



Virginia Association of Broadcasters Legal Review



Brooks, Pierce, McLendon, Humphrey &
Leonard, LLP
Counsel to VAB • (919) 839-0300

250 West Main Street, Suite
100
Charlottesville, VA 22902 • (434)
977-3716

February 23, 2018

Legal Memorandum

FCC Proposes to Eliminate Broadcast Mid-Term EEO Report – FCC Form 397 – Filing Requirement

The Broadcast Mid-Term EEO Report (FCC Form 397) may soon be a thing of the past. The FCC adopted a [Notice of Proposed Rulemaking](#) (“NPRM”) at its February 22, 2018, meeting that proposes to eliminate the requirement that certain broadcast television and radio stations file Form 397 at the midway point of each license term.

The FCC adopted the current Form 397 in order to facilitate the FCC staff’s review of the EEO practices of all broadcast television stations in station employment units with five or more full-time employees, and all radio stations in employment units with eleven or more full-time employees; those reviews come at the midpoint of each station’s eight-year license term. After completing a mid-term review, the FCC’s EEO staff informs licensees of any necessary improvements in recruitment practices to ensure that they are in compliance with the Commission’s EEO rules and, in some cases, imposes sanctions for noncompliance.

The NPRM explains that, with one exception, the information that stations provide on Form 397 is already also available in stations’ public inspection files. As such, the FCC tentatively concludes that eliminating the Form 397 filing requirement is consistent with the Commission’s ongoing effort to modernize media regulations by revising or eliminating rules that are unnecessary or unduly burdensome.

The only piece of information required by Form 397 that is not, to date, available in the public inspection file is whether the station has enough full-time employees to trigger a mid-term review in the first place. The NPRM seeks comment regarding how the FCC should—if Form 397 were to be eliminated—identify which stations are subject to a mid-term review.

Note: even if Form 397 is eliminated, the FCC will continue to conduct mid-term reviews of the employment practices of stations with the requisite number of employees; because the

Communications Act requires the Commission to conduct such reviews, the FCC cannot eliminate that process outright.

Comments on the NPRM will be due 30 days after it is published in the Federal Register, and reply comments will be due 15 days after that.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Stephen Hartzell, Editor

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

Wade H. Hargrove
Mark J. Prak
Marcus W. Trathen
David Kushner
Coe W. Ramsey
Charles E. Coble
Charles F. Marshall
Stephen Hartzell
Julia C. Ambrose
Elizabeth E. Spainhour
J. Benjamin Davis
Timothy G. Nelson
Amanda M. Whorton

This Legal Review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

© 2018 Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P