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Special Advisory to Broadcasters  
November 2006

## Communications Broadcast Advisory

### Broadcast Station EEO Advisory

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**This Broadcast Station EEO Advisory is directed to radio and television stations licensed to communities in: Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont and highlights the upcoming deadlines for compliance with the FCC's EEO rule.**

#### Introduction

December 1, 2006 is the deadline for stations licensed to communities in the states referenced above to place their Annual EEO Public File Report in the public inspection file and post the report on the station's website, if applicable.

Under the FCC's rule that became effective as of March 10, 2003, all radio and television station employment units ("SEUs"), regardless of staff size, must afford equal employment opportunity to all qualified persons and practice nondiscrimination in employment.

In addition, those SEUs with five or more full-time employees ("Nonexempt SEUs") must also comply with the FCC's three-prong outreach requirements. Specifically, all Nonexempt SEUs must (i) broadly and inclusively disseminate information about every full-time job opening except in exigent circumstances, (ii) send notifications of full-time job vacancies to referral organizations that have requested such notification, and (iii) participate in a specified number of outreach initiatives from the FCC's menu of such options during each of the four, two-year segments that comprise a station's eight-year license term. These "menu option initiatives" include, for example, sponsoring one job fair, attending, rather than sponsoring or co-sponsoring, four job fairs, or having an internship program, in order to earn one menu item credit. In addition, a Nonexempt SEU must prepare and place its Annual EEO Public File Report in its public inspection file and post it on its website, if it has one, on the anniversary date of the filing of its license renewal application with the FCC. The Annual EEO Public File Report summarizes the SEU's EEO activities during the previous 12 months. In all

cases, adequate records must be maintained. Stations must also submit the last two such Annual EEO Public File Reports with their license renewal applications, and again at the midpoint of the license terms.

For a detailed description of the EEO rule and practical assistance in preparing a compliance plan, broadcasters should consult "EEO in 2006 and Forward: A Legal Guide to the FCC's New EEO Rule and Policies for Broadcasters," published by the Communications Practice Group. This publication is available on the firm's website, [www.pillsburylaw.com](http://www.pillsburylaw.com).

### **Deadline for the Annual EEO Public File Report for all Nonexempt Radio and Television SEUs Whose Stations Are Licensed to Communities in the States Identified Above**

December 1, 2006 is the date on which Nonexempt SEUs of radio and television stations, including Class A television stations and LPTV stations, licensed to communities in the states and territories identified above, must (i) place their Annual EEO Public File Report in the public inspection files of all stations comprising the SEU and (ii) post the Report on the websites, if any, of those stations. It is contemplated that the Report will cover the period from November 30, 2005 through December 1, 2006. However, SEUs may "cut off" the reporting period up to ten (10) days before December 1 so long as they begin the next annual reporting period as of the next day. For example, if the Nonexempt SEU uses the period November 30, 2005 through November 22, 2006 for this year's report, then next year the Nonexempt SEU must use the period beginning November 23, 2006 through December 1, 2007 (or up to 10 days prior to that date) for the 2006 report.

### **Deadlines for Performing Menu Option Initiatives**

The Annual EEO Public File Report must contain a discussion of the "menu option initiatives" undertaken during the preceding year. As noted above, depending upon the full-time staff size and the location of their stations, Nonexempt radio and television SEUs are required to perform a specific number of outreach initiatives ("Menu Option Initiatives") during each two-year segment of their eight-year license term. Specifically, radio and television SEUs with between five and 10 full-time employees, and SEUs which are located in "smaller markets," must complete two Menu Option Initiatives during every two-year period. SEUs with 11 or more employees that are located in "larger markets" must complete four such Menu Option Initiatives. The FCC has defined a "smaller market" station as any SEU consisting solely of a station or stations licensed to a community that is in a county outside of all metropolitan areas or is in a metropolitan area with a population of less than 250,000.

Because the filing date for license renewal applications varies depending on the state in which a station is licensed, the time period in which the Menu Option Initiatives must be completed also varies. Stations should review the section below that applies to SEUs in their state.

- **Menu Option Initiatives Required for Nonexempt Radio SEUs Whose Stations Are Licensed to Communities in Colorado, Minnesota, Montana, North Dakota and South Dakota and Television SEUs in Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.**

The current two year segment began on December 1, 2004 and runs through November 30, 2006, for radio stations licensed to communities in Colorado, Minnesota, Montana, North Dakota and South Dakota and for television stations licensed to communities in Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

By the November 30, 2006 deadline, SEUs with between five and 10 full-time employees and SEUs which are located in “smaller markets,” must perform a sufficient number of Menu Option Initiatives to qualify them for at least two full Menu Option Initiative credits. By this same deadline, SEUs with 11 or more full-time employees or that are not located in “smaller markets,” must perform a sufficient number of Menu Option Initiatives to qualify them for at least four full Menu Option Initiative credits.

- **Menu Option Initiatives for Nonexempt Radio SEUs Whose Stations Are Licensed to Communities in Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and for Nonexempt Television SEUs Whose Stations Are Licensed to Communities in Colorado, Minnesota, Montana, North Dakota and South Dakota.**

The current two year segment began on December 1, 2005 and runs through November 30, 2007 for radio stations licensed to communities in Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and television stations licensed to communities in Colorado, Minnesota, Montana, North Dakota and South Dakota.

By the November 30, 2007 deadline, SEUs with between five and 10 full-time employees and SEUs which are located in “smaller markets,” must perform a sufficient number of Menu Option Initiatives to qualify them for at least two full Menu Option Initiative credits. By this same deadline, SEUs with 11 or more full-time employees or that are not located in “smaller markets,” must perform a sufficient number of Menu Option Initiatives to qualify them for at least four full Menu Option Initiative credits.

### **Deadline for Renewal Application Filing for Television Stations Licensed to Communities in Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont.**

December 1, 2006 is also the date by which all television stations licensed to communities in Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont must file their license renewal applications with the FCC. Along with their renewal applications, such stations must file FCC Form 396 and, in the case of Nonexempt SEUs, such SEUs must also attach copies of their December 1, 2005 and December 1, 2006 Annual EEO Public File Reports.

### **Recommendations**

It is critical that every SEU maintain adequate records of its performance under the EEO Rule. The Commission will not allow credits for Menu Option Initiatives that are not duly reported in an SEU's Annual EEO Public File Report and that are not adequately documented. Accordingly, it is recommended that, before an Annual EEO Public File Report is finalized and placed in the public domain by posting it on a station's website and placing it in the station's public inspection file, the draft document, including supporting material, be reviewed by communications counsel. Finally, we note that the Commission is continuing its program of EEO audits. The FCC recently commenced its third round of 2006 EEO audits in October. These random audits check for compliance with the requirements outlined in this Advisory, and are planned to continue indefinitely. For more information on the FCC's EEO rule and your obligations under it, as well as practical advice for compliance, please contact any of the lawyers in the Communications Practice Section.

### **Live Link**

EEO in 2006 and Forward: A Legal Guide to the FCC's New EEO Rule and Policies for Broadcasters, November 2006 (please note that this PDF totals 61 pages)

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