

FCC Adopts New Foreign Adversary Reporting Rules for Broadcasters

The FCC has adopted new rules requiring most broadcasters to report whether they are owned or controlled by a foreign adversary. The new requirements were adopted in a *Report and Order* (FCC 26-2) in Docket 25-166 and are part of a broader effort to increase transparency regarding foreign adversary involvement across the communications sector. These rules apply to a wide range holders of FCC authorizations -- including telecommunications, satellite, and equipment authorizations. This article addresses authorizations of most interest to broadcasters.

The FCC found that foreign adversary control of broadcast licensees presents unique risks, including potential interference with emergency alert systems, suppression of critical public safety information, and foreign influence over programming distributed to U.S. audiences. The Commission also cited risks to presidential and national emergency communications.

continued on page 6

Application Cap Proposed for NCE FM Translator Filing Window

The FCC has released a Public Notice in Docket 26-20 announcing that it will conduct a filing window for applications for new noncommercial FM translator stations later this year, and soliciting comment on a proposal to limit the number of applications that an applicant may submit. The Commission directed the Media Bureau to publish a subsequent public notice to announce the dates and additional procedures for the filing window.

The noncommercial translator stations to be requested in this filing window must operate in the noncommercial FM reserved band, between 88.1 and 91.9 MHz. Such stations will be restricted to rebroadcasting a noncommercial primary station, which may be a noncommercial FM, noncommercial AM, or low power FM station. Only licensees or permittees of such stations would be qualified

continued on page 7

FCC Clarifies 10-Day Deadline for Updating FRN Information

The FCC has quietly tightened its rules requiring parties to keep their FCC Registration Number ("FRN") information current—and recent confusion about potential fines has now been clarified. Under Section 1.8002 of the FCC's rules, any company or individual doing business with the Commission—including most principals of regulated entities—must obtain an FRN. To register, applicants provide their name, address, contact information, email address, and tax identification number. (Less information is required for Restricted Use and Special Use FRNs.)

Until recently, the rule required registrants to update changes to their FRN information merely promptly without being more specific. That ambiguity has now been removed. An amendment to Rule Section 1.8002(b), adopted in a *Report and Order* (FCC 24-135) in Docket 24-313 on December 31, 2024, requires FRN holders to update their registration information within 10 business days of any change. Although adopted at the end of 2024, the rule did not become effective

continued on page 9

IN THIS ISSUE

Foreign Ownership Petitions	2
PIRATE Act Enforcement	2
Political Programming and News Exemptions.....	3
DirecTV Antitrust Case Challenging Nexstar	3
El Paso Stations To Be Scrutinized in Hearing.....	3
Deadlines to Watch.....	4-5

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

FCC Codifies Procedures for Foreign Ownership Petitions

The FCC has adopted new regulations to clarify and codify policies and practices that it has followed in the past for resolving questions about foreign ownership of broadcast and other authorizations under Section 310(b)(4) of the Communications Act. This action took the form of a *Report and Order* (FCC 26-3) in Docket 25-149.

The law prohibits direct foreign ownership of any stake in a licensee greater than 20 percent. However, Section 310(b)(4) gives the FCC discretion to allow a greater degree of foreign ownership in the parent entity of a licensee. Any proposal for an ownership structure in the parent where more than 25 percent is held by foreign interests requires FCC review of that aspect of the proposal. The Commission is permitted to approve any percentage of foreign ownership in the parent unless the agency finds that the public interest would be served by rejecting the proposal. To initiate this review process, the applicant files a petition for a declaratory ruling.

Until now, many of the procedures for processing such petitions have been formulated in policy statements and on a case-by-case basis. In this action, the FCC transforms the process into formally adopted regulations. The Commission says that in doing so, it is streamlining regulatory compliance for broadcast, common carrier, and aeronautical radio licensees while maintaining safeguards that protect U.S. national security and public interests. The Commission states that the new rules are intended to deliver a “balanced approach” that accelerates beneficial investment but continues to subject questionable ownership structures

to rigorous review, including coordination with Executive Branch agencies on national security, law enforcement, and foreign policy concerns.

The FCC now formally defines the “controlling U.S. parent”—the entity subject to review of its foreign ownership—as the first U.S.-organized entity directly above the licensee in an organizational flowchart that directly controls the licensee and does not itself hold a license. This clarification removes ambiguity for applicants calculating foreign ownership percentages.

The new rules clarify how limited partners and members of limited liability companies are treated for foreign ownership purposes. A finding of 50 percent or greater deemed voting interest will not automatically constitute control, and such entities may seek advance approval to increase holdings up to a non-controlling 49.99 percent interest. This is intended to provide a degree of certainty for passive investors.

Petitioners must now identify any trustees associated with ownership interests. This requirement formalizes existing practice. The Commission expects it to provide greater transparency in complex ownership structures.

Previously available only to publicly traded companies, the FCC’s remedial process for inadvertent breaches of foreign ownership limits is now extended to privately held companies. This change offers a “safe harbor” pathway for companies that unintentionally exceed benchmarks due to factors beyond their control. The Commission directed the

continued on page 6

FCC Reports to Congress on PIRATE Act Enforcement

The FCC has released its sixth Annual Report to Congress on implementation of the Preventing Illegal Radio Abuse Through Enforcement (PIRATE) Act, detailing stepped-up enforcement activity against pirate radio operators and expanded use of authority against property owners who facilitate illegal broadcasts. The report outlines enforcement actions taken during FY 2025 and provides insight for licensed broadcasters into the agency’s ongoing strategy to combat unauthorized radio operations.

The PIRATE Act authorizes the FCC to impose substantial monetary penalties—up to \$100,000 per day of violation, capped at \$2 million per continuing violation (with inflation adjustments increasing those amounts in recent years). According to the report, in FY 2025 the Commission:

- Issued six Forfeiture Orders and 10 Notices of Apparent Liability (NALs) for pirate radio broadcasting.
- Entered into three consent decrees, each including long-term compliance obligations.
- Proposed or affirmed fines totaling hundreds of thousands of dollars in major markets, including:
 - » \$920,000 (affirmed) against a New York City-area operator.

- » \$600,000 proposed in Worcester, Massachusetts.
- » \$325,322 proposed against a Miami operator.
- » Multiple \$60,000 joint and several liability fines.
- » Additional actions scattered across several states.

Several consent decrees required operators to agree to 20-year compliance plans, cease operations, and make voluntary contributions to the U.S. Treasury, with significant additional penalties triggered for noncompliance.

The PIRATE Act requires the FCC to conduct annual enforcement “sweeps” in the five markets with the highest levels of pirate activity. FCC staff reviews complaint data to identify these markets and conducts concentrated enforcement activity, followed by additional monitoring within six months. For licensed broadcasters in affected markets, these sweeps may result in increased field activity, on-site investigations, and follow-up enforcement designed to reduce harmful interference.

One of the most consequential aspects of the PIRATE Act is the FCC’s authority to pursue enforcement action against property owners and managers who “suffer or permit” pirate radio operations on their premises. In FY 2025, FCC

continued on page 5

Media Bureau Issues Guidance on Political Programming and News Exemptions

The FCC's Media Bureau has released a Public Notice (DA 26-68) addressing broadcasters' "equal opportunities" obligations under Section 315 of the Communications Act, with particular attention to the scope of the bona fide news exemptions. The Notice focuses on candidate appearances in daytime and late-night talk programs, especially interview segments.

Section 315 provides that when a broadcast station permits a legally qualified candidate for public office to "use" its facilities, the station must afford equal opportunities to all other legally qualified candidates for the same office. In practice, this has generally meant providing comparable time and placement.

Congress amended Section 315 in 1959 to encourage broader political and news coverage by creating exemptions from the equal-opportunities requirement for certain

categories of programming. These exemptions apply to candidate appearances on: (1) bona fide newscasts; (2) bona fide news interviews; (3) bona fide news documentaries, where the candidate's appearance is incidental to the documentary's subject; and (4) on-the-spot coverage of bona fide news events, including political conventions and related incidental activities.

Congress also vested the FCC with discretion to determine the scope of each exemption. The Bureau notes that Congress's repeated use of the phrase, "bona fide," reflected concern that exemptions could be stretched in partisan service of a political agenda, potentially undermining the purpose of Section 315. Consistent with that concern, the Commission has long stated that programs "designed for the specific advantage of a

continued on page 7

Second Circuit Revives DirecTV Antitrust Case Challenging Nexstar Sidecar Negotiations

A divided panel of the U.S. Court of Appeals for the Second Circuit has revived DirecTV's federal antitrust lawsuit against Nexstar Media Group and two affiliated broadcasters, Mission Broadcasting and White Knight Broadcasting, overturning a district court decision that had dismissed the case at the pleading stage. The ruling sends the case back to the Southern District of New York for further proceedings and places renewed judicial attention on retransmission consent negotiations involving so-called "sidecar" broadcast entities.

DirecTV, a multichannel video programming distributor ("MVPD"), purchases retransmission consent rights from local broadcast stations in order to include them in subscription packages. Nexstar, Mission, and White Knight own local affiliates of major broadcast networks in various designated market areas ("DMAs"). In several markets, Nexstar owns a Big Four affiliate while Mission or White Knight owns another Big Four station in the same DMA. The Big Four networks are ABC, CBS, Fox, and NBC.

continued on page 9

Transfer of Control of El Paso Stations To Be Scrutinized in Hearing

The FCC's Media Bureau has issued a *Hearing Designation Order and Order to Show Cause* (DA 26-76) ("HDO") to determine whether the broadcast licenses of three El Paso, Texas, radio stations—KBNA-FM, KAMA(AM), and KQBU(AM)—should be revoked and whether pending transfer-of-control applications for those stations filed on June 9, 2023, should be granted, dismissed, or denied. The HDO cites concerns about unauthorized foreign control, misrepresentation, and lack of candor in filings before the FCC. The case is set for a trial-like hearing before an FCC administrative law judge.

At issue are the business dealings between Luz Maria Rygaard, a U.S. citizen, and her cousin, Mexican citizen Lorena Margarita Pérez Toscano, and related companies. Rygaard holds 100% of the stock of 97.5 Holdings TX, Inc., which is the sole member of the limited liability company that

is the licensee of the stations, 97.5 Licensee TX, LLC. Toscano is seeking to acquire a 100% stake in 97.5 Holdings TX.

The stations operate in the El Paso, Texas, market, which includes Ciudad Juarez, across the border in Mexico. According to the BIA Market Report, there are 36 stations in the market, 24 of which are licensed in the United States. The other 12 stations are located in Ciudad Juarez and licensed by Mexico. Six of the Ciudad Juarez stations are operated by a company owned by Toscano and members of her family, including two sisters and her father, Trigio Javier Perez de Anda, an experienced Mexican broadcaster.

The application included a stock purchase agreement setting out the terms of the proposed transaction. In addition to \$10,000 as consideration for the stock of 97.5 Holdings, the agreement also indicated that 97.5 Holdings

continued on page 8



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

February 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 Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma.	April 1	Deadline for all broadcast licensees and permittees of stations in Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas 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).
February 2	Deadline for all broadcast licensees and permittees of stations in Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma 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).	April 1	Mid-Term EEO review begins for certain radio stations in Delaware and Pennsylvania , and certain television stations in Texas .
February 2	Mid-Term EEO review begins for certain radio stations in New Jersey and New York , and certain television stations in Kansas, Nebraska, and Oklahoma.	April 10	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.
April 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 Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas.	April 10	Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.
		April 10	Deadline for Class A Television stations to place quarterly documentation about Class A eligibility in Public Inspection File.

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
Carriage of qualified NCE TV station, Section 76.56(a)	Mar. 11
Channel positioning, Section 76.57	Mar. 11
Carriage disputes, Section 76.61	Mar. 11
Retransmission consent, Section 76.64	Mar. 11
Agreements for removing application conflicts, Section 73.3525	Mar. 23
Determining AM operating power, Section 73.51	Apr. 10
AM interference showing required, Section 73.37	Apr. 10
Visual modulation monitoring, Section 73.691	Apr. 10
Station identification, Sections 73.1201, 74.783, 74.791, 74.1283	Apr. 10
DTV ancillary /supplemental services report, From 2100 Sched. G, Section 73.624(g)	Apr. 10
Grandfathered short-spaced stations, Section 73.213	Apr. 13



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 26-20; Public Notice
NCE translator filing window

FR+15

FR+25

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

Lowest Unit Charge Schedule For 2026 Political Campaign Season

During the 45-day period prior to a primary election or party caucus and the 60-day period prior to the general election, commercial broadcast stations are prohibited from charging any legally qualified candidate for elective office (who does not waive his or her rights) more than the station's Lowest Unit Charge ("LUC") for advertising that promotes the candidate's campaign for office. Lowest-unit-charge restrictions in connection with statewide primary elections are now or soon will be in effect in the following jurisdictions. Some of these dates may be subject to change.

STATE	ELECTION DATE	LUC PERIOD
Arkansas	March 3	Jan. 17 – Mar. 3
North Carolina	March 3	Jan. 17 – Mar. 3
Texas	March 3	Jan. 17 – Mar. 3
Mississippi	March 10	Jan. 24 – Mar. 10
Illinois	March 17	Jan. 31 – Mar. 17
Arkansas	March 31	Feb. 14 – Mar. 31
Wisconsin	April 7	Feb. 21 – Apr. 7
Indiana	May 5	Mar. 21 – May 5
Ohio	May 5	Mar. 21 – May 5
Nebraska	May 12	Mar. 28 – May 12
West Virginia	May 12	Mar. 28 – May 12

LPTV Filing Windows

March 12, 2026, 6:00 p.m. ET

Temporary application filing freeze begins for all minor change applications.

March 19, 2026, 12:01 a.m. ET

Freezes lifted. Applications accepted for minor and major change applications with no distance limitations, and for applications for new stations.

FCC Reports to Congress on PIRATE Act Enforcement continued from page 2

Enforcement Bureau staff issued 28 notices to property owners regarding apparent pirate operations—17 of which were related to pirate sweeps. The Commission said that it will continue monitoring properties where notices have been issued and may take enforcement action if illegal operations persist.

The FCC launched a public pirate database in January 2023, with continuous updates about enforcement activity. That database can be accessed at <https://opendata.fcc.gov/stories/s/wgq8-eb5c>.

Broadcasters experiencing interference should continue to document and report pirate activity to the FCC.

FCC Adopts New Foreign Adversary Reporting Rules for Broadcasters

continued from page 1

The agency concluded that these concerns justify enhanced disclosure beyond traditional foreign ownership reviews.

New Foreign Adversary Control (FAC) Reporting Requirement

Under the new rules, covered authorization holders must attest whether they are “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.” The FCC applies an expansive definition of “control,” drawn from U.S. Department of Commerce regulations, that goes well beyond majority ownership. Control may exist through minority ownership (10 percent or greater), board representation, proxy voting, contractual arrangements, informal agreements to act in concert, or other means that allow a foreign adversary to influence key decisions.

Who Counts as a Foreign Adversary?

The FCC will rely on Commerce Department determinations. The current list of designated foreign adversaries includes:

- People’s Republic of China (including Hong Kong and Macau)
- Republic of Cuba
- Islamic Republic of Iran
- Democratic People’s Republic of Korea
- Russian Federation
- Venezuelan politician Nicolás Maduro

Which Broadcast-Related Authorizations Are Covered?

The FAC rules apply to:

- Domestic and international broadcast stations
- Section 325(c) authorizations (U.S.-originated programming transmitted via foreign stations)
- Satellite space and earth station authorizations

Authorizations held by governmental units and Tribal entities are exempt from FAC obligations.

To reduce burdens on smaller entities, the FCC created three classes of authorizations in three reporting schedules:

- Schedule A: Broadcasters with six or more full-time employees, space and earth stations and certain other

authorization holders must file a report affirmatively stating whether or not foreign adversary control exists.

- Schedule B: Broadcasters with fewer than six full-time employees must file only if they have foreign adversary control to report.
- Schedule C: Generally exempt unless foreign adversary control comes about later (e.g., antenna structure registrations).

New Foreign Sponsorship Filing Obligation

The *Order* also ties into the FCC’s foreign sponsorship identification rules. If a broadcaster receives a disclosure from an airtime lessee stating that the lessee is a foreign governmental entity—and that entity is a designated foreign adversary—the broadcaster must file an FAC report. Broadcasters are not required to conduct new due diligence. They need only determine whether an existing sponsorship disclosure identifies one of the designated foreign adversaries.

Filing Deadlines and Ongoing Obligations

The FCC will open an electronic filing portal for FAC reports:

- **Schedule A** filers: initial reports due within **60 days** of the portal’s public launch
- **Schedule B** filers: initial reports due within **120 days** of the portal’s launch.

Subsequently, FAC filings will also be required with applications for new licenses, renewals, assignments or transfers of control, and modifications. Any change in foreign adversary control status for an entity under any Schedule must be reported promptly.

Where foreign adversary control is disclosed, filers must identify all individuals or entities holding a five percent or greater direct or indirect interest, including citizenship, ownership percentage, and control rights. The controlling foreign adversary or adversaries are to be identified, and a description provided of the nature of the foreign adversary ownership or control to which the authorization holder is subject.

FCC Codifies Procedures for Foreign Ownership Petitions *continued from page 2*

Media Bureau to issue processing guidelines explaining how applications will be handled while a remedial petition is pending. These guidelines are meant to ensure consistent treatment of renewals, transfers, and modifications during ongoing foreign ownership reviews.

The *Report and Order* also clarifies how foreign ownership is calculated for noncommercial broadcast licensees. Recognizing that these entities are usually governed by boards rather than shareholders, the FCC will attribute voting interests based on the composition of governing boards.

The FCC declined to impose strict processing timelines or new “fast-track” categories for certain foreign investors, opting instead to preserve flexibility while continuing to

exercise discretion to refer cases to the interagency Committee for the Assessment of Foreign Participation, which includes representation from various federal agencies such as the Departments of State, Defense, Justice, and Commerce. Nonetheless, the Commission believes that the new codified framework will reduce uncertainty, prevent redundant filings, and enable faster, more predictable review.

The rule revisions will become effective 30 days after publication in the Federal Register. Going forward, new petitions and applications filed under Section 310(b) (4) will be governed by the updated framework, while pending matters will continue to be subject to the previous regulatory procedures.

Application Cap Proposed for NCE FM Translator Filing Window continued from page 1

to file translator applications in the filing window. An applicant must own the station which it proposes as the primary station for the new translator.

The Commission proposes a nationwide limit of 10 applications that an applicant may submit. LPFM licensees will be limited to two translator applications, except that LPFM licensees that are Tribal entities may file up to four applications. All applications in which a party has an attributable interest will be counted against these limits. If an applicant has attributable interests in applications that exceed these limits, the Commission will dismiss the later-filed applications so as to reduce the total number to come within the permissible limit.

In the first instance, conflicts between and among mutually exclusive applications will be resolved by allowing amendments to remove the conflict. Where such amendments cannot be filed, conflicts will be resolved by the comparative point system that was used for applications filed in the 2021 filing window for full power NCE stations. An exception to that is the case where a proposal for a fill-in station will have priority over an application for a non-fill-in station.

The Commission invites public comment on these proposals. Comments must be submitted within 15 days of publication of notice of this proceeding in the Federal Register. The deadline for reply comments will be 25 days after that publication.

Media Bureau Issues Guidance on Political Programming and News Exemptions continued from page 3

candidate” are not entitled to exemption.

The Public Notice reviews Commission and staff precedent in the late-night talk-show context. In 1960, the Commission determined that *The Tonight Show*, then hosted by Jack Paar, did not qualify for an exemption. In 2006, however, the Media Bureau issued a staff-level ruling treating the interview portion of a later iteration of the program—*The Tonight Show with Jay Leno*—as exempt under the bona fide news interview category. Since that time, interview segments of late-night television talk shows have generally been treated as exempt.

In the recent Notice, the Bureau characterizes late-night talk programs as “primarily entertainment” and suggests that the 2006 staff decision was inconsistent with the Commission’s earlier precedent. The Bureau also cites concerns that the industry has treated the 2006 ruling as establishing a categorical exemption for interview segments of “all arguably similar entertainment programs.” The Bureau emphasizes that this interpretation is incorrect, stating that exemption determinations are fact-specific and limited to the particular program presented in a request.

The Bureau further states that it has not been presented with evidence that the interview portion of any late-night or daytime talk show currently on the air would qualify for the bona fide news exemption. The Notice indicates that producers or stations seeking such treatment may file a petition for declaratory ruling addressing the statutory requirements applicable to bona fide news programming.

The Public Notice prompted a sharply worded response

from the Commission’s lone Democratic Commissioner, Anna Gomez. She stated that the FCC “has not adopted any new regulation, interpretation, or Commission-level policy altering the long-standing news exemption or equal-time framework.” She emphasized that for decades the Commission has recognized editorial discretion in late-night and daytime talk programming based on newsworthiness rather than political favoritism, and asserted that this principle “has not been repealed, revised, or voted on by the Commission.” In her view, the Public Notice does not change the law but “does represent an escalation in this FCC’s ongoing campaign to censor and control speech.”

At a press conference following release of the Public Notice, FCC Chairman Brendan Carr appeared to indicate that the principal focus of the Commission’s concern about this topic lies with television programming. He is quoted as stating that while “the rule applies to both radio and TV, . . . there wasn’t a relevant precedent that we saw that was being misconstrued on the radio side.”

Also following publication of this guidance, various reports in the trade press indicate that the Commission has initiated an investigation of a recent broadcast of ABC’s daytime program, *The View*. Specifically, the agency is reviewing an appearance of Democratic Texas Senate candidate James Talarico on that program to determine whether the equal opportunity rule was violated.

Commissioner Gomez released a statement characterizing this as an illegitimate “sham investigation,” the primary purpose of which is to intimidate broadcasters, without conducting an actual investigation or taking any meaningful action.

Transfer of Control of El Paso Stations To Be Scrutinized in Hearing

continued from page 3

was indebted to Toscano in the amount of \$2,451,565.00. No further explanation of the debt, its origin, or the terms of any loan agreement were included with the application, nor were copies of a debt instrument or related agreements, if any, attached to the application. In addition to Rygaard (as “the Seller”) and Toscano (as “the Buyer”), Mr. Perez de Anda appears as a signatory to the stock purchase agreement signing as “President” of “97.5 Investment TX LLC,” which is listed on the signature page of the agreement as “Debtor.” The term “Debtor” is undefined in the agreement and neither “Debtor” nor “97.5 Investment TX LLC” appear elsewhere in the document.

These unexplained elements of the application triggered a Letter of Inquiry (“LOI”), and eventually a supplemental inquiry, from the Media Bureau. In response to the LOI, Rygaard disclosed for the first time that another entity known as Pro Radio, LLC, had been programming and selling advertising for the stations since sometime in 2021 or 2022 (different dates were reported at different times). Although Rygaard is chief financial officer of Pro Radio, the company is owned by Toscano and her sisters. There was no written agreement for these arrangements, and no written description of the terms was produced even after the Media Bureau directed the parties to commit them to writing.

It also came to light that Mr. Perez de Anda’s Mexican company, Grupo Radio Centro, had lent over \$2.4 million to 97.5 Holdings in 2017 at a time when Grupo was a minority owner in 97.5 Holdings. This debt was not documented with a loan agreement or promissory note because it was deemed at the time to be “an internal funding.” The right to collect this debt was later sold to Toscano.

The Media Bureau cited conditions uncovered in the course of its investigations about which it had concerns:

(1) Pro Radio LLC, owned by Toscano and her family, has been programming 100% of the stations’ airtime and selling advertising time since at least 2021.

(2) Rygaard served as chief financial officer of Pro Radio while ostensibly owning and controlling the stations—raising questions about her actual independence.

(3) 97.5 Holdings TX, Inc., the parent company, is indebted to Toscano for more than \$2.45 million, representing a substantial financial dependency.

(4) The nominal consideration of \$10,000 coincided with Toscano’s acquisition of financial control through debt rights purchase.

(5) The parties failed to disclose familial relationships that could reveal coordinated control across U.S. and Mexican operations.

Aside from those possibly ambiguous circumstances, the following factual findings by the Bureau pose problems:

(1) The failure to disclose the existence of the time-brokerage relationship with Pro Radio in the transfer-of-control application.

(2) Incomplete and inaccurate information about the stations’ debts and financial ties to Toscano.

(3) Signing of the licensee’s certification on the application by a former owner, Mr. Perez de Anda, who was purportedly not involved in the transaction.

(4) Conflicting or shifting statements about when Pro Radio assumed control of programming.

(5) Ownership reports that incorrectly listed Toscano as already owning the company—before FCC approval—and other filings that erroneously listed employees of Pro Radio as officers of the licensee entity.

Under Section 310(d) of the Communications Act, no transfer of control—direct or indirect—may occur without prior FCC authorization. Control includes not only legal title (*de jure*) but actual operational control (*de facto*). Section 310(b) limits ownership in broadcast stations by foreign nationals. Evidence presented in this case suggests that both of these provisions were violated.

Further, the Media Bureau observed that Rygaard’s communications with the Commission in the application and in response to the Bureau’s inquiries were inadequate, incomplete, and/or inaccurate. These observations led to allegations of misrepresentation and/or lack of candor. Misrepresentation and lack of candor on the part of applicants and licensees threaten the “honesty and probity” necessary for the functioning of the FCC’s largely self-policing regulatory framework. These findings raise questions about the character qualifications of both Rygaard and Toscano to hold or obtain a broadcast license. Accordingly, a hearing before an administrative law judge is necessary to probe these issues further before the transfer-of-control application can be processed.

The judge was ordered to determine whether (1) transfer of control of the stations had occurred prior to FCC authorization; (2) Rygaard and/or Toscano engaged in misrepresentation or lack of candor before the FCC; and (3) Rygaard and/or Toscano possess character qualifications to be broadcast licensees.

FCC Clarifies 10-Day Deadline for Updating FRN Information continued from page 1

until February 5, 2026, following review by the Office of Management and Budget.

This amendment arose in a proceeding focused on the FCC's Robocall Mitigation Database ("RMD"), where the Commission adopted significant penalties for inaccurate or fraudulent filings in the RMD. Because RMD filers must also have FRNs, the Commission took the opportunity to require that *all* FRN data be kept current — not just those associated with the RMD. Because this change was rather obscurely embedded in an order addressing robocall mitigation, it was widely overlooked by other FRN users until recently.

The RMD *Order* established a \$10,000 base forfeiture for submitting false or inaccurate information to the RMD. There may be liability for another \$1,000 base forfeiture for failing to update RMD information within 10 business days of a change.

These forfeitures may accrue on a daily basis until corrected.

Some observers mistakenly assumed these RMD-specific penalties also applied to ordinary FRN updates. That interpretation prompted concern among FCC registrants. In a recent Public Notice (DA 26-133), the FCC's Wireline Competition Bureau clarified that the RMD forfeiture amounts do not apply to non-RMD FRN registrants, and that the RMD proceeding did not affect the normal base forfeiture amounts already specified in Rule Section 1.80. The standard base forfeiture amount that would apply to FRN filing mistakes is \$3,000 for failure to file required forms or information. As always, the Commission retains discretion to adjust forfeitures upward or downward based on the circumstances.

While the penalties are not as severe as some initially feared, the new deadline for updating FRN data is now explicit.

Second Circuit Revives DirecTV Antitrust Case Challenging Nexstar Sidecar Negotiations continued from page 3

The FCC's rules generally prohibit common ownership or control of more than one Big Four affiliate in a single market. To comply with those rules during acquisitions, large station groups sometimes divest stations to independently owned entities, commonly referred to in the industry as "sidecars." FCC regulations require those sidecar companies to negotiate retransmission consent agreements independently.

DirecTV alleged that, despite formal separation, Nexstar coordinated retransmission consent negotiations with Mission and White Knight, effectively fixing prices for retransmission consent fees. According to DirecTV, the alleged coordination was intended to force it either to accept higher fees or to endure station blackouts that would pressure DirecTV through subscriber losses. When DirecTV declined the proposed fee increases, Mission and White Knight withdrew their signals in October 2022, resulting in blackouts affecting nearly one million subscribers. DirecTV claims it lost subscribers and profits as a result.

The District Court dismissed DirecTV's federal antitrust claims, holding that DirecTV lacked "antitrust standing." The court reasoned that because DirecTV did not actually pay the allegedly inflated prices, it had not suffered a cognizable antitrust injury. The court further concluded that DirecTV's claimed losses—subscriber cancellations following blackouts—were too indirect and speculative to make DirecTV an efficient enforcer of the antitrust laws.

The Second Circuit reversed, holding that antitrust injury in a horizontal price-fixing case is not limited to the payment of supracompetitive prices. The court emphasized that price fixing also harms competition by reducing output. In this context, output reduction took the form of blacked-out broadcast signals. The court concluded that DirecTV plausibly alleged that its lost profits flowed directly from the output-reducing effects of the alleged conspiracy, making the claimed injury cognizable under the antitrust laws.

The court also concluded that DirecTV qualifies as an "efficient enforcer" of the antitrust laws. It found that DirecTV alleged a direct injury, was the specific target of the alleged conduct, and did not present the risk of duplicative recoveries. The court rejected the argument that DirecTV's damages were inherently speculative at the pleading stage, pointing to DirecTV's prior course of dealing with the defendants as a potential benchmark for evaluating harm. The ruling does not determine whether Nexstar or its affiliated broadcasters violated antitrust law. It simply allows DirecTV's claims to proceed beyond the pleading stage. Nonetheless, the decision is notable because it recognizes blackout-related subscriber losses as a potentially cognizable antitrust injury and signals judicial willingness to examine the economic realities of sidecar arrangements and coordinated negotiation practices.

The decision is *DirecTV, LLC v. Nexstar Media Group, Inc., et al.*, 162 F.4th 295 (2d Cir. 2025).

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. © 2026 Donald E. Martin, P.C.