

Washington Issues for Broadcasters – All Good News?

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So What is Up in Washington?

- Until last year, my regulatory sessions were all doom and gloom
- I'd talk about all the new proposed rules and regulations
- I'd talk about the proposed regulations that might adversely affect your bottom line
- Usually, you'd walk out of my session depressed

Then, it was a new day
in Washington – where
anything is possible....

The Players Since Last Year

- ⦿ A Republican President who wants to get rid of regulation
- ⦿ A Republican Congress (for now)
- ⦿ A Republican FCC – Chairman Pai ***who actually likes broadcasters***, and has been regulating deregulating as much as he can, and Commissioners O’Rielly and Carr who would probably like to move even faster
- ⦿ One Democratic Commissioner who is there for a while, and a second (Commissioner Clyburn) whose departure is imminent

It's still a new day in
Washington – where
anything is possible....

What We've Seen Already

- Abolition of requirement to keep letters from the public in your public file
- Rescission of processing policies on Shared Services Agreements for TV
- Rescission of admonitions against TV stations for political file violations
- Rescission of decision requiring social security numbers on ownership reports for noncommercial station officers and directors
- Adoption of new rule liberalizing location of FM translators for AM stations

And.....

- UHF discount reinstatement – meaning lots of TV mergers possible
- EEO reform – online sources are now alone sufficient to meet the wide dissemination rules
- Noncommercial third-party fundraising – lifts prohibition on non-CPB stations interrupting their normal programming to raise funds for non-station groups – including non-station university activities and other charities
- Changes in AM proofing processes

But wait, there's been more.....

- Further reform of the ownership rules
 - TV local ownership rules liberalized including allowing JSAs
 - Radio-TV cross ownership permitted
 - Newspaper-broadcast cross-ownership rules permitted
- ATSC 3.0 approved
- Abolition of the Main Studio Rule
- Modernization of Media Regulation Initiative to look into all the other broadcast rules to find ones that can be repealed or replaced – one rule per month promised by Chairman
 - Paper rulebooks, public notices, ancillary/supplemental revenue reports and posting licenses

What else is possible?

- Children's Television reform
- Radio ownership changes

It's a new day in
Washington – anything
is possible....

But that doesn't mean that all the
issues have been resolved and
broadcasters have no
Washington issues to think
about....

What is not necessarily helped by the new day?

- Issues where there is no clear industry consensus on where things should go
- Technological issues where ideology makes no difference
- Issues where the horse has left the barn...
- Issues outside the hands of the FCC – where Congress may need to step in

The Spectrum Auction

- Repacking to roll out between now and 2020
- Some concerns and some good news
 - Questions about logic of repack timetable – will everyone get it done by the deadline?
 - But Congress has helped with money for radio and LPTV and TV translators
 - And Congress addressed concerns about the \$1.75 Billion repacking reimbursement fund being enough
 - Details to be worked out
- LPTV and translators in repacking window now – just extended to June 1
- Unlicensed wireless wants still more spectrum

ATSC 3.0 – Tomorrow's TV

- Voluntary transition - some stations stay behind to multicast in old digital format
- Stations partner – some transition to 3.0 while others stay in current format and multicast transitioning stations
- Allows all sorts of new technology – better mobile reception, data, ultra-high definition – all in IP formats compatible with digital devices
- Some stations may roll out technology during the repacking

What's Up With AM Radio?

- Over 1500 new translators for AM stations (already or about to be granted)
- Further FCC thought on issues including:
 - Reduced skywave protection for Class A stations
 - More relaxed interference rules between AM stations – more interference, but hope for more power in central service areas to overcome background interference
- Not officially on the table yet
 - Cellularized AM and all-digital operation

Odds and Ends

- FCC Still enforcing rules that are left
- EEO still exists
 - And fines for stations that don't keep records
- Sponsorship ID is an issue still – big fines to Sinclair recently for not identifying sponsors in one multi-station campaign
- Major underwriting issues for noncommercial stations
- Political rules
- And watch for online public file issues with renewal cycle starting next year

Issues Outside FCC Control

- Disclaimers on auto ads for radio
- Copyright issues like claims for infringing content on radio and TV
 - Pictures on websites
 - Internet videos on TV stations
- Music issues
 - Be careful with content in podcasts and on-demand video

Music Issues Take Center Stage

- New streaming rates went into effect in 2016 – rates dropped by 1/3 for radio
 - Some “performance complement” issues still out there
 - Also an appeal is still pending, and a new proceeding starts next year
- Issues from the composer’s side – ASCAP and BMI want new rights – and now GMR
- Performance royalty still comes up regularly in DC discussions – constant agitation from artists and labels in Congress
- For radio, SESAC rates went down, ASCAP stayed flat and BMI rates to be decided
- For TV, ASCAP and BMI recently expired so new deals coming

Other Composition Issues

- GMR – Global Music Rights – new PRO seeking to license music rights – have withdrawn these rights from ASCAP and BMI for composers including the Eagles, John Lennon, Pete Townsend, Pharrell Williams
 - Interim deal with commercial radio, expires in September
 - Litigation between RMLC and GMR
 - Will there be a deal?
 - They missed the boat for noncommercial radio, but streaming still an issue
- Other big publishers considering withdrawals too
- Could result in a fracturing of music rights

Online Sponsorship ID

- FTC requires disclosure of sponsors of any online content
- Includes not only program material, but even social media posts
- FTC recently issued warnings to 90 celebrities
- Includes not just money, but getting anything of value – including free stuff for use in reviews
- Like FCC rules, but potentially stricter
- Big fines for violations, and long periods of government supervision

For More Information

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