

New TV Reporting and Public File Regulations

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Garvey Schubert Barer Legal Update, December 11, 2007.

After seven years, the FCC acted on a long-pending rulemaking proposal to require TV stations to file standardized quarterly issues programs reports electronically with the FCC, and to make their public files available on their web sites.

Although specific details are not yet available, the FCC announced that the new form will require TV stations to list all of the programming they have aired in FCC-prescribed categories, including local news, local civic programming, local electoral affairs programming, sponsored and free public service announcements, religious, and independently produced programs. The new form will elicit information on the licensee's efforts to ascertain programming needs from various segments of the community. Information on closed captioning and video description, including emergency information made available to the disabled, will also be reported. Designed to replace the requirement to prepare and place in the public file quarterly issues programs reports about a station's most significant treatment of community issues, the new form must be filed electronically with the FCC.

TV stations must also make available on their web sites the entire contents of their public inspection files, other than their political files and non-emailed letters from the public, which will continue to be accessible only from a station's public file maintained at the main studio. The public file will need to be accessible to the disabled. Only stations that have web sites need to meet this new requirement. In addition, TV stations must notify their audiences twice daily about the locale of the station's public file.

Expect public interest groups and the FCC to use these reports in reviewing licensees' next renewal applications. In the words of FCC Chairman Kevin Martin, "This public 'report card' will shine a bright light of the activities of television stations across the country." Commissioner Copps said: "Our mantra should be: no public interest performance, no license."

Lest radio stations think they have dodged a bullet, Commissioner Adelstein expressed that the "American people have a right to now how broadcasters – TV and radio alike – are using the public's airwaves." In contrast, Commissioner McDowell questioned "the need for government to foist upon local stations its preferences regarding categories of programming" meaning, of course, that this new form will do just that.

TV Stations must begin to honor the new requirements within 60 days of Federal Register publication of the text of the order adopting the new regulations.