

FCC Aggressively Enforcing EEO Rules

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The Federal Communications Commission (FCC or Commission) recently issued Notices of Apparent Liability for Forfeiture against two broadcast licensees for violations of the EEO rules. On the heels of its decisions to fine these licensees \$14,000 and \$8,000, respectively, as well as subject them to additional annual EEO reporting obligations, the FCC held an "EEO Best Practices Summit." There, the Commission's staff advised that more fines may be levied early this year and cautioned that the agency will be enforcing its EEO rules aggressively. It is critically important, therefore, that you review your EEO policies and procedures to ensure compliance.

The Commission's December 30th decisions focused primarily on the broadcasters' "inadequate" use of recruitment sources to fill full-time job vacancies. The agency underscored that using only the Internet and/or word-of-mouth contacts to disseminate information about job opportunities does not fulfill a licensee's broad outreach obligations. Under the FCC's rules, broadcasters are required to publicize their full-time vacancies using a list of recruitment sources designed to widely disseminate information throughout their communities. Although the FCC has neither dictated a minimum number of recruitment sources that broadcasters must use to meet the "wide dissemination" requirement nor dictated precisely the types of sources licensees must use, the Commission has issued decisions, including the two most recent, that instruct stations what not to do.

- Stations may not use Internet sources—such as online job banks and/or professional/social networking websites (e.g., careerbuilder.com, allaccess.com, the station's own website)—as the *sole* means of disseminating information about a full-time job vacancy.

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- Using a combination of Internet sources, walk-ins and employee or other word-of-mouth referrals to publicize a job vacancy violates the EEO rules. Because none of these sources is a public, non-Internet source, in the FCC's eyes, the station has conducted no recruitment.
- Relying on any of the following as a **sole** recruitment source may also get you a fine: a) on-air announcements; b) a broadcast association; c) a college; d) flyers at station events; and e) a job fair. Any of these sources may be part of your recruitment source mix, but should not be the only source used to recruit for a vacancy.

In addition to broad recruitment obligations, the FCC's EEO rules include specific recordkeeping and reporting requirements. There is an EEO component to the license renewal process, and the FCC intends to continue with random EEO audits. Wiley Rein has designed a number of tools to assist our clients EEO compliance, including recordkeeping and report templates as well as training sessions. For more information, please contact one of the attorneys listed below.