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Special Advisory to Broadcasters
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Communications Broadcast Advisory

Alert: FCC Releases DTV Consumer Education Form 388 Which Must Be Filed by April 10, 2008

Immediate Attention Required

As we have previously advised, on March 3, the FCC released a Report and Order outlining new requirements imposed on full-power television stations for educating consumers about the February 17, 2009 transition to digital television service. On March 28, the FCC released a Public Notice announcing that it had received the necessary approvals from the OMB and that the new rules, including reporting requirements, would become effective on **Monday, March 31, 2008**. As a result of that announcement, full-power television stations must file with the FCC their first FCC Form 388 quarterly report by April 10, 2008. The form must also be placed in the station's Public Inspection File. In addition, television stations electing compliance "Option 1" must post the form on the station's website, if it has one. All stations must publicize in an appropriate manner the existence and location of these Form 388 Reports. We recommend that you follow a schedule similar to that which you use to publicize the availability of the station's Children's Television Reports.

The FCC has released a Microsoft Word version of the Form 388 which must be filed through the FCC's Electronic Comment Filing System ("ECFS"). The Commission has included brief instructions for filing at the top of the form; however, we have clarified those instructions for your convenience:

- You should complete the Microsoft Word version of the form in Microsoft Word, or print it out and type it. A copy of the form has been included as an attachment to the e-mail version of this Advisory. The FCC's filing system will accept the form in the Microsoft Word version, but .pdf is preferred. Note that the FCC's staff has advised that stations electing compliance "Option 2" must complete the Comment box at the

bottom of Page 3 of the form. Insert a short statement explaining your efforts and how they are increasing public awareness of the DTV conversion process.

- You should next access the FCC's Electronic Comment Filing System at this web address: http://fallfoss.fcc.gov/prod/ecfs/upload_v2.cgi. You will first be directed to fill out a "cover sheet." You will need to enter (i) the proceeding/docket number, which for purposes of the Form 388 is 07-148, (ii) your contact information, and (iii) the type of filing you are submitting. For Form 388, you should select "REPORT."
- Once you have completed the "cover sheet," you should proceed to "Send Comment Files to FCC" and click on "Browse" to upload your Form 388. Once there, you should click on the button "Send Attached File to FCC." Type "REPORT" in the "File Description" box.
- The FCC does not explicitly offer a size limitation for relevant attachments, but a document longer than 30 pages may not be accepted. If you need to split up your Form 388 and submit multiple attachments due to length restrictions, you should upload one attachment at a time. You will be given the opportunity to upload additional attachments after the first attachment has been uploaded.
- Once you have uploaded the Form 388 and are satisfied that everything is in order, you must click "submit" in order to electronically "file" the report. You will then be directed to a confirmation page which you will be able to download or print as a receipt for your records. We recommend that you always retain a copy of the report and the confirmation page in case any questions are raised about the timeliness of a filing.
- You will not be able to view your filing immediately after you have "filed" it. You should be able to pull it up the next business day, however.

Details about the DTV educational compliance "Options," that are the focus of FCC Form 388, can be found in our previous two Advisories posted on our website by clicking below. Stations electing Compliance Option 1 should be alert to the fact that beginning April 1, 2008, the number of crawls, snipes or tickers and PSAs that must be aired has doubled.

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

Live Links

Federal Communications Commission; Electronic File Comment Submission

Alert: FCC Adopts New DTV Consumer Education and Reporting Requirements; Communications Broadcast Advisory; Pillsbury Winthrop Shaw Pittman LLP, March 2008 (PDF, 12 pages)

Alert: DTV Consumer Education and Reporting Requirements Effective Monday, March 31, 2008; Communications Broadcast Advisory; Pillsbury Winthrop Shaw Pittman LLP; March 2008 (PDF, 2 pages)

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