

FCC Update

By Richard Zaragoza
Pillsbury Winthrop Shaw Pittman LLP

As you know, the FCC has thrown at the radio and television broadcast industries multiple, concurrent proceedings proposing numerous, re-regulatory requirements. There follows a further updated listing of the FCC proceedings in which the State Broadcasters Associations have jointly participated since January 1, 2008.

1. In the Matter of Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations (MB Docket No. 07-172, Notice of Proposed Rule Making, Joint Comments filed on January 7, 2008, in support of the NAB's proposal to allow AM stations to use FM translators (pending without decision).
2. In the Matter of Broadcast Localism (MB Docket No. 04-233), Motion For Extension of Deadline For Filing Comments and Reply Comments filed on February 21, 2008 (granted in full).
3. In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations (MM Docket No. 00-168), Joint Petition for Reconsideration filed on April 14, 2008, urging the FCC to use its own website (subject to minor modifications) as the online public inspection files for those television stations that do not wish to expend the time and money necessary to re-design, implement and maintain their own websites for that purpose (pending without decision).
4. In the Matter of Broadcast Localism (MB Docket No. 04-233), Joint Comments filed April 28, 2008 opposing all significant re-regulatory proposals (pending without decision).
5. In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations (MM Docket No. 00-168), Joint Comments filed on the May 12, 2008 deadline in an effort to persuade the FCC to reconsider the new Television Disclosure Reporting (FCC Form 355) requirement and the new television online public inspection file requirement, rather than seek OMB approval of the two new rules (pending without further action). If the FCC goes ahead and seeks OMB certification, it is expected that we would oppose such certification before OMB. Depending upon OMB's decision, a judicial appeal may be warranted.
6. In the Matter of Review of the Commission's Broadcast and Cable Employment Opportunity Rules and Policies, FCC Public Notice released April 11, 2008 entitled: "Media Bureau Seeks Comment on Possible Changes to FCC Forms 395-A and 395-B" (MM Docket No. 98-2044), Joint Comments of FCC Form 395-B filed May 22, 2008 registering the State Broadcasters Associations' continuing opposition, on constitutional grounds, to the collection of any FCC Form 395-B data that links a particular licensee or station to the data (pending without decision).

7. In the Matter of Review of the Commission's Broadcast and Cable Employment Opportunity Rules and Policies, FCC Public Notice released April 11, 2008 entitled: "Media Bureau Seeks Comment on Possible Changes to FCC Forms 395-A and 395-B" (MM Docket No. 98-2044), Joint Reply Comments filed June 6, 2008 challenging Minority Media and Telecommunications Council's position that all FCC Form 395-B data should be made public (pending without decision).

8. In the Matter of Broadcast Localism (MB Docket No. 04233), Reply Comments are due today, June 11, 2008. However, we have decided that it would be more effective if, after the reply filings are made, we were to present to the five Commissioners in the weeks ahead, in the form of an ex parte filing, an outline of the various positions of the parties on the key issues demonstrating why the broadcaster positions are reasonable and the anti-broadcaster positions are unreasonable (pending without decision).

9. In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations (MM Docket No. 00-168), groupings of numerous commercial and noncommercial television stations, the Association of Public Television Stations, the Public Broadcasting Service, and the State Broadcasters Associations petitioned for reconsideration of the new FCC Form 355 requirement and the new television online public inspection file requirement. A number of public interest organizations have opposed those petitions. The State Broadcasters Associations intend to file a Joint Reply supporting the positions of the television stations and their organizations and rebutting the opposition filed by certain of the public interest groups. That pleading is due to be filed by June 12, 2008 (pending without decision). That pleading is now before you for review.

All of this well illustrates how hard the State Broadcasters Associations are fighting for their members, particularly their television station members which are suffering the most immediate and direct effect of the Commission's re-regulatory initiatives in the form of two, new, onerous regulations, FCC Form 355 and the online public file rule.