the "E/I" symbol on the screen to designate Core Programming. However, this requirement will continue to apply to commercial stations. Broadcasters will continue to be required to provide program guide publishers with information identifying their educational and informational children's programming. However, this information no longer needs to include the intended age-group of the program's target audience.

Under the old rules, each station was obligated to file a quarterly Children's Television Programming Report detailing the children's programming that the station broadcast during the preceding quarter. The Commission now states that "[I]t does not appear that requiring broadcasters to file these reports on a quarterly basis serves any useful purpose today." Now stations will submit an annual report instead. The report form will no longer request descriptions of the educational and informational purpose of each Core Program. Quarterly certifications by commercial stations about the amount of time devoted to commercial advertisements during children's programming will be replaced by an annual filing.

The new rules will become effective 30 days after publication in the Federal Register, except for information gathering requirements that need approval by the Office of Management and Budget. If a station opts to switch from the old safe harbor guideline of three hours per week of Core Programming to one of the new annual processing guidelines for the remainder of 2019 after the effective date of the new rules, the Commission will apply the old and new guidelines

on a pro-rated basis. In the next television license renewal cycle, stations' performance that pre-dates the effective date for the new rules will be evaluated on the basis of the old rules. Post-effective-date performance will be evaluated on the basis of the new rules.

In the *Further Notice of Proposed Rulemaking* coupled with the *Report and Order*, the Commission considers the creation of a framework under which a station could satisfy some portion of its children's programming obligations by relying on special efforts to produce or support Core Programming broadcast on another station or stations in the same market. The agency invites public comment on the three elements that it has tentatively concluded should be in the framework. These elements include:

- (1) sponsorship of programming that airs on a noncommercial station in the same market;
- (2) a benchmark for how much funding a sponsoring station would be required to provide based on the size or circumstances of the sponsoring station;
- (3) a requirement that the sponsorship results in the creation of new Core Programming or expanded hours of existing Core Programming.

The Commission observes that the CTA states that special sponsorship efforts may be considered in addition to evaluating the station's own broadcast of children's programming. The agency concludes that a sponsoring station would need to broadcast some amount of Core Programming on its own air in addition to sponsoring programming on another station.

Comments will be due 30 days after publication of notice of this proceeding in the Federal Register. The deadline for reply comments will be 60 days after that publication.

July 31 Is Deadline To File Cable Copyright Claims

The deadline for television stations to file claims with the Copyright Royalty Board (“CRB”) for royalties owed for the distant retransmission in 2018 of their copyrighted programming is July 31. A station is eligible to submit a claim if it produced and broadcast any of its own programming on a signal that was carried by a cable system as a “distant” signal. A distant signal is one that is carried by a cable system in a community outside the station’s designated market area where the station is not significantly viewed.

The Copyright Act permits cable systems to retransmit

distant signals under a compulsory license, for which the system must pay royalties into a fund administered by the Copyright Royalty Board. Some \$200 million has accumulated in that fund for retransmissions during 2018. Each year the Board considers requests from claimants to distribute these funds to the copyright holders – but only parties who file claims will be eligible to receive their share.

Stations seeking to submit a claim must first register with the Board’s eCRB system online at <https://app.crb.gov>. After the CRB staff accepts the registration, the claim can be filed.

Nationwide EAS Test Is August 7 continued from page 1

7. The post-test report on Form Three is due by September 23. ETRS instructions and access are available online at <https://www.fcc.gov/general/eas-test-reporting-system>.

Due to the limitations of the broadcast-only transmission, this test will be transmitted only in English and will not include full message text. Video participants are reminded that the visual portion of an EAS alert, whether crawl or block text, must be displayed (1) at the top of the screen or where it

will not interfere with other visual messages; (2) in a manner and style that is readily readable and understandable; (3) in a manner that does not have overlapping lines or text extending beyond the screen; and (4) in full at least once during the EAS message. The entire audio portion of the message must play at least once during the alert.

In the event that the test cannot be conducted on August 7, it will be rescheduled for August 21.

FCC Accepting Incubator Proposals continued from page 2

At the end of the incubation period, the incubated entity will have the option (1) to retain its controlling interest in the station without purchasing the incubating entity’s interest; (2) to purchase the incubating entity’s interest, if any; or (3) to sell its interest in the incubated station and use the proceeds to purchase a different full-service AM or FM station. In that event, the incubating entity is expected to assist in identifying target stations and obtaining financing, if necessary, for the purchase.

Upon the successful completion of the incubation period, the incubating entity will be rewarded with a rebuttable presumption that the public interest would be served by granting it a waiver of the radio multiple ownership cap (including the AM/FM subcap) so that it could acquire one additional station in the market where the incubation occurred or in a comparable market. To receive the reward waiver, the incubating entity must certify (1) that it complied in good faith with its incubation agreement, as approved by the Media Bureau, and the requirements of the incubator program, and (2) that the incubated entity holds a controlling interest in the incubated station or a newly acquired full-service AM or FM station, or if the incubated station was a struggling station, that the incubation relationship

has resolved the station’s financial and/or operational difficulties.

The incubating entity will have three years in which to request the reward waiver. An incubating entity will be limited to not more than one incubator relationship at a time in any given market, and it will be limited to only one waiver in any market. A reward waiver will be assignable to the purchaser of the intact station cluster with which it was associated when issued.

Although the Commission is proceeding to accept proposals, the incubator program is still under judicial review. The National Association of Black Owned Broadcasters and the Multicultural Media, Telecom and Internet Council appealed the FCC’s decision to adopt the incubator program to the Third Circuit U.S. Court of Appeals, sitting in Philadelphia. They object primarily to provisions about the reward waivers which they assert will serve to allow greater concentration of radio station ownership by large broadcast companies that already dominate their markets.

The Media Bureau has released a “Small Entity Compliance Guide” (DA 19-254) to provide guidance for parties seeking to participate in the program.

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