

# Richard Wiley and Kathleen Kirby Discuss 2014 Policy Outlook for Radio Broadcasters

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Wiley Rein Chairman Richard E. Wiley and Media Practice co-chair Kathleen A. Kirby were quoted by *Inside Radio* this week about the regulatory outlook for radio broadcasters under the leadership of new Federal Communications Commission (FCC) Chairman Tom Wheeler.

Media ownership is among the issues that may be addressed this year by the FCC, which must wrap up its 2010 quadrennial review. Ms. Kirby—who believes most of the issues will be folded into the 2014 quadrennial review—predicts that proposals to ease cross-ownership limits will continue to draw interference from opponents of consolidation and those who favor a more deregulated approach. The FCC is unlikely to lift existing FM/AM subcaps or create “super markets” in the largest cities where a single operator would be allowed to own more than eight stations, Ms. Kirby added.

The commission is also unlikely to require radio stations to start complying this year with the 2012 “online political file” rule, she said. The rule, currently being implemented for television stations, requires broadcasters to disclose political advertising data by uploading it to a public FCC database. “Radio is just a far larger universe of licensees,” Ms. Kirby said. “They want to make sure they have all their ducks in row before they extend it to radio.”

Indecency policy also remains on the FCC’s agenda, following the 2012 ruling by the Supreme Court of the United States that overturned fines against two broadcasters for alleged violations of the agency’s rules, according to the article. That decision opened the door to the agency revising its indecency rules, according to Mr. Wiley, the former

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FCC chairman who currently chairs Wiley Rein's preeminent Communications Practice.

If Chairman Wheeler moves forward with a proposal to focus on violations other than fleeting expletives or momentary nudity, it would signal a "back-to-basics approach" centered on specific words not allowed on the air, Mr. Wiley said. In a recent WileyonMedia blog post, Mr. Wiley listed indecency among the "Top Ten" issues facing the FCC over the next few years.

The FCC may also impose additional public interest obligations on broadcasters, according to Ms. Kirby. "I always have my eye on whether the FCC is going to impose some kind of content-based localism requirement on broadcasters where they would have to have certain percentages of news and public affairs programming," she said. But she predicted that the agency will not try to resurrect the Fairness Doctrine.

With respect to the 2014 legislative agenda, Ms. Kirby said a growing number of private agreements may reduce pressure in Congress to pass a radio royalty bill. "The private deals between the radio companies and record labels may have Congress realizing the market is taking care of this and there's no need for regulation," she said.

Ms. Kirby added that updating the 1996 Telecommunications Act will be difficult, but predicted that "inevitably, it will happen." Mr. Wiley will be testifying before Congress next week as it attempts to update the law regulating the communications industry.