pillsbury Antenna™

AN UPDATE ON COMMUNICATIONS LAW & ISSUES

April 2022

Foreign Sponsorship ID Rule Comes Into Force

New requirements for broadcast stations to ascertain whether programming on leased channels is provided or sponsored by a foreign government or the agent of foreign government, and to disclose such sponsorship to the audience, came into effect on March 15. The FCC adopted these provisions in a *Report and Order* (FCC 21-42) in April 2021. Because these rules had to be reviewed by the Office of Management and Budget, they were not published in the Federal Register until March 15, 2022, which then became the effective date. These rules govern all existing channel lease and time brokerage agreements as well as new agreements that take effect on or after that date. Broadcasters will have until September 15, 2022 to bring preexisting agreements into compliance.

These regulations pertain to programming for which the ultimate source and/or the sponsor is an entity or individual that is a foreign government, a foreign political party, an agent acting on behalf of such entities, or a U.S.-based foreign media outlet. The broadcast licensee must

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$250,000 Civil Penalty Is Price for Migrating LPTVs

The FCC's Media Bureau and Lowcountry 34 Media, LLC, have entered into a *Consent Decree* (DA 22-232) to conclude an investigation into what the Bureau described as Lowcountry's "improper use of temporary facilities and abuse of Commission processes." To terminate the investigation, Lowcountry admitted to the abuse, relinquished a number of its authorizations, and agreed to pay a civil penalty of $250,000. Lowcountry is the licensee of 80 low power television stations, and the holder of 128 unbuilt construction permits for new LPTV stations.

The FCC expects and requires that when an applicant files an application for a license to cover a construction permit, the station has been constructed in accordance with the construction permit and is ready to provide permanent service to the public. In some of the cases under investigation, Lowcountry installed temporary equipment

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Repack Reimbursement Allocations Raised to 100%, Site Visits Begin

The FCC's Incentive Auction Task Force and Media Bureau have released a *Public Notice* (DA 22-191) to announce a final allocation from the TV Broadcasters Relocation Fund to increase the allocation for each participant from 92.5% to 100% of verified estimates. Congress provided $2.75 billion for the Fund. As of February 15, 2022, the total of all verified estimates was over $2.15 billion. The allocation for each participant was previously set at less than 100% to ensure that all participants would receive at least some level of reimbursement before the total cost for the repack was clear. With the experience gained at this stage of the process, it appears evident that there will be sufficient funds to reimburse 100% of each participant's legitimate verified costs.

The post-Incentive Auction repack resulted in new channel assignments for 987 full power and Class A stations. All but 14 of these stations have transitioned to their new channels.

The deadlines for all of these full power and Class A

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

pillsbury

1200 Seventeenth St. NW
Washington, D.C. 20036

Tel: 202.663.8167
Fax: 202.663.8007
E-mail: scott.flick@pillsburylaw.com

$20K Fine Proposed for Inconsistent Contest Rules

The FCC's Enforcement Bureau has proposed fining the licensee of WBGG-FM, Fort Lauderdale, Florida, $20,000 for misapplying the station's own published rules for an over-the-air contest. Section 73.1216 of the FCC's Rules requires a broadcast station to fully and accurately disclose material contest terms and to conduct contests substantially as announced. In its *Notice of Apparent Liability for Forfeiture* (DA 22-203), the Bureau provided the following account of this incident.

A listener complained to the Enforcement Bureau that he had been improperly excluded from participating in the station's "You Can't Win" contest on May 30, 2019, by a station employee who was screening incoming contestant calls to determine eligibility. The complainant had won a separate contest offered by the station – the "Southwest Flyaway Fridays" contest – on March 1, 2019. The written rules for the "You Can't Win" contest posted on the station's website provided that anyone who had won a station contest in the 30 days prior to the start of a new contest would be ineligible to participate. However, the screener taking contestant calls refused to permit persons who had won during the previous 90 days to enter the contest.

Upon being excluded, the complainant reviewed the station's published contest rules and notified the screener of the apparent error. The screener did not change his determination. The following day, the complainant brought the matter to the attention of the station's parent company. He was told that a customer care representative would forward his complaint to the proper corporate official to look into the matter further. However, the matter was never resolved.

The Enforcement Bureau sent the station a Letter of Inquiry requesting further information. In its response, the station claimed that the rules for the "You Can't Win" contest excluded anyone who had won a different station contest between 30 days prior to the start date of the contest and the date on which the contest was concluded. The Bureau observed, however, that this interpretation was not supported by the language in the rules. The written rule for the contest merely excluded anyone who had won a prior contest during the 30-day period prior to the beginning of the "You Can't Win" contest. The "You Can't Win" contest began on January 7, 2019. The relevant 30-day period therefore would have been from December 8, 2018, until January 7, 2019. The date of the complainant's prior win, March 1, 2019, was well outside of that period. Furthering the confusion, the station explained that the screener had been following the station's standard protocol that required the contest screener to ask callers whether they had won a contest within the past 90 days. In addition to specifying a different period of time than what the written rules specified, this protocol set the exclusionary period to look back from the date of the screened call, rather than back from the first day of the contest.

The station conceded that, due to human error, the instructions for the contest were not coherent and that the contest had not been conducted in strict compliance with the written rules for the contest. In any event, however, the station asserted that this error was immaterial because the complainant was otherwise ineligible to participate in the "You Can't Win" contest.

The Bureau observed that in cases where there is ambiguity in the contest rules or in the manner in which they are applied, Commission precedent makes it clear that ambiguous rules are to be construed against the station. In this case, the Bureau found that there were significant inconsistencies between the written rules for the contest and how the contest was actually conducted.

The Bureau said that whether the complainant is eligible to enter the contest is irrelevant. A complaining party does not need to be a qualified contestant in order to have standing to complain about the manner in which a station contest is conducted.

In a further admission of violation, the station also conceded that its rules for the contest had not remained posted on its website for 30 days after the conclusion of the contest as required by the FCC's regulations.

Section 1.80 of the FCC's Rules specifies a base forfeiture of $4,000 for each violation of the rules covering lotteries and contests. The Commission has discretion to adjust the base amount of a forfeiture to take into account the particular facts of the case. In setting a forfeiture, the Commission is to consider factors such as the culpability of the violator, any history of prior offenses, the violator's ability to pay, and other matters as justice may require. The Bureau noted that the licensee of WBGG-FM is a "pro forma assignee of an affiliate with a history of violating the Contest Rule." Given the totality of the circumstances, the Bureau found that an upward adjustment of the base forfeiture amount to a proposed fine of $20,000 is justified.

The licensee had 30 days in which to pay the proposed fine or request that it be reduced or canceled.

DEADLINE TO FILE
SEMI-ANNUAL
FOREIGN MEDIA DISCLOSURE REPORT

APRIL 12, 2022

Broadcaster Liable for Overlooked EEO Report

The FCC has proposed fining Cumulus Licensing, LLC, $32,000 for violating various elements of Section 73.2080 of the Commission's Rules by failing to timely prepare and place in the public inspection files an EEO public file report for the five radio stations in an Albany, Georgia, cluster that it formerly owned. The Commission took this action in adopting a *Notice of Apparent Liability for Forfeiture* (FCC 22-17).

The EEO Public File Report is to be prepared annually for station employment units that include five or more fulltime employees. An employment unit consists of commonly owned or operated stations in the same market that share employees. The report is a compilation of the recruiting and hiring activities of the stations in the unit during the preceding 12 months. It is to be placed in each station's public inspection file and on the station's Internet website (if it has one) on the anniversary of the deadline for filing the station's license renewal application. One element of the report is an analysis and self-assessment by station management of the unit's EEO achievements and/or problems during the period.

In its most recent applications to renew the licenses for the stations in the Albany cluster, Cumulus disclosed that the 2018 EEO public file report had not been timely placed in the Public Inspection Files of these stations. That admission resulted in a Letter of Inquiry from the FCC. In response, Cumulus acknowledged that the EEO public file report that should have been uploaded to the public files for these stations by December 3, 2018, was not actually uploaded to the public inspection files and posted on the stations' websites until September 11, 2019. Cumulus explained that this lapse had occurred when the stations' business manager had "simply overlooked the requirement" due to a routine administrative change when the employee who usually tended to this task left the company. According to Cumulus, the business manager immediately corrected this oversight as soon as it was discovered. Nevertheless, the report was not available for public review until more than nine months after it should have been posted.

The Commission found that Cumulus apparently violated Section 73.2080(c)(6) of its rules in two separate ways: (1) by failing to timely upload the 2018 report to the stations' Public Inspection Files, and (2) by failing to timely post the report to the stations' websites. On the basis of those deficiencies, the Commission also found that Cumulus apparently violated Section 73.2080(c)(3). That section requires a licensee to analyze its EEO recruitment program on an ongoing basis to ensure that the program is effective in achieving broad outreach to potential applicants, and to address any problems found as a result of such analysis. The Commission said that the failure to timely upload the report deprived the public of its right to participate in monitoring and providing input on Cumulus's EEO programs. This, according to the FCC, prevented the stations from fulfilling their obligation to analyze their EEO recruitment program.

The Commission stated its longstanding principle that where lapses occur in maintaining the Public File, neither the negligent acts or omissions of station employees or agents, nor subsequent remedial actions undertaken by the licensee, excuse or nullify the violation. The agency found Cumulus's "apparent disregard for the Commission's EEO rules . . . particularly troubling."

Upon noting that Cumulus has been cited previously for violations of the EEO rules, the Commission quoted Cumulus's own promotional materials to describe the licensee as "an audio-first media company delivering

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Unreported Station Silence Leads to Proposed Fine

The FCC's Media Bureau has proposed fining the licensee of an FM translator station for failing to report a prolonged period of silence and for failing to report a change in the translator's primary station. The Bureau proposed an $8,000 fine against Windy City Broadcasting, LLC, licensee of FM translator station W280EM, Chicago, Illinois in a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (DA 22-276).

These issues arose in connection with the Media Bureau's review of the station's license renewal application filed in July 2020. Albert David submitted an informal objection to the application on October 5, 2020. David alleged that the certification in the application that the station was on the air was false because the station had been silent since May 2020. David also claimed that the identification in the application of the translator's primary station was false. The primary station in the application was said to be WTMX. David alleged that the translator had been rebroadcasting WLEY for several years.

Windy City opposed the informal objection on December 29. It argued that the objection did not comply with Sections 1.47 and 1.52 of the FCC's Rules, and therefore was procedurally defective because a copy had not been served on the licensee and because the filing was not verified. Section 1.52 of the FCC's Rules states that "all petitions, motions, pleadings, briefs, and other documents" filed with the Commission are to be verified with the signature of the filer's attorney, or if the filer is not represented by an attorney, with the filer's signature.

Windy City conceded that the station had been off the air since August 17, 2020, and it amended the license renewal application to reflect that fact. A request for a Special Temporary Authority ("STA") to be silent was filed on December 28, 2020. The licensee also admitted that for several years prior to going silent, the translator had been rebroadcasting WLEY, although during an earlier period,

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DEADLINES TO WATCH

License Renewal, FCC Reports & Public Inspection Files

April 1	Deadline to file license renewal applications for radio stations in **Delaware** and **Pennsylvania,** and television stations in **Texas.**
April 1	Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee,** and **Texas**.
April 1	Deadline for all broadcast licensees and permittees of stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee,** and **Texas** to file annual report on any 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	Radio stations in **Delaware** and **Pennsylvania,** and television stations in **Texas** begin broadcasting license renewal post-filing announcements within five business days of acceptance of application for filing and continuing for four weeks.
April 10	Deadline to place quarterly Issues/Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.
April 10	Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.
April 10	Deadline for Class A TV stations to place certification of continuing eligibility for Class A status in Public Inspection File.
June 1	Deadline to file license renewal applications for television stations in **Arizona, Idaho, Nevada, New Mexico, Utah,** and **Wyoming**.
June 1	Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in **Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia,** and **Wyoming**.
June 1	Deadline for all broadcast licensees and permittees of stations in **Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia,** and **Wyoming** 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).

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
Interference by FM translators, Sections 74.1203(a)(3), 74.1204(f)	Apr. 5
Noncommercial broadcast ownership report, Section 73.3516, Form 323-E	Apr. 8
Local Public Inspection Files, Political Files, Sections 73.3526, 73.3527, 73.1943, 73.1212	Apr. 8
Auction applications and procedures, Sections 1.2105, 1.2205	Apr. 8
Equal Employment Opportunity Policy, Section 73.2080	Apr. 25
Auction application form, Form 175	May 13
TV Broadcaster Relocation Fund Reimbursement Form, Section 73.3700(e), Form 2100, Schedule 399	May 23

TELEVISION AUCTION NO. 112

Upfront payment deadline	**MAY 6, 2022, 6:00 pm, ET**
Mock auction	**JUNE 3, 2022**
Bidding begins	**JUNE 7, 2022**

DEADLINES TO WATCH

Deadlines for Comments in FCC and Other Proceedings

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

DOCKET	COMMENTS	REPLY COMMENTS
Docket 15-94; NOI (FCC 21-125) Enhancing legacy EAS	April 11	May 10
Dockets 14-165, 20-36; FNPRM (FCC 22-6) Unlicensed devices in the television band white spaces	May 4	June 3
Docket 18-295; Public Notice Remand of 6 GHz Band Order	FR+30	FR+45

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

Lowest Unit Charge Schedule for 2022 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. A lowest-unit-charge period is imminent in the following states.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Indiana	State Primary	May 3	Mar. 19 - May 3
Ohio	State Primary	May 3	Mar. 19 - May 3
Nebraska	State Primary	May 10	Mar. 26 - May 10
West Virginia	State Primary	May 10	Mar. 26 - May 10
Kentucky	State Primary	May 17	Apr. 2 – May 17
North Carolina	State Primary	May 17	Apr. 2 – May 17
Oregon	State Primary	May 17	Apr. 2 – May 17
Pennsylvania	State Primary	May 17	Apr. 2 – May 17
Idaho	State Primary	May 17	Apr. 2 – May 17
Alabama	State Primary	May 24	Apr. 9 – May 24
Arkansas	State Primary	May 24	Apr. 9 – May 24
Georgia	State Primary	May 24	Apr. 9 – May 24
California	State Primary	June 7	Apr. 23 – June 7
Iowa	State Primary	June 7	Apr. 23 – June 7
Mississippi	State Primary	June 7	Apr. 23 – June 7
Montana	State Primary	June 7	Apr. 23 – June 7
New Jersey	State Primary	June 7	Apr. 23 – June 7
New Mexico	State Primary	June 7	Apr. 23 – June 7
South Dakota	State Primary	June 7	Apr. 23 – June 7
Maine	State Primary	June 14	Apr. 30 – June 14
Nevada	State Primary	June 14	Apr. 30 – June 14
North Dakota	State Primary	June 14	Apr. 30 – June 14
South Carolina	State Primary	June 14	Apr. 30 – June 14
District of Columbia	State Primary	June 21	May 7 – June 21
Virginia	State Primary	June 21	May 7 – June 21
Colorado	State Primary	June 28	May 14 _ June 28
Illinois	State Primary	June 28	May 14 – June 28
New York	State Primary	June 28	May 14 – June 28
Oklahoma	State Primary	June 28	May 14 – June 28
Utah	State Primary	June 28	May 14 – June 28

DEADLINES TO WATCH

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. 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 **April 25, 2022**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Overgaard, AZ	Blue Ridge, AZ	New	234	94.7
Hemet, CA	Beaumont, CA	KXRS	288	105.5
North Corbin, KY	Hustonville, KY	WKFC	270	101.9
Caliente, NV	Dammeron Valley, UT	KCAY	299	107.7
Portville, NY	Lewis Run, PA	WCOR-FM	244	96.7
Salem, OR	Hubbard, OR	KZGD(AM)	N/A	1390
Bradford, PA	Portville, NY	WTWT	213	90.5
Decatur, TN	Hopewell, TN	WQMT	230	93.9
Spring City, TN	Decatur, TN	WWQS	203	88.5
Big Lake, TX	Midkiff, TX	KEHD	281	104.1
Muleshoe, TX	Texico, NM	KVRQ	227	93.3

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
Witchita, KS	KSCW-DT	12	28	Apr. 6	Apr. 21
Bozeman, MT	KBZK	13	27	Apr. 21	May 6
Butte, MT	KXLF-TV	5	15	Apr. 21	May 6
Great Falls, MT	KRTV	7	22	Apr. 21	May 6
Helena, MT	KTVH-DT	12	31	Apr. 21	May 6
Missoula, MT	KPAX-TV	7	25	Apr. 21	May 6
Weston, WV	WDTV	5	33	Apr. 21	May 6

Broadcaster Liable for Overlooking EEO Report *continued from page 3*

premium content to over a quarter billion people every month." The Commission observed that

> Cumulus owns and operates several hundred radio stations in dozens of markets across the nation. . . . [I]t is a highly sophisticated broadcaster with extensive operations that employs thousands of people and routinely fills scores of job openings annually. The Commission's EEO rules ensure that broadcasters take concrete and thoughtful steps to seek and attract diverse employees. Repeated disregard of these rules by a broadcaster of Cumulus' size and scope is contrary to the public interest.

The base fine set out in Section 1.80 of the FCC's Rules for Public Inspection File violations is $10,000. Citing Cumulus's history of "repeatedly violating" the rules and its evident recent financial success, the Commission found justification for using its discretion to adjust the fine upward to $26,000 for the violations in this case.

The FCC's forfeiture guidelines and Section 1.80 do not establish a base fine for the failure to analyze EEO performance. Instead, the Commission looked to precedent in analogous cases for guidance. The Commission cited previous actions involving Cumulus where it had proposed fines of $2,000 for failing to analyze EEO programs at other stations. Considering the circumstances of this case, including this licensee's prior history of violations, the Commission concluded that the appropriate fine for this additional violation would be $6,000, bringing the total proposed fine to $32,000.

Cumulus has 30 days in which to pay the fine or to contest it.

Nowhere in the *Notice of Apparent Liability for Forfeiture* did the FCC allege or suggest that Cumulus had committed actual employment discrimination.

Repack Reimbursement Allocations Raised to 100%, Site Visits Begin *continued from page 1*

stations to submit their invoices for reimbursement have passed. LPTV and television translator stations and FM stations that were impacted by the repack must submit their invoices by September 6, 2022.

All participants are reminded that they must retain their reimbursement documentation so as to be available for an audit for a period of 10 years following the date of receipt of their final payment from the Fund.

The Commission also reminds participants that it intends to employ audits, data validations, and site visits as essential tools to prevent waste, fraud and abuse. The Commission said it would begin making post-implementation visits to the facilities of Fund participants to validate the existence and operational status of post-transition equipment for which the participant received reimbursement, and to ensure that such equipment is being used by the Fund participant for its intended purpose.

A statistically valid sample of Fund participants will be randomly selected for site visits. After a participant has been notified of its selection for a site visit, a third-party contractor hired by the FCC will reach out to the participant to coordinate planning details for the visit. Each site visit will typically involve one or two contractor staff members who will spend one or two days on site to physically inspect the facility and equipment. The contractor staff will verify the existence and functionality of equipment listed in the participant's reimbursement request documents. The Commission expects that site visits will begin immediately and continue throughout 2022.

$250,000 Civil Penalty Is Price for Migrating LPTVs *continued from page 1*

because of the difficulties presented by the supply chain issues resulting from the COVID-19 pandemic. However, the Media Bureau determined that in other cases where it filed license applications, Lowcountry had installed temporary transmission equipment that was ultimately removed in preparation for relocation to a new site. The Media Bureau found that temporary equipment was deployed for at least 30 stations in order to facilitate a series of repeated moves with the ultimate goal of moving the stations to distant locations, sometimes over 100 miles from the site specified in the original construction permit.

As narrated in the *Consent Decree,* Lowcountry's practice of moving stations followed this pattern: (a) Lowcountry would file an application for a minor modification to relocate the station to a point within 30 miles of its licensed site; (b) upon grant of the minor modification application, Lowcountry would construct temporary facilities with no objective of providing permanent service at the new location; (c) after filing an application for a license to cover the permit at that temporary location and receiving a grant, Lowcountry would request a special temporary authority to be silent; (d) Lowcountry would then simultaneously remove the equipment from the site and file a new application for a minor modification to again relocate up to 30 miles away. The process would be repeated until the station was eventually located at the ultimately desired location. This process had the effect of relocating stations (many of which were applied for in the 2009 Rural LPTV Filing Window) from rural unserved and underserved areas where the FCC had intended them to be developed to more densely populated suburban and urban areas within 75 miles of the top 100 markets. Those areas around the top 100 markets were off limits to applicants in the 2009 filing window.

Each minor modification application was designed to appear to comply with the definition of a minor change. For LPTV stations, a minor change application must propose a new protected contour that overlaps the existing protected contour, while the antenna site may be moved no more than 30 miles. A minor modification application can be filed at any time, while a major modification application (proposing to move more than 30 miles) can only be filed during a filing window. The Bureau said that, given these facts, these moves should have been requested as major modifications rather than minor modifications. These practices appeared to be designed to circumvent the restriction on filing major change applications outside of a filing window.

To determine whether a permittee has engaged in an abuse of process based on serial minor modification applications, the Media Bureau explained that it considers the following factors: (a) the nature of the broadcast facilities (were they temporary?); (b) the duration of the operation; (c) the purpose of the relocation; and (d) any pattern of relocations. The Bureau observed that even if facilities are constructed in accordance with the construction permit, the Commission has held that permittees "may not rely on temporarily constructed facilities to satisfy construction requirements."

The terms of the *Consent Decree* include Lowcountry's admission to having abused the FCC's processes and agreement to pay a civil penalty of $250,000. Lowcountry will relinquish the authorizations for some 95 stations. The Bureau agreed to extend tolling for construction permits for 39 other stations until four months after the effective date of the *Consent Decree* on the recognition of delays beyond Lowcountry's control resulting from supply chain problems and the uncertainties of this investigation. Further, the Bureau also agreed to grant pending assignment applications in which Lowcountry is the proposed assignee to acquire 35 additional stations. Finally, Lowcountry is required to implement a two-year compliance plan in which the company will appoint a compliance officer to oversee the adoption of compliance operating procedures, the training of staff, and the filing of periodic compliance reports with the FCC.

Foreign Sponsorship ID Rule Comes Into Force *continued from page 1*

take reasonable care to conduct due diligence about the source of programming for a leased channel. The FCC explained that such diligence would include at least the following:

(1) inform the lessee at the time of agreement and at renewal of the requirement to disclose the foreign sponsorship;

(2) inquire of the lessee at the time of agreement and at renewal whether it falls into any of the categories that qualify it as a foreign government entity;

(3) inquire of the lessee at the time of agreement and at renewal whether it knows if any party upstream in the chain of producing and/or distributing the subject programming qualifies as a foreign government entity and/or a foreign government has provided some type of inducement to air the programming;

(4) if the lessee does not identify itself as an entity that would be subject to these disclosures, independently confirm the lessee's status at the time of agreement and at renewal by consulting the Department of Justice website maintained under the Foreign Agents Registration Act and the FCC's semi-annual reports of U.S-based foreign media outlets; and

(5) memorialize these inquiries and investigations to track compliance in the event that documentation is required to respond to a future Commission inquiry on the issue.

When disclosures are required, an announcement should be aired in the language of the programming associated with it at the beginning and conclusion of the programming block, and at 60-minute intervals if the leased segment is longer than 60 minutes. The sponsorship arrangements that are covered by these rules must also be disclosed in the station's online public inspection file.

Paid advertising is already subject to the sponsorship identification requirements of Section 73.1212 of the FCC's Rules. This increased level of diligence and required disclosure that pertains to leases of discrete blocks of program time does not apply to traditional short-form advertising.

The FCC has previously denied a Petition for Stay Pending Judicial Review filed last September jointly by the National Association of Broadcasters, the Multicultural Media, Telecom and Internet Council, and the National Association of Black Owned Broadcasters. These parties have asked the U.S. Circuit Court of Appeals for the D.C. Circuit to review the *Report and Order*. While that case is pending, the FCC will nonetheless enforce the new rules.

Unreported Station Silence Leads to Proposed Fine *continued from page 3*

it had been carrying the signal of WTMX. Windy City said that the failures to report the station's silence and to identify the correct primary station were inadvertent. Subsequently, Windy City notified the Commission that the station returned to the air on August 3, 2020, rebroadcasting WOJO-HD2.

Informal objections are governed by Section 73.3587 of the FCC's Rules. The Media Bureau determined that the filing met the requirements of that rule, and did not need to be served on Windy City. The Objection was filed electronically through the FCC's Licensing and Management System ("LMS"). The process of submitting a document in that system includes verification.

The FCC's Rules provide that when a station goes silent for 10 or more days, the licensee is to notify the Commission. A request for a silent STA is required if the silent period extends beyond 30 days. In this case, Windy City failed to notify the Commission or to request an STA during a period of more than three months of station silence.

The Bureau also noted that Windy City had repeatedly failed to maintain the accuracy of its license renewal application as required by Section 1.65 of the Rules. In the original application, the station was reported as being on the air. That was amended in December 2020 to indicate the station was silent. However, no amendment was submitted to report the station's return to the air in August 2021.

The Media Bureau concluded Windy City had violated the following rules: Section 74.1263(c) and (e), for being silent for more than 30 days without seeking an STA; Section 74.1251(c), for failing to notify the FCC of a change in the translator's primary station; and Section 1.65, for failing to maintain the accuracy of a pending application. The FCC's *Forfeiture Policy Statement* and Section 1.80 of its Rules stipulate a base forfeiture amount of $5,000 for the unauthorized discontinuation of broadcast service, and a base forfeiture amount of $3,000 for failure to submit required forms or information. In view of these combined rule violations, the Media Bureau proposed a total fine of $8,000.

Nonetheless, the Bureau found that these rule violations do not constitute "serious violations" that would warrant designating the license renewal application for a hearing. The Bureau also found that W280EM had served the public interest, convenience and necessity during the preceding license term. Therefore, the Bureau committed to grant the application upon the conclusion of this forfeiture proceeding if no other issues arise that would preclude a grant.

Windy City has 30 days in which to pay the forfeiture or to seek a reduction or cancellation of the proposed fine.