

Special Bulletin to Broadcasters

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New FCC EEO Rules Go into Effect

Filing Requirements Commence in June 2000

As we previously reported in **Special Bulletin to Broadcasters**, SB No. 00-01 (January 21, 2000) and **Special Bulletin to Broadcasters**, SB No. 00-02 (February 7, 2000), the FCC adopted new EEO rules earlier this year in response to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Lutheran Church - Missouri Synod v. FCC*, 154 F.3d 494 (1998) (*Lutheran Church*), which held that the Commission's previous EEO rules were unconstitutional.

These rules went into effect on April 17, 2000. Accordingly, broadcasters should now be collecting data necessary to comply with the rules, and put mechanisms in place to ensure compliance with the new regulations.

On May 3, the U.S. Court of Appeals for the District of Columbia Circuit declined to issue an emergency stay of the Commission's new rules that had been sought by all 50 of the state broadcasters associations. Instead, the Court, on its own motion,

2. In addition, each year, all broadcast stations with five or more fulltime employees must create and place in their public inspection file, on the anniversary date of their license renewal filing, a public file report regarding their EEO compliance during the preceding

ordered that consideration of the associations' appeal of the rules be expedited. In the meantime, the documentation and filing requirements in the rules commence on June 1.

New Filing Requirements

1. Licensees and permittees of commercial and noncommercial AM, FM, TV, Class A TV, LPTV and international stations (regardless of staff size) must file a "Broadcast and Cable Initial Election Statement," an FCC form dated April 2000, which the Commission has mailed to all stations. The form must be filed with the FCC by June 2, 2000, and covers the period from April 17, 2000 until the date on which the station's next election on the new Form 397 ("Broadcast Statement of Compliance") is due to be filed.

year. The first stations required to create these reports are radio and television stations whose license renewal filing anniversary falls on June 1. Thereafter, stations in each succeeding license renewal group must create and place such reports in their public inspection files on their

license renewal filing anniversary date (on August 1, October 1, December 1, etc.) This first annual report should cover the period from April 17, 2000 until the anniversary of the station's license renewal filing.

3. After an initial phase-in, all broadcast stations (regardless of size) must file the new FCC Form 397, "Broadcast Statement of Compliance," in the second, fourth and sixth years of their license terms. In the fourth year, stations must attach their public file report for that year so that the FCC can conduct a midterm review of their EEO compliance. Because of the phase-in schedule for this filing requirement, only television stations in the District of Columbia, Maryland, Virginia and West Virginia, which are all currently in the fourth year of their license terms, must file the Form 397 and attach a copy of their public file report on June 1, 2000. These stations will be filing a Certificate of Compliance for the period April 17, 2000 to May 31, 2000 and electing therein to proceed under Option A or Option B of the EEO rules for the next two years. The next group to file will be television stations licensed to communities located in North Carolina and South Carolina, which must file their Form 397 and attach their public file report on August 1, 2000. Television stations in Florida, Puerto Rico and the Virgin Islands must follow this procedure on October 1, 2000, and television stations in Alabama and Georgia must do so on December 1, 2000. This process will be repeated through the other fourteen license renewal groups.

4. Form 395-B ("Annual Employment Report") must still be filed by all licensees and permittees every year by September 30, reflecting the composition of station staff during one payroll period occurring in July, August or September of that year.

Conclusion

The new rules present an extremely complicated, labor-intensive process that broadcasters will need to navigate very carefully in order to comply, and we urge our clients to contact us for assistance. To aid broadcasters in their efforts to learn the new rules and procedures, the communications group has prepared "*EEO in the New Millennium: A Guide to the FCC's New EEO Rules and Policies for Broadcasters*," copies of which are available by contacting any of the lawyers in the communications group.

We will, of course, report on the progress of the appeals process as developments warrant. For more information, as well as assistance in the preparation and filing of the various EEO reports and forms, please contact any of the lawyers in the communications group.

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