

LOUISIANA FLOODING REVIVES FM CHIP ARGUMENT

Each natural disaster presents its own challenges, and the floods that have inundated portions of Southern Louisiana are presenting wireless companies and federal regulators with a now-familiar picture. FM radio stepped in to fill a void left by cellphones rendered useless during an emergency.

"I just cannot thank you guys enough for getting the message out," Denham Springs, LA mayor Gerard Landry said in an appearance on Guaranty Broadcasting's "Talk 107.3" WBRP, Baton Rouge. "I haven't seen a newspaper or watched TV for eight or nine days but everybody has a radio—thank goodness for that," he added.



His comments illustrate the emergency role radio plays during natural disasters, one that broadcasters have repeatedly used as an incentive to wireless companies reluctant to activate FM chips already installed in most cellphones. It's been a tough sell.

"We had stations on the air 24/7 giving out information—this has been horrific and I

guess people who are not living here don't understand," Louisiana Association of Broadcasters president Polly Prince Johnson said. "Some of these places didn't have electricity and if the FM chip was on their phones they could have been listening to our local broadcasters who were giving lifesaving information."

Helping to strengthen radio's case was the fact that AT&T suffered a massive outage across the region, leaving a large number of residents and the Louisiana State Police with phones that didn't work. Guaranty Media's Baton Rouge market manager Gordy Rush says when flooding closed a 55-mile stretch of Interstate 12 it left thousands of people stranded on the highway for more than 28 hours with radio as a lifeline after his stations jerry-rigged a connection to the state police to relay critical information to drivers stuck miles from any exit ramp. "This all played out on the radio," Rush said.

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October 13, 2016

VAB Richmond Regional Meeting
Westin Richmond
Richmond, VA

October 20-21, 2016

VAB Best of the Best Session #1
Omni Hotel
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October 27-28, 2016

VAB Board Retreat
Keswick Hall
Charlottesville, VA

June 22-24, 2017

VAB 80th Summer Convention
Hilton
Virginia Beach, VA

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Johnson says it wasn't just stuck motorists who were impacted by the cellular outage. It was also families trying to reconnect. "People couldn't make phone calls for three or four days and then it was sporadic at best—so loved ones were calling the radio stations trying to get the information out," he explained.

While the wireless industry points out that the new Emergency Alert System sends alerts to cellphones on a localized basis, last week in Louisiana it seems the messages were having the opposite effect as intended. With frequent alerts around the clock, many people whose phones did work became annoyed and switched them off to preserve battery life. "It was a nuisance," Rush said.

More than a dozen people lost their lives during the Louisiana flooding and while industry lobbyists are likely to tread carefully so as not to appear to be capitalizing on Louisiana's suffering, those high stakes are what many broadcasters say proves the need for radio on smartphones. "If the FM chip was turned on, people are able to tell them that the water is rising and they should get their stuff and get out," Johnson said. "It's in times of disaster when it is so important and it can save lives."

Added Rush, "This is a matter of life or death."

After briefly flirting with the idea of lobbying for a federally imposed chip mandate in 2010, the National Association of Broadcasters quickly backed away from the idea. For the past six years, the NAB has instead pushed the telecom industry to activate FM chips on its own. In the ensuing period, Sprint embraced the NextRadio app—which activates the FM chip—three years ago, and by the end of this year, AT&T and T-Mobile will follow Sprint's lead. The exception is any customer that uses an iPhone since Apple doesn't include FM radio technology inside its handsets.

"NAB continues to support voluntary activation of FM chips by the carriers," spokesman Dennis Wharton said. "This is a no-brainer from a public safety perspective, as FEMA's [administrator] Craig Fugate has noted. We hope all the carriers—along with Apple—will look at the Baton Rouge tragedy as an opportunity to do the right thing and voluntarily light up the chips."

Back in Louisiana, more than 100,000 households remain without power, but some things are beginning to return to normal. Rush is back at his desk after he jumped from market manager to air personality, spending 32 hours on the air from Friday until Tuesday as some staffers were coping with flooded homes.

Guaranty Media began simulcasting "Talk 107" WBRP on its 100,000-watt classic rock sister "Eagle 98.1" WDGL throughout the storm while country "100.7 The Tiger" WTGE relayed WAFB-TV with station cut-ins. Rush says for a time it looked as though WBRP may have been under threat as its transmitter building was six inches from taking on water after drainage canals backed up and overflowed into its industrial part tower site. Fortunately, the water eventually receded.

Rush, who made it through Hurricane Katrina a decade ago, says the two disasters have left him with an unmistakable conclusion. "Twice now, cellular phones have not been dependable; they've failed," he said, adding, "Radio is a lifeline through this stuff."



How to Submit to the VAB Job Bank

Jobs that are printed in the newsletter are pulled directly from the online Job Bank. To include your listing:

- ▶ Go to www.vabonline.com. Login with your user name and password.
- ▶ Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Position	Locations	Type	Department	Organization	
Account Executive	WHSV	Full Time	Sales	WHSV-TV	9/1/2016
Photojournalist-SAT Truck Operator	WDBJ - Roanoke, VA	Full Time	News	WDBJ Television, Inc.	9/1/2016
Reporter/MMJ	Richmond, VA	Full Time	On Air	WWBT, Inc.	8/30/2016
Multimedia Journalist	Lynchburg	Full Time	News	Sinclair Television Stations, LLC	8/26/2016
Chief Engineer	Richmond, VA	Full Time	Engineering	Summit Media Group	8/26/2016
News Editor	Lynchburg	Full Time	News	Sinclair Television Stations, LLC	8/26/2016
News Photojournalist/ Editor	Richmond, VA	Full Time	News	Young Broadcasting of Richmond Inc.	8/26/2016
Sports Director	Roanoke	Full Time	News	Nexstar Broadcasting	8/25/2016
Commercial Producer/Director	Norfolk/Portsmouth/ Virginia Beach	Full Time	Sales	WAVY-TV 10 Media General	8/25/2016
TV News Video Editor – Part-Time	Norfolk/Portsmouth/ Virginia Beach	Part Time	News	WAVY-TV 10 Media General	8/25/2016
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Digital Sales Representative	Roanoke, VA	Full Time	Sales	Mel Wheeler Inc.	8/22/2016
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New OFCCP Sex Discrimination Rule Now in Effect

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.

By John G. Kruchko and Nancy V. Holt*

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Executive Summary: On

June 14, 2016, the Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) published its updated sex discrimination rule for federal contractors and subcontractors. The Final Rule, “Discrimination on the Basis of Sex,” took effect on, August 15, 2016. The Rule implements the requirements of Presidential Executive Order 11246 (E.O. 11246), which prohibits covered federal contractors and subcontractors from discriminating against their employees on a number of grounds, including sex. The OFCCP’s sex discrimination rule was last updated in 1970, and the new rule incorporates many legal developments that have occurred since that time.

The rule applies to any business or organization that (1) holds a single federal contract, subcontract or federally assisted construction contract in excess of \$10,000; (2) has federal contracts or subcontracts that, combined, total in excess of \$10,000 in any 12-month period; or (3) holds government bills of lading, serves as a depository of federal funds, or is an issuing and paying agency for U.S. savings bonds and notes

in any amount.

Requirements of the New Rule

The new rule clarifies the OFCCP’s interpretation of E.O. 11246 as it relates to sex discrimination and aligns its guidelines with Title VII case law and the Equal Employment Opportunity Commission’s (EEOC’s) interpretations of Title VII. Important changes in the Final Rule include:

- Clarifying that the term “sex discrimination” now includes, but is not limited to, discrimination on the basis of sex, pregnancy, childbirth, or related medical conditions, gender identity, transgender status and sex stereotyping;
- Requiring contractors to provide workplace accommodations where needed because of pregnancy, childbirth, or related medical conditions;
- Prohibiting contractors from paying workers differently because of their sex;
- Clarifying that the prohibition on sex discrimination



LEGAL REVIEW

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includes fringe benefits such as medical, hospital, accident and life insurance, retirement benefits, profit-sharing and bonus plans, leave, and other terms, conditions and privileges of employment;

- Providing that the term “harassment because of sex” now includes harassment based on gender identity, pregnancy, childbirth or related medical conditions, and harassment because of sex or sex-based stereotypes even if it is not sexual in nature;

- Prohibiting sex-based requirements for jobs and training unless the contractor can meet the high bar of demonstrating that such requirements are a bona fide occupational qualification;

- Prohibiting treating female and male employees differently based on the stereotypical assumption that women are more likely to have caregiving responsibilities;

- Clarifying that sex discrimination now includes discrimination because of an employee’s gender identity – the term “gender identity” now refers to one’s internal sense of one’s own gender, and it may or may not correspond to the sex assigned to a person at birth, and may or may not be made visible to others;

- Requiring contractors to allow workers to use

bathrooms, changing rooms, showers and similar facilities consistent with the gender with which the worker identifies; and

- Prohibiting discrimination based on failure to comply with expectations about how women and men should look or act or what kinds of jobs they should perform.

The Bottom Line:

Because many of the provisions of the new rule align with already existing federal and state law, contractors are likely already in compliance with many of these obligations. Accordingly, the rule may not require significant changes by most covered contractors and subcontractors in certain core areas. That said, the new rule provides clarity on the OFCCP and Federal Government’s expectations with regard to discrimination based on gender identity and requirements that employees be permitted to use the bathroom, changing room showers and similar facilities consistent with their gender identity, which may be very different from covered contractors and subcontractors’ current policies. While this specific new rule has yet to be challenged through the court system, a Federal judge in Texas recently blocked the Obama administration’s executive order that requires public schools to let transgender students use the bathrooms and locker rooms consistent with their chosen gender identity. Thus, it is vital that contractors be aware of the changes implemented by the new rule and consult with their labor and employment counsel to ensure they are in compliance and up to date on the latest developments in the law and guidance.

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Say “No” To Your Customer



Whether you're seasoned or a rookie seller, the Virginia Association of Broadcasters has you covered with training from P1 Learning that will help you refine your selling skills and grow your client roster.

Case in point, as sellers we are conditioned to say “yes” each time our customer asks us for “stuff”. In example... here it is, your customer is outlining their latest list of “value added” demands (FYI, that’s code for “free stuff”). They eventually get to the bottom of a list that includes everything from free sponsorships, to two tickets to next year’s production of Frozen On Ice. Once complete, they look to you for your response. You look the client in the eyes, smile and calmly say... “no”.

I know what you're thinking, “Are you crazy?” I can't say “no” to my customer! Okay, you're probably right. However, we can modify our response from “no” to “No, But, If”. It's a four step process! Here it is...

- 1. First say “no” nicely, remorsefully, respectfully and carefully.**
- 2. Follow up “no”, with, “but, I could...” You will now fill in this blank with the most important items from their list (like those Frozen tickets).**
- 3. Next add, “if you would...” It's time to fill your needs (larger share, longer agreement, higher rate, etc.).**
- 4. Then ask them for the commitment, “Can we make this happen?” Now pause and wait for their response.**

Example: “No, I’m sorry, I can’t add in the web streaming at no charge.” But, I could add it in at a very low charge if you would be willing to extend your schedule from 13 to 26 weeks. Can we make that happen?”

The process will work, but only if you try. Good selling and remember it's OK to just say, “No... but, if”

To view the complete video training course No, But, If™ visit <http://p1learning.com/state-broadcasters/>. For additional sales tips log into the VAB's online training account, here.

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