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Special Advisory to Broadcasters
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Communications Broadcast Advisory

Alert: DTV Consumer Education and Reporting Requirements Effective Monday, March 31, 2008

Immediate Attention Required

As we have previously advised, on March 3, the FCC released a Report and Order outlining new requirements for the education of consumers regarding the February 17, 2009 transition to digital television service. At the time the FCC released the Report and Order, the new requirements, and the form that the FCC adopted for full-power television stations to report on their compliance with those requirements, remained subject to review and approval by the Office of Management and Budget (“OMB”). This afternoon, the FCC released a Public Notice announcing that it had received the necessary approvals from the OMB and that the new rules and reporting requirements will become effective on **Monday, March 31, 2008**.

As a result of this Public Notice, all full-power television stations must ensure that they elect one of the compliance “Options” contained in the Report and Order and have begun airing DTV consumer education announcements pursuant to their chosen “Option” no later than Monday, March 31, 2008. Such stations are required to report on their first “calendar quarter” 2008 efforts on the new FCC Form 388 which must be electronically filed by April 10, 2008. **Because March 31, 2008 is the last day of the first calendar quarter of 2008, only that one day’s efforts must be reflected in this first Form 388 filing**, although it would serve the television industry well if all stations also included examples of other consumer DTV education efforts that they have engaged in during the quarter. At a minimum, however, television stations will want to be in a position to state that on March 31, 2008, they aired at least the following:

- For stations electing Compliance Option 1, one crawl, snipe or ticker and one 15-second, closed captioned PSA per quarter of the day (6:01 AM to 12:00 PM; 12:01 PM to 6:00 PM; 6:01 PM to 12:00 AM; and 12:01 AM to 6:00 AM).

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- For stations electing Compliance Option 2, three crawls, snipes, or tickers and three 30-second closed captioned PSAs (or two 15-second PSAs in lieu of a 30-second PSA) between 5:00 AM and 1:00 AM, including at least one crawl, snipe or ticker and one 30-second (or two 15-second) PSA between 6:00 PM (5:00 PM CT/MT) and 11:35 PM (10:35 PM CT/MT).
- For noncommercial educational stations electing Compliance Option 3, at least 60 seconds of on-air consumer education, ideally between 6:00 PM and 12:00 AM.

After March 31, 2008, stations must continue to comply with the requirements of their chosen “Option” and report on those efforts by the end of each calendar quarter. Details of the “Options” and a copy of the Form 388 for reference can be found in our Advisory posted on our website by clicking below. Stations electing Compliance Option 1 should be alert to the fact that on April 1, 2008, the number of crawls, snipes or tickers and PSAs that they must air doubles.

If you have any questions about your DTV educational obligations, please contact any of the members of our Communications Practice Section.

Live Link

Alert: FCC Adopts New DTV Consumer Education and Reporting Requirements; Communications Broadcast Advisory; Pillsbury Winthrop Shaw Pittman LLP; March 2008

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