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Special Advisory to Broadcasters  
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## Communications Broadcast Advisory

### FCC Admonishes Station Group Owner for Failing to Widely Recruit Under Commission's EEO Rules

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**As the result of a random EEO audit, the FCC admonished a publicly traded broadcast station group owner for failing to recruit "widely" for every full-time vacancy.**

On March 25, the FCC admonished Entravision Holdings, LLC for its recruitment practices at four Texas radio stations during the two year period of April 2003 to April 2005. In its response to the FCC's random EEO audit, the licensee reported that the stations used the licensee's corporate website, station on-air advertisements, word-of-mouth, walk-ins, unsolicited job applications, or internal job postings to recruit for its full-time openings during the period. From 2003 to 2004, eight out of its nine full-time vacancies were filled in this manner as was the case for all four of its full-time vacancies from 2004 to 2005.

The Commission acknowledged that it does not require use of a specific number of recruitment sources, but emphasized that the efforts undertaken must be "sufficiently broad." The sources used must "reasonably be expected, collectively, to reach the entire community" in order to be found in compliance with the Commission's rules.

In parsing through the various types of efforts engaged in by the licensee, the Commission said that relying on a station's own employees or on the station's own contacts does not constitute recruitment for purposes of the Commission's EEO rules because such efforts are not "public outreach." Implicit in this is that the FCC apparently feels that this type of "outreach" is more reminiscent of an "old boy's network" and thus not truly "public" outreach. The Commission also stated that a "walk-in" may be a "source" of an interviewee or hiree, but it is not a recruitment effort. In addition, the Commission emphasized that a station may not rely exclusively on the Internet as a recruitment effort and thus must use non-Internet sources at the same time. Lastly, the FCC held that as a result of licensee's failure to recruit properly for all of its full-time vacancies, the broadcaster also failed to adequately analyze its recruitment program on an ongoing basis to ensure that it was effective in achieving "broad outreach."

The Commission determined that the licensee willfully and repeatedly failed to comply with its EEO rules. However, because the violations occurred during the immediately prior license term and the licenses of the four audited stations had already been renewed, the statute of limitations barred the Commission from imposing a fine on the licensee. The FCC, however, issued an admonishment and ordered the licensee (and any successor licensee should the stations be sold) to submit additional EEO information to the FCC by May 1, 2008, May 1, 2009, and May 1, 2010. Specifically, the four Texas radio stations, and others that may be in the same station employment unit, must, on an annual basis, submit their then most recent Annual EEO Public File Reports to the Commission for review. The information must include the total number of interviewees for each full-time vacancy for the preceding reporting year, the referral source of each interviewee, the recruitment source which referred the hiree of each full-time vacancy, and dated copies of all advertisements, letters, bulletins, faxes, emails, or other communications advertising each full-time vacancy in the preceding reporting year.

The FCC stated that it expected the licensee to “take the steps necessary to ensure that its staff understands and complies with ”the Commission’s EEO rules and “caution[ed]...that we will not hesitate to impose appropriate sanctions...for any further violations.”

In light of this decision, we remind licensees immediately to carefully and thoroughly review all aspects of their EEO rule compliance programs with special emphasis on determining whether they have systems in place to insure that their stations engage in very robust, multifaceted, public, and broad outreach efforts to recruit for all full-time job vacancies.

If you have any questions about this decision or the Commission’s EEO rules, please contact any of the members of our Communications Practice Section.

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