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## FCC Suspends Indefinitely New Low Power Television Filing Opportunity in Nonrural Areas, But Does Allow New Digital Companion Channel Filings as of July 26, 2010

by Lauren Lynch Flick and Scott R. Flick

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The FCC's Media Bureau released a Public Notice today suspending indefinitely the FCC's previously announced filing opportunity for new digital low power television ("LPTV") and TV translator stations in "nonrural" areas that was scheduled to begin on July 26, 2010. The Commission had announced the opportunity to file for new digital LPTV stations one year ago. Applications for new digital LPTV stations in rural areas have been permitted since August 25, 2009. Applications for new digital LPTV stations to be located in nonrural areas were originally to be permitted as of January 25, 2010, but that date was delayed to July 26, 2010. The delay appeared to be related to the then-impending release of the FCC's National Broadband Plan ("NBP"), which ultimately cited the need to repurpose some television spectrum for wireless broadband. "Nonrural" areas were identified in an Appendix to the Public Notice originally announcing the filing opportunity, and are generally those areas within 75 miles of the top 100 television markets.

The Media Bureau cited today's release by the President of a Presidential Memorandum supporting the NBP, particularly with regard to the need to make an additional 500 MHz of spectrum available for broadband use over the next ten years. In light of that development, the Media Bureau noted the FCC's need "to evaluate its reallocation and repacking proposals and their impact on future licensing of low power television facilities," which it said necessitated the suspension. The Public Notice goes on to state that, after the Commission has completed its broadband rulemakings, the Media Bureau will determine when nonrural LPTV filings can be made again. Given the number of rulemaking proceedings the National Broadband Plan will generate, it is reasonable to assume that any reinstatement of this filing opportunity will not be in the near future.

Perhaps because of that likelihood, the Bureau also announced that beginning **July 26, 2010**, existing Class A, LPTV, and TV Translator stations may file applications for digital companion channels. This filing opportunity does not appear to have any geographic limitations. As a result, even stations in the largest markets can file digital companion channel applications, to the extent vacant channels are available. Companion channel filings are designed to encourage the nationwide transition to digital television so that analog channels can be freed for reallocation, a mandate of the National Broadband Plan. Accordingly, companion channel filings can only be made by existing stations that do not currently have a digital channel.

The Bureau's action today does not affect the filing of applications for new digital LPTV and TV translator stations in rural areas, which has been ongoing since August 2009. Similarly, applications for major

changes to existing analog and digital stations in rural areas and digital flash cut applications can still be filed.

For assistance in preparing permissible LPTV applications and analyzing a station's options in light of the Media Bureau's action, please contact any of the attorneys in the Communications Group.

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