July 2025

Antenna™

An update on broadcasting law & issues from Donald E. Martin

Court Vacates Top-Four TV Station Ownership Prohibition

Radio Ownership Rules Unchanged

The United States Court of Appeals for the Eighth Circuit, sitting in St. Louis, has vacated that element of the FCC's local television ownership regulations in Section 73.3555 of its Rules that prohibits one owner from having an interest in more than one of the top four TV stations in the market. However, it delayed the issuance of its mandate for 90 days. The proceeding was remanded back to the FCC for the Commission to use that 90-day period to determine if there is any basis in the record of the underlying rulemaking proceeding to "modify, accelerate, or postpone the mandate." Failing that, the mandate will become effective upon the expiration of the 90-day period.

In this decision, the Court of Appeals ruled on numerous petitions filed by broadcast interests and public interest

continued on page 5

Hijacked Video Screen Provides Grist for Expensive Consent Decree

The FCC's Enforcement Bureau and television station group owner TEGNA, Inc., have entered into a *Consent Decree* (DA 25-573) to resolve an investigation into whether station KREM, Spokane, Washington, owned by TEGNA subsidiary King Broadcasting Company, broadcast obscene or indecent material. In return for the FCC's termination of the inquiry, TEGNA agreed to implement a three-year compliance plan and to make a voluntary contribution to the United States Treasury of $222,500.

The Commission received a complaint alleging that during a weather report aired by KREM during the 6 p.m. news on October 17, 2021, a pornographic video was seen on a television monitor visible to the broadcast audience behind the weatherperson. Upon inquiry from the Commission's Enforcement Bureau, TEGNA confirmed that the incident

continued on page 7

New Comments Solicited in TV Cap Proceeding

The FCC's Media Bureau has released a Public Notice (DA 25-530) to invite further comment in Docket 17-318, a rulemaking proceeding about the National Television Multiple Ownership Rule. In December 2017, the Commission adopted a *Notice of Proposed Rulemaking* (FCC 17-169) ("NPRM") to consider whether the limitations on television multiple ownership should be retained, modified, or eliminated. The comment period ended in due course, but the Commission never took any further action. The Bureau now looks to "refresh" the record in this proceeding, seeking input about the current state of the television industry.

The FCC's rules presently limit entities from owning or controlling television stations that, in the aggregate, reach more than 39 percent of the television audience households in the United States. A relic from the time when UHF stations were considered to provide inferior service is a component of the rule that allows for counting only 50 percent of the households in the coverage of a UHF station, often called the "UHF discount."

continued on page 6

IN THIS ISSUE

For more information about or help with any of the items reported in ***Antenna***™ please contact:

Donald E. Martin, P.C.
P.O. Box 8433
Falls Church, Virginia 22041
Tel: (703) 642-2344
Fax: (703) 940-0473
E-mail: dempc@prodigy.net

Consent Decree Reduces Jumbo Fine

The FCC's Enforcement and Media Bureaus have jointly entered into a *Consent Decree* (DA 25-560) with Sinclair Broadcast Group, LLC, to settle an ongoing enforcement proceeding, which primarily concerned violations by Sinclair television stations of the FCC's restrictions on commercial advertising during children's television programming. The Bureaus have agreed, among other things, to accept a voluntary contribution to the U.S. Treasury of $500,000 in place of the $2,652,000 forfeiture that had been imposed by the Commission in a 2024 *Forfeiture Order* (FCC 24-88) after processing a *Notice of Apparent Liability for Forfeiture* (FCC 22-70) in 2022. Sinclair filed a Petition for Reconsideration of the *Forfeiture Order*. To resolve the ongoing litigation about the fine and the rule violations, Sinclair agreed to implement a two-year compliance plan as well as to make the contribution. The primary rule violation at issue concerned excessive commercial advertising during children's television programming at numerous stations owned by Sinclair. The rule violations were self-reported by Sinclair in the course of filing license renewal applications for the stations. The processing of those applications was on hold pending the outcome of this proceeding. As an element of this settlement, the Bureaus have also agreed to grant those license renewal applications upon resolution of the proceeding.

Section 73.670 of the FCC's Rules limits the amount of commercial matter that may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial, (*i.e.*, the entire program would be counted as commercial time). In order to verify compliance with these Rules, commercial full power and Class A TV stations are required to file an annual Commercial Limits Certification. As part of a station's license renewal application, a licensee must certify that the station has complied with these limits on commercial matter in children's programming and with Commission's commercial limit policies related to host-selling and program-length commercials.

In 2020, Sinclair began informing the Commission in its license renewal applications about repeated violations of the children's programming commercial rules. It responded "No" to the question in the application form entitled Children's Programming Commercial Limitations, indicating that during the previous license term, the station failed to fully comply with the commercial limits on children's television programming specified in section 73.670 of the rules, and the Commission's commercial limit policies related to host-selling and program-length commercials. The renewal applicants explained that a commercial for Hot Wheels Super Ultimate Garage was inadvertently aired on 11 occasions during eight 30-minute episodes of Team Hot Wheels between November 10, 2018, and December 16, 2018, and that the commercial was removed from the program as soon as the violation was realized. Because the commercial and the program in which it appeared featured the same theme, the entire program was considered a program-length commercial. The entire program therefore counted against the amount of time that could permissibly feature advertising during children's programming, causing the station to exceed the hourly commercial limit. The program had been provided by the Sinclair television group to its stations subject to this proceeding and syndicated to numerous others.

Section 1.80 of the Commission's Rules specifies $8,000 as the base amount of the forfeiture for violating Section 73.670. In this case, the Commission determined in the *Notice of Apparent Liability* and confirmed in the *Forfeiture Order*, that upward adjustments of the amount of the forfeiture for each station were supported by multiple factors, including (1) the number of instances of commercial overage; (2) the length of each overage; (3) the period of time over which the overages occurred; (4) whether the licensee established an effective program to ensure compliance; and (5) the specific reasons that the licensee gave for the overage. The forfeiture proposed for each Sinclair station was adjusted upward to $32,000, taking into account that Sinclair had been fined or admonished previously 11 times for violations of the program-length commercial rule. The Commission also found it aggravating that this violation would be committed by a large and experienced broadcast organization where over the course of a month, not a single employee noticed the violation. Furthermore, the national footprint of Sinclair's stations meant that the impact of its error on the child audience was substantial. The total fine in this matter came to $2,652,000.

In neither the *Consent Decree* nor in the accompanying *Order*, does the Commission explain its rationale for the settlement, or what line of reasoning supported the reduction of a multimillion-dollar non-deductible fine to a $500,000 tax-deductible voluntary contribution. The Commission does not explicitly address any argument that Sinclair may have offered in its Petition for Reconsideration. There is an apparent change in the Commission's stance about the facts of the case. For example, in the *Notice of Apparent Liability*, the Commission said that an aggravating factor favoring upward adjustment of the fine was the fact that an experienced broadcast operator had allowed the violation to continue for over a month without notice. On the other hand, in the *Consent Decree*, the Commission observes that the "commercial was pulled by Sinclair . . . immediately after discovery by Sinclair." It may be noteworthy that between the release of the *Forfeiture Order* and the adoption of the *Consent Decree*, the federal government administration changed and there was new leadership at the FCC. In any event, the Media Bureau found that the Sinclair stations had served the public interest, convenience, and necessity during the last license term and that license renewal was warranted.

FCC Issues Guidance on Regulatory Criminality

President Trump has issued *Executive Order* No. 14294 (90 Fed.Reg. 20363), entitled "Fighting Overcriminalization in Federal Regulations." Under this *Order*, every federal agency is directed to publish guidance describing its plan to address criminally liable regulatory offences. The FCC has released a Public Notice (DA 25-251) to announce that its guidance statement has been published in the Federal Register.

The President opined that "the United States is drastically overregulated." With over 48,000 sections, amounting to over 175,000 pages, the President observed that the Code of Federal Regulations is longer than any citizen can read, or fully understand. The FCC's rules and regulations constitute Part 47 of the Code.

The President expressed concern that federal regulations provide for many criminal penalties that neither ordinary citizens nor enforcement officials may know about. Nonetheless, many such crimes are "strict liability" offenses, meaning that a person need not have a criminal intent to commit a crime, nor even knowledge of the criminal regulation, in order to be convicted. The President said this was "absurd and unjust." With respect to regulations with a potential for criminal liability, he directed federal agencies in the future to include in all notices of proposed rulemaking and all final rules a statement that violation of the rule is a crime, and the "mens rea" standard, i.e. the standard for determining whether a violator knowingly intended to commit a criminal act.

Within the next year, each federal agency is to provide to the Director of the Office of Management and Budget a report listing all criminal regulatory offenses enforceable by the agency or the Department of Justice and the range of possible criminal penalties for violations of those regulations, along with the applicable mens rea standard.

In the meanwhile, each federal agency was directed to publish within 45 days a statement of guidance describing its plan to address criminally liable regulatory offences under rules currently in effect. The FCC has complied with this directive with the publication of its statement in the Federal Register. The Commission set out its general policy about deciding whether to refer alleged violations of criminal regulatory offenses to the Department of Justice for criminal prosecution. In making such referrals, FCC staff should consider, among other things, the following factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the regulation at issue; and
- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of the conduct in question as well as the defendant's knowledge or lack of knowledge of the regulation at issue.

The policy statement concluded with the cautionary note that it is not intended to create any right or benefit enforceable by any party against the United States, or any government agencies, officers, employees, or agents.

FM Allotments Reinstated

The FCC's Media Bureau has released an *Order* (DA 25-588) to reinstate the FM allotments listed here in the Table of FM Allotments. These allotments were previously occupied by authorizations that have expired or applications that were not granted. These allotments are now considered to be vacant and will be available for new applications in future FM auctions.

COMMUNITY	CHANNEL
Crosbyton, TX	264C3
Encinal, TX	295A
Junction, TX	263A
Junction, TX	297C3
Knox City, TX	297A
Sanderson, TX	286A
Turkey, TX	244A
Wells, TX	234C2

FM Booster Origination Rule Now in Effect

In November 2024, the FCC adopted new regulatory provisions to permit FM booster stations to originate programming, particularly Sections 74.1201(f) and 74.1206 of its Rules. With the completion of review by the Office of Management and Budget of the new form for the station's owner to file when launching this service, the rule became effective on July 25. FM booster stations may now originate content apart from the programming of their parent station. Booster stations are limited to originating no more than three unaggregated minutes of airtime per hour.

No application is required, but the station licensee must file a FM Booster Program Origination Notification with the FCC prior to such broadcasts on Form 2100, Schedule 336. The notice must be filed at least 15 days prior to commencing program origination, and within 30 days of terminating such operations. If the parent station is monitored by others as part of the daisy chain for disseminating messages of the Emergency Alert System, the licensee must notify the appropriate State Emergency Communications Committee at least 30 days in advance of commencing origination.

DEADLINES TO WATCH

License Renewal, FCC Reports & Public Inspection Files

July 10	Deadline to place quarterly Issues and Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.
July 10	Deadline for noncommercial stations to place quarterly report regarding third-party fundraising in Public Inspection File.
July 10	Deadline for Class A TV stations to place certification of continuing eligibility for Class A status in Public Inspection File.
August 1	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.**
August 1	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).
August 1	Mid-Term EEO review begins for certain radio stations in **California**, and certain television stations in **Illinois** and **Wisconsin**.

Deadlines for Comments in FCC and Other Proceedings

DOCKET	COMMENTS	REPLY COMMENTS
(All proceedings are before the FCC unless otherwise noted.)		
Docket 17-318; Public Notice (DA 25-530) Television multiple ownership cap	Aug. 4	Aug. 24
Docket 25-200; Public Notice (DA 25-526) iHeartMedia, Inc. petition for declaratory ruling re foreign ownership		Aug. 4
Docket 25-166; NPRM (FCC 25-28) Transparency in foreign adversary ownership		Aug. 19
Docket 25-149; NPRM (FCC 25-26) Foreign ownership policies		Aug. 22

Proposed Amendments to the Television Table of Allotments

The FCC is considering petitions to amend the digital television Table of Allotments by changing the channels allotted to the communities identified below. The deadlines for submitting comments and reply comments are shown.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Jacksonville, OR	New	*4	*24	FR+30	FR+45

FR+N means the deadline for submitting comments is N days after publication of notice of the proceeding in the Federal Register.
** Indicates the channel is reserved exclusively for noncommercial broadcasting.*

Paperwork Reduction Act Proceedings

The FCC is required by 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
Children's Television Programming Reports, Form 2100, Schedule H	Aug. 13
Alternative Broadcast Inspection Program	Aug. 15
Radio astronomy coordination zone, Section 73.1030(a)(2)	Aug. 18
Channel sharing notice for MVPDs, Section 73.3800	Sep. 22
AM broadcast license application, Form 302-AM	Sep. 23

groups seeking review of the FCC's *Report and Order* (FCC 23-117) in the 2018 Quadrennial Regulatory Review. Under Section 202(h) of the Telecommunications Act of 1996, the Commission is required every four years to review its media ownership regulations to determine whether they are still necessary in the public interest as the result of competition.

The Commission historically has considered the relevant broadcast market to be free over-the-air radio and television, within which it must evaluate competition. Broadcasters have argued for a number of years before the FCC, and now in this appellate proceeding, that the FCC has failed to take into account that both broadcast radio and broadcast television face increasing competition for audiences from nonbroadcast electronic media, such as streaming services. They have contended that reducing the restrictions on multiple ownership regulations is necessary to keep broadcast media competitive. Broadcasters argued that to find otherwise is arbitrary and capricious.

The court acknowledges that competition is pervasive. It opines however that the focus should not be on competition per se. Rather, the regulator's task is to determine where to draw the protective line appropriately at some point along a continuum of degrees of competition. "Line-drawing" is the agency's responsibility. The court would overstep its authority if it attempted to divest the FCC of this discretion. The court also observes that the statute says that the FCC's working definition of "competition" should be read through the lens of the "public interest" standard. The Commission has discretion to determine what the public interest is. Under the broad regulatory authority that Congress has given the FCC, the court is content to let the Commission implement its view of the public-interest standard of the Communications Act, as long as that view is based on consideration of permissible factors and is otherwise reasonable.

The court found that the fact that free over-the-air broadcasting is part of a broader entertainment market does not mean it cannot also form a well-defined submarket, within which the FCC should address competition. The availability of broadcast signals without the need for further connectivity or fees makes it a logical separate market. The court said that the Commission had considered relevant factors and articulated a rational connection between facts found and the choice made. The FCC's choice to exclude streaming and other nonbroadcast sources of content from its competition analysis was neither arbitrary nor capricious.

The petitioners challenged the FCC's local radio ownership rule, which limits the number of stations an entity may own in a market, and the number which may be AM or FM. They again argued that the Commission's rules were arbitrary and capricious. The number of stations permitted for one owner slides on a scale, increasing with the size of the market. The petitioners complained that the Commission did not explain why eight stations is the appropriate maximum for one owner in both Chicago (with over 130 stations) and Kansas City (with 45 stations). The court said that the Commission was not required to explain its reasoning for every possible alternative formula. Furthermore, the court proffered that drawing the lines between different market sizes and different total caps is exactly the kind of line-drawing by an administrative agency to which the courts must be the most deferential – even where the line-drawing may not be perfect.

Likewise, the FCC was entitled to set the AM and FM subcaps upon a reasonable basis. The Commission justified them as necessary to prevent excessive common ownership of either AM or FM stations in a local market. The agency said that relaxing the FM subcaps could cause AM stations to migrate to the FM band, resulting in a diminished AM band. Loosening the AM subcaps could lead to excessive concentration within the AM band. The court said this was a predictive agency judgment for which judicial deference is especially important. The specific numbers of the subcaps is a matter of line-drawing, for which the Commission has the most relevant expertise.

Petitioners also challenged four aspects of the local television ownership rule: (1) the two-station limit, which precludes an owner from owning more than two stations in a market; (2) the top-four prohibition, which prohibits an owner from holding more than one of the top-four stations in a market; (3) the revised methodology to determine ratings for purposes of the top-four prohibition that includes multistream audiences; and (4) and extending the top-four prohibition to multicast and low power television broadcasts.

The petitioners attacked the two-station limit as arbitrary and argued that the FCC had failed to explain why the limit should be two stations as opposed to any other number. However, the Commission had explained that while loosening the rule might allow for operational efficiencies, consolidation would mean the loss of an independent station operator, to the detriment of competition, localism, and viewpoint diversity. Whether two stations is the right number, is again a matter of the FCC drawing the line – to which the court should defer.

The court found that the FCC had failed to coherently explain the rationale for the top-four restriction, and that the evidence did not support it. Over the years, justification for this restriction has varied. First, the Commission had determined that the top-four-ranked stations in each market generally have a local newscast, whereas lower-ranked station often do not have significant local news programming. Later, the focus shifted to justifying the rule on the "cushion" of audience share that separates the top-four stations in a market from the fifth-ranked station. Later, the FCC adopted the rationale that the top-four stations are usually affiliated with the four major television networks that tend to offer the most highly rated programming. These factors led the Commission to assert that a top-four combination would result in a single entity obtaining a significantly larger market share than other entities in the market.

continued on page 6

Court Vacates Top-Four TV Station Ownership Prohibition *continued from page 5*

The court disagreed with the FCC's assertions. The record showed that in many markets, a combination of third- and fourth-ranked stations, or even of second- and third-ranked stations would not produce joint market share exceeding the first-ranked station. The court found that there was no evidence in the record to support the Commission's finding that the top-four stations are each affiliated with one of the top four major networks or that the top-four stations are the most likely to produce more local programming. Finally, the court said that the FCC's reliance on a cushion in ratings between the top-four stations and the other stations in the market was misplaced. It was more likely that the largest audience gaps occurred among the top four stations rather than between them and the fifth-ranked station. The court concluded that in the absence of record evidence supporting reasons to keep the rule, the Commission acted arbitrarily and capriciously in retaining it. The court vacated this rule, but delayed issuing the mandate for 90 days to give the FCC an opportunity to address the shortcomings in its arguments.

Intervenors in the proceeding argued that the Commission's determination to include the audience for multicast channels in calculating a station's ranking in the market was arbitrary and capricious because it is inconsistent with a provision in Note 11 to Section 73.3555. On one hand, the multicast audience is counted toward a station's ranking. On the other hand, a multicast channel carrying a major network is treated like a separate station. The court rejected this argument on the grounds that any and all audience for a station's signal, whether main channel or multicast, should be counted for the purpose of determining rank.

The Commission adopted Note 11 as one of several notes to help interpret the rule. It states that the top-four prohibition applies not only to acquiring a station, but also to transactions in which one licensee acquires the network affiliation of another station. The FCC adopted this restriction to prevent circumvention of the top-four prohibition by placing acquired network programming on a multicast stream or a low power TV station. This represented a tightening of restrictions in that the Commission formerly held that low power stations and multicast streams were not relevant to the local television ownership rules. The court vacated this anti-circumvention provision on the grounds that it represented a tightening rather than a loosening of the local ownership regulations. The statute requiring the quadrennial review directs the Commission to review its ownership regulations to determine whether they are still necessary as the result of competition. The court understands this language to permit only relaxation of the rules. The Commission's action in tightening the rule was therefore not within its jurisdiction under Section 202(h) of the Telecommunications Act. The court acknowledged that the Commission might be able to adopt such a regulation in a different proceeding. However, the Quadrennial Review only directs the FCC to determine whether deregulation is necessary.

The decision is *Zimmer Radio of Mid-Missouri, Inc., et al. v. Federal Communications Commission*, 2025 U.S. App. LEXIS 18284.

New Comments Solicited in TV Cap Proceeding *continued from page 1*

First, the Bureau asks for comment on materials that have been filed in this docket since the formal close of the comment period in April 2018. The Bureau notes that interest in this topic has remained high as parties have continued to submit comments during the intervening time. Second, the Bureau seeks comment on new or additional current information relevant to this proceeding. Has the video marketplace changed since the beginning of this proceeding? The Bureau asks whether recent industry developments have altered the behavior or incentives of networks, local television affiliates, and other market participants in ways that are relevant to the national audience cap. In the NPRM, the Commission discussed economies of scale made possible by expansion of station ownership that might help broadcast television compete effectively with other video programming distributors. The Commission also considered that limiting the expansion of network owned and operated station groups would foster a balance between the major networks and their affiliates. The Bureau asks whether these tentative conclusions remain valid. The Bureau also wants to know whether, if the cap is retained, common ownership of stations unaffiliated with a major national network should be excluded from the cap, and whether the UHF discount should be discontinued.

Most importantly and succinctly, the Bureau asks whether the current relationships and business dealings between broadcast television and other video distributors support modification or elimination of the national audience reach cap.

Comments will be due to be filed August 4. The deadline for reply comments will be August 24.

Hijacked Video Screen Provides Grist for Expensive Consent Decree

continued from page 1

had occurred as alleged. However, it explained that an unknown party had gained control of the monitor without the knowledge or authorization of station personnel and had caused the pornographic content to be displayed on-air for approximately 13 seconds. The station promptly switched to a full-screen shot of weather graphics, thus eliminating the errant monitor from the on-air picture, and apologized to viewers during the next newscast.

An internal investigation led to the conclusion that the station did not create or produce the content in question, nor did that material ever pass through the station's normal production chain or process. The station determined that the material had been displayed on the monitor through the use of a screencasting feature built into the monitor, which allowed video to be transmitted directly to the monitor via a legacy local wireless network. Unlike the wireless network normally used by station staff, connecting to the legacy wireless network did not require users to provide a password or otherwise authenticate themselves using their station credentials. The station's IT staff was not aware that the legacy wireless network, which had been installed by a previous owner of the station, was not secure.

TEGNA says that it has not been able to identify who caused the material in question to be displayed on the monitor. In an effort to prevent future such incidents, on October 21, 2021, TEGNA's central management directed all of its stations to immediately disable all screencasting features and all wired or wireless network connectivity on all monitors located at station facilities. TEGNA reported that it had promptly caused KREM to secure and deactivate the legacy wireless network. The company also mandated the removal of wireless capabilities from all smart TVs and monitors. Further, TEGNA related that it now utilizes policies, software, training programs, and hardware solutions to protect and monitor station environments. It has adopted multifactor authentication on all critical systems, firewalls, intrusion detection and prevention systems, testing for vulnerability and penetration, and identity management systems. TEGNA says that it updates its policies and procedures as technology continues to advance.

The United States Code and the FCC's Rules prohibit or restrict the broadcast of obscene, indecent, or profane content. Despite TEGNA's claim that the brief 13-second pornographic incident was perpetrated by an unknown bad actor and that the company had no knowledge of or role in planning it, the FCC was intent on holding TEGNA responsible for this rule violation because it occurred on KREM's airwaves. Consequently, TEGNA chose to mitigate the damage that might result from a seriously detrimental ruling by the Commission and negotiate a settlement.

In addition to the monetary contribution, the settlement agreement calls for TEGNA to adopt a compliance plan within 60 days that includes the provisions described below. The three-year compliance plan is to cover, for the first 18 months, all employees at all of TEGNA's stations who materially perform, supervise, oversee, or manage the performance of duties that relate to the performance of the company's responsibilities under the indecency rules. During the last half of the compliance plan period, coverage will be limited to such employees at KREM.

- Operating procedures are to be established specifically designed to ensure that such a security breach does not happen again. TEGNA must develop a compliance checklist that describes specific steps that staff members must follow to ensure that all systems are secure.
- TEGNA is to develop a compliance manual to be distributed to all covered employees.
- The manual is intended to explain the indecency rules and set forth the required operating procedures for all covered employees to know and follow.
- TEGNA must implement a compliance training program for all covered personnel.

TEGNA is required to file compliance reports at intervals of four months, 18 months, 27 months, and 36 months after the effective date of *Consent Decree*, confirming that it has complied with all aspects of the agreement. In addition to those regular reports, TEGNA will be required to report to the FCC any security incident resulting in noncompliance with the indecency rule or noncompliance with the *Consent Decree* at any TEGNA station for the next 18 months, and specifically at KREM for the second following 18-month period.

Most recent consent decrees that have included a monetary element have specified the payment of a forfeiture (i.e., a fine). On the other hand, this *Consent Decree* calls for TEGNA to make a voluntary contribution to the United States Treasury. A voluntary contribution is tax-deductible, whereas a forfeiture is not. Furthermore, recasting a monetary pecuniary element of an enforcement action as a voluntary contribution would appear to inoculate it against attack on the grounds that the FCC's levying of fines without the benefit of a jury trial is unconstitutional.

ANTENNA™ is an information service about current events in communications law edited and published by Donald E. Martin. This publication is produced only to report on current events and factual matters in the field of communications law. Publication and dissemination of this material is not intended to constitute the practice of law or the rendering of legal advice. No attorney-client relationship shall be deemed to exist between the publisher or provider and any other party as a result of the publication, dissemination, distribution or other use of this material. The publisher attempts to ensure that the information reported is accurate, but no warranty, express or implied, is given as to the accuracy or completeness of any information or statement published herein. All material published herein is protected by copyright and all rights are reserved. © 2025 Donald E. Martin, P.C.