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Newsletter

Virginia Association of Broadcasters

January 2010

WDBJ7 and Blue Ridge PBS Win Laurence E. Richardson Award



(from left) Doug Davis, President and General Manager at WAVY/WVBT and current President of the VAB, James Baum, Blue Ridge PBS President and CEO, Jeffrey Marks, President and General Manager at WDBJ7, and Douglas Easter, Executive Director of the VAB.

**By Amy Shaw,
Director, Meeting and
Convention Services**

The Virginia Association of Broadcasters is pleased to announce that WDBJ7 and Blue Ridge PBS have been awarded the 2009 Laurence E. Richardson Community Service Award. The annual award was presented on January 20 at the VAB Legislative Reception in recognition of their combined "JobQuest" program.

The award is a perpetual trophy presented in the name of Laurence E. Richardson, a past president of the Virginia Association of Broadcasters, who set an impressive example of community service for all broadcasters. The trophy is given to the Virginia station that is judged, through its community service

efforts, to have created the greatest resulting benefit to the local community during the past year.

In addition to the trophy, a donation in the amount of \$1,000 will be given to the winning charity. Smart Beginnings

of Greater Roanoke has been selected by WDBJ7 and Blue Ridge PBS to receive this year's donation.

To determine this year's winner, impartial judges from the National Association of Broadcasters used specific criteria, including supporting documents from local organizations.

WDBJ7 and Blue Ridge PBS teamed up with other community partners in late 2008, when the economy took a downturn, to create an interactive program that would help people get back to work. "JobQuest," which launched in January 2009, is a live, hour-long show that regularly features at least 60 job listings from across the region as well as special guests and expert suggestions for job seekers. Most of the content from the show can also be found online at BlueRidgePBS.com, where visitation to the "JobQuest" website grew from 400 unique visitors each week to over 2,000 over a six-month period, nearly a 500% increase in visitation.

Last year's winner, WVBW FM in Virginia Beach, was given a replica award to display permanently.

The VAB would like to congratulate WDBJ7 and Blue Ridge PBS and thank all stations for their continued service to the communities they serve. ❖



To see a photo-spread from the 2010 VAB Legislative Reception, please turn to pages 8-9.



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JANUARY COMPLIANCE TIP

Time to Access

by Harrison Pittman

The year is well underway and the budget you spent hours preparing is now a reality. It wasn't that long ago that you were deep into the budget process accessing departments and projects. Hopefully, you also accessed your compliance efforts and especially your employment practices and policies. If not, now is a good time to reflect on 2009 and to consider questions like...

- Were any positions added or duties of a position changed (Job Structure)
- Were there any employees promoted (Seniority)
- Did all new employees receive a job description (Employment Practices)
- Are your employee benefits packages consistent (Pay and Benefits)

While these queries are not inclusive, they are a beginning toward completing the Assessment component of the general EEO program requirements. For a guideline of what you need to do to comply with this important and often overlooked EEO requirement, be sure to contact your legal counsel. It will pay dividends toward ensuring your compliance.

This compliance tip has been provided by Harrison Pittman of On-Time Online Broadcast Compliance www.OnTimeOnlineebc.com, hpittman@ontimeonlineebc.com.



House Oversight Chairman Pushes For Arbitration PPM Overhaul

WASHINGTON, D.C. (AP) — House Oversight and Government Reform Committee Chairman Henry Hyde (R-Ill.) has introduced legislation to overhaul the Federal Communications Commission's (FCC) arbitration process for pay-per-view (PPV) programming. Hyde's bill, H.R. 1585, would require the FCC to establish a new arbitration process for PPV programming by the end of 2010. The current process, established in 1992, has been criticized for being slow and inefficient. Hyde's bill would also require the FCC to establish a new arbitration process for PPV programming by the end of 2010. The current process, established in 1992, has been criticized for being slow and inefficient.

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Broadcasters Vow Participation in National Broadband Plan

Broadcasters have filed comments with the FCC promising "full and constructive participation" in the agency's National Broadband Plan. While offering support for several aspects of submissions filed by the Department of Justice (DOJ) and the National Telecommunications and Information Administration (NTIA), the broadcast groups concluded that a low-power proposal proffered by CTIA-The Wireless Association and the Consumer Electronics Association (CEA), while constructive, was impractical.

The broadcasters' comments came as part of a joint filing submitted by the NAB and the Association for Maximum Service Television (MSTV).

NAB and MSTV expressed appreciation for CTIA and CEA's "constructive" efforts, but concluded that their proposal to transition over-the-air digital television to a low-power distributed transmission system (DTS) technology would result in coverage loss and interference.

"Coverage gaps are the unavoidable consequence of trying to use a fill-in technology such as DTS as an across-the-board substitute" for the current deliver system of over-the-air DTV, the

broadcast groups explained.

Moreover, the CTIA/CEA proposal drastically underestimates the cost burden associated with such a transition, while overestimating the spectrum yield, NAB and MSTV said. The costs of implementing DTS "would be orders of magnitude higher than the estimates provided by CTIA/CEA," broadcasters concluded. Additionally, the CTIA/CEA proposal "could not and would not make available significant amounts of contiguous spectrum in the congested areas where the wireless industry claims the greatest spectrum shortfalls" even if transmission spacing requirements were substantially reduced, NAB and MSTV stated.

NAB and MSTV noted agreement with several aspects of the submissions filed by the DOJ and NTIA. The broadcast groups endorsed the DOJ's call for greater use of secondary markets in spectrum and NTIA's urging of a spectrum inventory analysis. NAB and MSTV "agree that a comprehensive inventory of present and future spectrum availability and usage is necessary," the groups said. While noting that neither the DOJ nor NTIA called for the reallocation of broadcast TV spectrum, NAB and

MSTV called "particularly problematic" the agencies' assumption that a lack of spectrum is the key impediment to increased competition in broadband.

"[T]here is no necessary nexus between allocating additional spectrum and increased broadband deployment and use. Many countries with higher broadband usage rates than the United States have less spectrum allocated for broadband purposes," NAB and MSTV said.

Regarding the agencies' prediction of increased demand for mobility, technical speed and HD video, NAB and MSTV noted that mobile digital TV, offered by local TV broadcasters, provides consumers with "real-time, high-quality video on-the-go."

"Point-to-multipoint broadcasting is simply a more efficient way to deliver mass-audience video content to the public than wireless point-to-point technology, and it is more immediately deployable," NAB and MSTV said.

The 19-page filing can be read in PDF format at http://www.nab.org/documents/newsRoom/pdfs/012710_NABMSTV_Spectrum_Broadband.pdf. ♦

House, Senate Reach Agreement On Satellite Bill Language

House Communications & Internet chairman Rick Boucher (D-Va.) says the House and Senate have finalized the language on a satellite reauthorization bill.

Boucher said the next issue will be finding the right legislative vehicle, but that he expected the legislation to pass and be signed by the president "well before" the February 28 deadline.

"We have been working with the leadership to identify an appropriate vehicle to which this renewal legislation can be attached," said Boucher. "We are down to one or two candidates at this point."

The extension was included as an amendment to the Defense Appropriations Bill to prevent the satellite legislation from expiring on December 31.

The license allows satellite operators to deliver distant network affiliated TV station signals to viewers who cannot get a viewable signal of their local affiliate.

On December 3, the House approved the SHVERA. The bill combines the House Commerce and Judiciary versions and reauthorizes the satellite compulsory license for carriage of distant network affiliate TV station signals for another five years. It also deals with some cable carriage and various copyright issues, including an audit process for copyright owners so they can make sure they get the royalties they are entitled to, stiffer penalties for infringement and clarification that their royalties apply to digital multicast streams carried by satellite.

There are 28 local TV markets in rural

areas that do not have local TV signals delivered by either of the satellite TV carriers. Echostar, commonly known as Dish Network, had previously agreed to uplink for local retransmission all 210 local TV markets if permitted to supply the missing networks in markets lacking full complement of local network affiliates.

But Dish has been prevented by a court order from delivering distant signals after the court concluded it had problems determining who was eligible to receive them.

The bill enhances penalties for any future problems and requires a GAO audit of Dish. But it also has an amendment that would require Dish to deliver high-definition noncommercial station signals by 2011. ♦

FCC Proposes New Rules For National EAS Tests and Reports

The FCC has released a Second Further Notice of Proposed Rulemaking ("Notice") that proposes to amend the FCC's Emergency Alert System ("EAS") rules to provide for national testing of EAS and collection of data from these new, national tests. The rules, if adopted, would make participation in an annual national test mandatory for all EAS participants, and data concerning national tests would be required to be submitted to the FCC within 30 days after the test. (Under the FCC's current rules, EAS participants must conduct weekly and monthly state and local, not national, tests, and although certain test data is required to be retained, that data is not required to be submitted to the Commission.)

The EAS national alert and warning system exists, in part, to enable the President to deliver messages to the public during emergencies, but no systematic national test of EAS has ever been conducted to determine whether the system would actually function as required if the President were to issue a national alert. Indeed, the FCC rules currently in effect do not mandate any such test.

However, according to the Notice, a September 2009 report on the FCC's preparedness for major public emergencies issued at Chairman Genachowski's request raised "concerns" about "the frequency and scope of EAS testing." This report recommended that the three federal agencies responsible for EAS—the FCC, the Federal Emergency Management Agency ("FEMA"), and National Weather Service—review the testing regime to determine what improvements, if any, should be made. The proposed rules are a result of this inter-agency review.

The Notice also discusses perceived vulnerabilities with the existing EAS structure, including its reliance on a "daisy chain" of connections between participating stations. At its initial level, the EAS "daisy chain" consists of various FEMA-designated broadcast stations, known as Primary Entry Point stations, which receive and transmit "Presidential Level" messages initiated by FEMA. As the entry point for national level EAS messages, these Primary Entry

Point stations are designated "National Primary" or NP. At the next level (below the Primary Entry Point stations), designated "State Primary" stations monitor specifically-designated Primary Entry Point stations and re-transmit the Presidential-level alert, as well as state-level EAS messages originating from the Governor or a State Emergency Operations Center.

At the level below the State Primary stations, Local Primary stations monitor the State Primary and Primary Entry Point stations and are monitored, in turn, by all other EAS Participants (radio and television broadcasters, cable TV service providers, etc.). According to the Notice, this "daisy chain" structure makes EAS potentially vulnerable to "single point of failure" problems, where a failure at one participating station may result in a system-wide failure for all points below that station in the chain. The proposed national testing rules are an effort to test the strength of the "daisy chain" system and address concerns about the viability of the EAS system.

Here is a summary of the issues upon which the FCC seeks comment:

* **National Testing.** The FCC proposes to amend its rules to expressly require all EAS participants to participate in national testing and to report the results of such tests to the Commission. Any national test would replace the required monthly test for all EAS participants in the month in which it occurs. Additionally, the FCC would give EAS participants at least two months' notice prior to the national test. Test results would be required to be logged by all EAS participants and would also be submitted to the Commission's Public Safety and Homeland Security Bureau within 30 days following the test.

* **Annual Testing.** The FCC proposes to implement the national test on a yearly basis, and it seeks comment on this proposal. According to the Notice, the Commission proposes an annual test in order to achieve regular testing while minimizing the attendant costs associated with such testing.

* **Advance Notice.** To obtain "realistic data about EAS reliability and performance" and to "discourage complacency," the FCC does not propose a specific time of year for the annual test. However, the proposed rule provides for two months' notice in advance of a national EAS test in order for EAS participants to prepare and alert the public of an upcoming national EAS test. The FCC seeks comment on this proposal.

* **Data Collection And Submission.** The FCC seeks comment on its proposal to require EAS participants to record and, within 30 days, submit to the Commission the following test-related diagnostic information for each alert received from each message source monitored at the time of the national test: (1) whether they received the alert message during the designated test; (2) whether they retransmitted the alert; and (3) if they were not able to receive and/or transmit the alert, their "best effort" diagnostic analysis regarding the cause or causes for such failure. According to the Notice, the FCC also "anticipates" asking EAS participants to provide the Commission with a description of their station identification and level of designation (Primary Entry Point, Local Primary-1, etc.); the date/time of receipt of the Emergency Alert Notification message by all stations; the date/time of Primary Entry Point station acknowledgement of receipt of the Emergency Alert Notification message to FEMA; the date/time of initiation of actual broadcast of the Presidential message; the date/time of receipt of the Emergency Action Termination message by all stations; who they were monitoring at the time of the test; and the make and model number of their EAS equipment that they utilized.

* **Public Availability Of Test Data.** The Commission seeks comment on its proposal to make available to the public the data described above. The Notice asks if there are any concerns with making this data publicly available and whether the FCC should instead limit availability to certain government and tribal entities.

(continued on next page)

EAS Tests and Reports FCC Restricts Use of Wireless Microphones

(continued from previous page)

* **Coordination With FEMA.** The Notice states the FCC plans to coordinate with FEMA on a regular basis to implement the national test. The FCC seeks comment on whether or not agency coordination with FEMA should be written into the national testing rule. (As currently proposed, such coordination is not referenced in the rule.)

* **Device Concerns.** The FCC seeks comment on reports that manufacturers of certain encoding and decoding devices (ENDECs) used in EAS messaging may have programmed their devices to receive and transmit Emergency Action Notifications in different ways. According to the Notice, these programming differences may affect the ability of some devices to properly relay an Emergency Action Notification. The FCC invites comment on how such device differences may impact the relay of an Emergency Action Notification test message during a national EAS test and what actions the Commission should take to address this issue prior to a national test.

The Notice states that the Commission "intend[s] to move quickly to adopt any and all necessary rule changes to ensure that the Commission and other federal, state, local, and non-governmental EAS stakeholders have the necessary diagnostic tools to evaluate EAS performance and readiness nationwide." Therefore, broadcasters should prepare for potential action by the Commission in the relatively near term.

Comments on the proposed national testing rules are due 30 days after publication of the Notice in the Federal Register, and reply comments are due 60 days after publication. As of January 26, 2010, publication had not yet occurred. ❖

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.

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The FCC has released a 101-page Order that prohibits the distribution and sale of devices that operate in the 700 MHz band and, as of June 12, 2010, prohibits the use of wireless microphones in that band. According to the FCC, it is taking this action to "help[] complete an important component of the DTV transition by clearing the 700 MHz band to enable the rollout of communications services for public safety and the deployment of next generation 4G wireless devices for consumers."

The FCC has set a deadline of June 12, 2010, for those currently using wireless microphones in the 700 MHz band to transition to other frequencies. However, the Order also provides a procedure whereby a public safety or commercial licensee initiating operations in the 700 MHz band before June 12 may require users of wireless microphones in that band to cease operations no later than 60 days after receiving notice.

The Order also announces the Commission has established an outreach plan to assist consumers, including broadcast-

ers, who previously purchased wireless microphone systems and other related devices that use frequencies in the 700 MHz band. Stations may visit the FCC's website at <http://www.fcc.gov/cgb/wirelessmicrophones> to determine if their wireless devices currently operate in the prohibited band and, if so, whether or not those devices may be "retuned" to operate in another band.

The Order prohibiting the use of wireless microphones in the 700 MHz band will become effective upon publication in the Federal Register.

At the same time the FCC released the Order, it also issued a Further Notice of Proposed Rulemaking ("Notice") seeking comment on a number of related issues, including a proposal to allow low-power wireless audio devices to be operated as unlicensed devices in certain television bands. Comments on the Notice are due 30 days after publication of the Notice in the Federal Register. ❖

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NAB Honors Former FCC Commissioner

The NAB Joint Board passed a resolution honoring James H. Quello, former commissioner and acting chairman of the Federal Communications Commission, who died Jan. 24 in Alexandria, Va. He was 95-years-old.

The board's resolution reads, "It is hereby resolved this day by the Joint Board of the National Association of Broadcasters that NAB and all broadcasters mourn the passing of a truly great American, James H. Quello. Jim Quello was himself a great broadcaster who answered the call of his country as a war hero in World War II, and through more than two decades of service on the Federal Communications Commission as a commissioner and chairman. NAB is grateful for Jim Quello's unwavering support for free and local broadcasting and applaud his bipartisan approach to public policy debates. We have lost a true friend."

Quello retired from the FCC in 1997 after serving for 23 years. A World War II veteran, he was the former vice president and station manager of WJR radio in Detroit, and a vice president for that

station's parent company, Capital Cities Broadcasting.

Quello was past president of the Michigan Association of Broadcasters and recipient of its lifetime achievement award. In 1995, he was named to Broadcasting & Cable's Hall of Fame and received the National Association of Broadcasters Distinguished Service Award in 1994.

Quello received awards and honorary degrees from MSU, including the MSU Distinguished Alumni Award in 1998, the College of Communication Arts and Sciences' Outstanding Alumni Award in 1974, and an honorary MSU doctor of humanities in 1977.

Pam Whitten, dean of the College of Communication Arts and Sciences, said Quello left a tremendous legacy at MSU and worldwide.

"James Quello was a dear friend of MSU, and we will continue to honor his memory through the work at the Quello Center," Whitten said.

For more information about the Quello Center and to make a gift in his honor, visit www.quello.msu.edu. ❖

Court Hears Re-Argument in Fleeting Expletives Case

On January 13, 2010, the United States Court of Appeals for the Second Circuit in New York heard re-argument in *Fox Television Stations, Inc. v. FCC*, the “fleeting expletives” case, after the case was sent back to the appeals court by the U.S. Supreme Court last year. The case stems from a 2006 FCC decision that Fox’s broadcasts of the 2002 Billboard Music Awards and 2003 Billboard Music Awards shows were actionably indecent because Cher used the F word during the live broadcast of the 2002 show and Nicole Richie used the F-word and S word during the 2003 show. The judges on the panel expressed great skepticism that the FCC’s decision could be squared with the First Amendment, so much so that they appeared almost openly hostile to the FCC’s arguments.

I. Background

In its 2006 decision, the FCC applied a newly articulated policy—first set forth in the *Golden Globes/Bono* case—pursuant to which the Commission could now find even a single, isolated, and unscripted expletive indecent if it aired outside the 10:00 p.m. – 6:00 a.m. “safe harbor” for broadcast indecency. This new enforcement approach was a reversal of nearly 30 years of prior policy, dating from the Supreme Court’s *Pacifica* case itself, pursuant to which “fleeting expletives” were not found to be actionably indecent. In the case of the two Fox broadcasts, the FCC declared both to be actionably indecent under its three-part indecency test because the 2003 broadcast involved a literal description of excrement and both broadcasts involved the F word, which the Commission now says has an inherently sexual connotation. Fox and other broadcasters challenged the Commission’s authority to enforce this new “fleeting expletives” policy in federal court.

In June 2007, the Second Circuit concluded that the FCC had failed to offer a “reasoned basis” for discarding its longstanding, restrained indecency enforcement policy in favor of a new “context-based” standard that could find the broadcast of even a single, fleeting, unscripted expletive indecent. The federal court, in a 2-1 decision, struck down the Commission’s new “fleeting

expletives” policy as a violation of the Administrative Procedure Act (APA). Because the case was decided on administrative law grounds, the Court of Appeals found it unnecessary to decide whether the FCC’s fleeting indecency policy violated the First Amendment. The majority nevertheless declared themselves “skeptical” that the FCC’s fleeting expletives policy could survive First Amendment scrutiny.

In late April 2009, the Supreme Court reversed the Second Circuit in a 5-4 decision, upholding the FCC’s fleeting expletives policy solely on administrative law grounds. The Court concluded that the Commission had, in fact, adequately explained the reasoning behind its newly-expanded indecency policy and that its “context-based” approach to fleeting expletives therefore satisfied the APA. The Supreme Court, like the Second Circuit, declined to address the First Amendment implications of the Commission’s fleeting expletives policy. (Several of the Justices nevertheless expressed doubt that the FCC’s indecency enforcement scheme could be squared with the First Amendment.) The Supreme Court returned the case to the Second Circuit, where the First Amendment question has now been squarely presented.

II. Oral Argument

The “skeptism” expressed in the Second Circuit’s prior written opinion was in open force during the case’s oral argument—if anything, all three judges appeared even less favorably disposed to the FCC’s constitutional arguments following the Supreme Court’s *APA* decision. The questions posed by Judges Pooler, Leval, and Hall—the same three judges who presided over the earlier appeal—suggest that the court remains deeply skeptical of the FCC’s arguments and troubled by the First Amendment implications of the Commission’s fleeting expletives policy.

Senior Judge Pierre Leval—the lone dissenter the first time around—described the Commission’s indecency policy as “contradictory and bewildering” and reiterated throughout the 75-minute argument his concern that the vagueness inherent in the FCC’s

enforcement policy would chill protected speech. Indeed, he suggested that sex has been a preoccupation of, and critical to, literature throughout history, and he asked several times whether broadcasters could be certain that they could broadcast Hamlet—which he recited—without fear of being fined. He described the Commission’s indecency policy as a “vast miasma of unspecified things” that can bring up to \$65 million in forfeitures for a wrong guess.

Judge Rosemary Pooler appeared to share Judge Leval’s concerns. She asked several questions about the reach of *Pacifica* and appeared favorably disposed to the argument made by the ABC Affiliates in their Intervenor’s brief—that the Supreme Court’s *Pacifica* decision carved out only a narrow exception to the rule that indecent speech is entitled to full First Amendment protection and allowed the FCC to regulate only the sort of “verbal shock treatment” represented by George Carlin’s seven dirty words monologue. Judge Pooler wondered several times whether upholding the Commission’s new indecency policy would mean the end of live broadcasting, including local news.

Fox’s counsel urged the court to follow Judge Pooler’s lead and rule that *Pacifica* describes the outer limits of the FCC’s enforcement authority. On behalf of the various intervenors, including the CBS, NBC, and ABC Television Networks, the ABC Affiliates, and the Media Access Project, NBC’s counsel followed Fox’s to urge the Second Circuit judges to resolve the constitutionality of the FCC’s indecency enforcement policy as a whole, not simply to decide whether the policy was properly applied to find the two challenged Fox broadcasts indecent. He described the Commission as a “roving band of censors” that apply subjective, content-based restrictions on protected speech in the absence of any adequate guidance to broadcasters about what material can and cannot be aired, and he criticized the Commission’s abrupt departure from its restrained indecency enforcement policy in recent years—restraint he described as the “essential ingredient” in the Supreme Court’s narrow approval of the Commission’s regulatory authority in *Pacifica*.

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Expletives Case

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Judge Pooler asked NBC's counsel whether the court should follow Justice Thomas's separate opinion and "take down Red Lion." Red Lion is the 1969 Supreme Court case in which the Court upheld the FCC's fairness doctrine in part on the basis of "spectrum scarcity." NBC's counsel responded that Red Lion and spectrum scarcity are not before the court in this case, and Judge Pooler quipped, "So you're saying Red Lion is a red herring?"

During the FCC's argument, Judge Peter Hall posed the same hypothetical he raised during the prior argument: How would the Commission treat the broadcast of the same Fox programming it had found actionably indecent if that material were aired as part of a local news broadcast reporting on the First Amendment implications of this litigation? The FCC counsel tried to assure the court that the Commission would "bend over backwards" to allow broadcasters to air protected speech in favored formats such as local news broadcasts—although he quickly noted that the Commission had adopted no formal "news exception" to the indecency policy. The judges supposed that broadcasters would find little comfort in that informal practice, particularly given the uncertainties otherwise inherent in the FCC's "contextual" approach to indecency.

Judges Leval and Pooler pressed the Commission about the case of a small local broadcaster who airs a public hearing at which someone uses foul language. The FCC attorney insisted that the indecency policy would "take account of the equities" in such a case, but the judges pointed out that the equities themselves are so vague that broadcasters can't know where the line is drawn. Judge Leval then pressed further with a hypothetical about a factual show concerning teenage sexuality, and the FCC attorney said he "suspected" that the FCC would not find such a broadcast indecent. Judge Leval pounced on the word "suspected," pointing out that the fact that the FCC's own counsel could not give a definitive answer showed the very vagueness that is inherent in the indecency policy at issue.

The end of the oral argument focused on the availability and utility of the V-

chip, and Judge Leval, for one, seemed to suggest that parents can adequately protect their children through use of the V-chip. When the FCC counsel pointed out that newscasts and sports events are not rated for V-chip purposes, Judge Leval suggested that there was no technological impediment to such ratings for those shows, providing parents with all the protection they may be constitutionally entitled to.

Despite the overwhelming focus of the argument on the constitutionality of the indecency policy, a brief discussion took place regarding a non-constitutional ground on which the Second Circuit could yet reverse the FCC a second time. That ground is whether Fox broadcast the allegedly indecent material with "scienter," which is whether Fox knew that it was broadcasting material that was potentially indecent. The FCC, however, argued that the court should not reach the scienter issue, because there was no actual forfeiture issued by the Commission in this case. If the court accepts the FCC's argument, then the constitutional question is squarely before the court.

Despite the apparent tenor of the oral argument, we caution that one can never predict with certainty how the actual written decision will turn out.

III. What's Next

The Second Circuit is not alone in confronting the First Amendment questions brought to the forefront by

the Supreme Court's Fox decision: On February 23, 2010, the Third Circuit Court of Appeals will hold its own re-hearing following remand from the Supreme Court in *CBS Corp. v. FCC*, the case arising from the fleeting nudity broadcast during Janet Jackson's 2004 Super Bowl performance.

Broadcasters also continue to await the Second Circuit's decision in *ABC, Inc. v. FCC*, in which ABC and the ABC Affiliates have challenged the FCC's indecency finding (and substantial forfeitures) based on an episode of the award-winning drama *NYPD Blue* in which an actress's bare buttocks were visible for a few seconds. The Second Circuit heard oral argument in the *NYPD Blue* case in February 2009.

It is possible, however, that both of these cases could turn on non-constitutional grounds.

Decisions in one or more of these cases are likely to be issued before the end of 2010. Regardless of the result in any of them, each is likely to be appealed to the Supreme Court. ♦

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**VAB Newsletter
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VIRGINIA ASSOCIATION OF BROADCASTERS 2010 LEGISLATIVE COCKTAIL RECEPTION

Wednesday, January 20, 2010

The Jefferson Hotel

The change in format this year from a formal "Gala," featuring a sit-down dinner and entertainment, to a cocktail legislative reception, was very well attended by both our members and the legislators. The reception gave our members an opportunity to spend more quality time face-to-face with their local senators and delegates to discuss the issues affecting them on a daily basis. ❖



VIRGINIA ASSOCIATION OF BROADCASTERS 2010 LEGISLATIVE COCKTAIL RECEPTION

Wednesday, January 20, 2010

The Jefferson Hotel



Two-Year Period for Completing EEO Menu Option Activities for Virginia Television Stations Ends June 1

by Stephen Hartzell
Brooks, Pierce, McLendon,
Humphrey & Leonard, L.L.P.

The FCC's EEO rules require stations to engage in specific non-vacancy outreach efforts. The applicable two-year period for which the EEO menu options must be completed generally extends from the time a station files its renewal application to the second, then fourth, and then sixth anniversary thereof. For Virginia television stations, the current two-year period ends June 1, 2010, which means that television stations that are not already on track to satisfy their EEO outreach requirements have a little more than four more months to complete the required number of menu options. (For Virginia radio stations, the most recent two-year period ended June 1, 2009.)

Broadcasters may select the initiatives in the outreach menu that they believe will be most effective for their stations. Every two years, stations that have more than 10 full-time employees and are not located in a "smaller market" must engage in at least four of the initiatives on the menu, and stations that are located in a "smaller market" or have five to ten full-time employees must engage in at least two of the initiatives. Stations with fewer than five full-time employees are not required to engage in any menu option activities. For purposes of the FCC's EEO rules, a "full-time" employee is one who regularly works 30 or more hours per week.

A "smaller market" is a community that is located in a county that is outside of all metropolitan areas, as defined by the federal Office of Management and Budget ("OMB") or is located in a metropolitan area that has a population of fewer than 250,000 people. The most recent list of metropolitan areas is available on the Internet at <http://www.census.gov/population/cen2000/phc-t29/tab02b.pdf>.

The menu options, as set forth in the FCC's rules, are as follows:

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring

decisions.

2. Hosting of at least one job fair;

3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities.

4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues.

5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment.

6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies).

7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting.

8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions.

9. Establishment of a mentoring program for station personnel.

10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting.

11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting.

12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose member-

ship includes substantial participation by women and minorities.

13. Provision of assistance to unaffiliated non-profit entities in the maintenance of web sites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting.

14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination.

15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions.

16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

For example, to fulfill the menu option outreach requirement, a broadcaster that has more than ten full-time employees and is not located in a "smaller market" could, during a two-year period, host one job fair, establish an internship program, participate in a scholarship program, and co-sponsor one job fair with an organization in the business and professional community whose membership includes substantial participation by minorities and women.

It is important to remember that these menu options, as with all of the other EEO program requirements, apply to "station employment units." Thus, a commonly owned station group in the same market where at least one employee is shared among the stations is required to undertake four menu options every two years for the entire group, not per station.

The FCC has not quantified the

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Completing EEO

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amount of effort that broadcasters must devote to the menu options. The rules permit broadcasters to perform the menu options on a joint basis, either with other broadcasters, organizations such as the VAB, or with a corporate licensee's corporate headquarters. However, a station seeking credit for a particular menu option performed on a joint basis must have meaningful involvement in the activity. It is not sufficient for the station to merely lend its name to an activity or to provide money where the activity is otherwise entirely conducted by another entity. For example, the hosting of job fairs could be performed on a joint basis; however, insofar as a particular broadcaster's participation amounts to little more than attendance at the job fair, that broadcaster can only claim credit for attendance, even if it has been nominally designated a co-sponsor.

The FCC has clarified that a station cannot claim "sponsorship" credit for a menu option unless the station has meaningful input into the planning and implementation of a particular event.

Events can be jointly sponsored, so long as each broadcaster seeking credit for sponsoring the event is actively involved in planning and implementing the event.

With respect to scholarship, mentoring, internship, and training programs, the FCC recognizes that corporate headquarters and broadcasters' associations often establish and administer such programs. In order to receive credit for participating in a corporate headquarters or association program, there must be meaningful involvement in the program by the station seeking credit. For example, for a scholarship program, the individual station must be involved in activities such as designing the program, soliciting prospective scholarship recipients, maintaining scholarship materials at the station, interviewing or selecting scholarship recipients, promoting the program on air, and evaluating the effectiveness of the program. For mentoring, internship, and training programs, a station can receive credit so long as personnel from the station are active participants in the programs.

Finally, each year the FCC randomly audits broadcast stations to evaluate their compliance with the EEO rules, and the FCC has been enforcing its EEO

rules by imposing fines and reporting requirements—including on stations that fail to comply with the menu option activities component of the rules. Since the EEO rules require stations to evaluate their EEO programs, including participation in menu option activities, stations may wish to take the opportunity early in 2010 to "map out" and plan their outreach activities for the calendar year, with Virginia television stations especially keeping the June 1, 2010, two-year deadline in mind. ♦

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.

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File-Sharing Defendant Rejects RIAA's Reduced Settlement Offer

After being convicted of copyright infringement in two highly-publicized file-sharing cases, Jammie Thomas-Rasset is rejecting record labels' settlement offer of a \$50,000 donation to a musician-related charity.

After a January 22 court's order reducing the amount of the second jury's award to \$2,250 per song from \$80,000 per song, the RIAA offered to settle with Thomas-Rasset for a \$25,000 donation for "an appropriate charity benefiting musicians" and an annulment of the recent court order.

In an email to Ben Sheffner of the Copyrights & Campaigns blog, Thomas-Rasset's lawyer was clear his client has no intention of paying the RIAA. He wrote to Sheffner:

"As our response makes clear, Jammie is standing on principle here, and will not accede to payment demands

that the RIAA is making thru an unconstitutional statutory scheme."

An RIAA spokesperson responded, "It is a shame that Ms. Thomas-Rasset continues to deny any responsibility for her actions rather than accept a reasonable settlement offer and put this case behind her. Given this, we will begin preparing for a new trial."

The judge's order gives the labels the option to reject the reduced award and opt for a third trial.

CNET reported Thomas-Rasset's lawyer said the labels' insistence on going to court again proves their point. "They want to use this case as a bogeyman to scare people into doing what they want, to pay exorbitant damages," he said.

As CNET's Greg Sandoval explains, the RIAA preferred to settle but may not mind going back into court. ♦

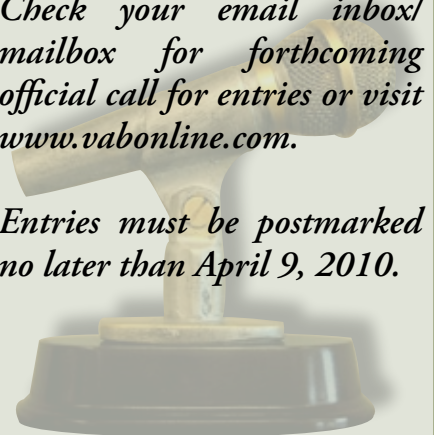
2010 VAB Station Awards

The Virginia Association of Broadcasters Station Awards Program is sponsored annually by the VAB to recognize outstanding achievement by Virginia radio and television broadcasters.

This competition was established to encourage the highest standards of reporting, community service and production creativity.

Check your email inbox/mailbox for forthcoming official call for entries or visit www.vabonline.com.

Entries must be postmarked no later than April 9, 2010.



SPECIAL SECTION: 2010 Industry-Related Legislation

VAB lobbyists are monitoring the following legislation currently before the 2010 Virginia General Assembly. Members are encouraged to provide feedback to legislators by calling the General Assembly's toll-free constituent viewpoint hotline at (800) 889-0229.

HB 79 Concealed handgun permits; access to applications and permittee information. Prohibits a clerk of court from providing public access to concealed handgun permit applications and information regarding identifiable permittees without the written consent of the applicant or permittee. The applications and information would be available to law-enforcement agencies, and the clerk of court would be authorized to release aggregate information that does not identify individual applicants or permittees. Patrons: Ware, R.L. and Cole

HB 433 Government Data Collection and Dissemination Practices Act; collection of social security numbers. Sets out the original date (January 1, 1975) when social security numbers were authorized to be collected/required by state and local agencies under federal law. This bill is clarifying in nature and is a recommendation of the Freedom of Information Advisory Council. Patron: Griffith

HB 434 Freedom of Information Act; exemption for credit card and bank account data. Exempts from the mandatory disclosure provisions of the Freedom of Information Act, those portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. The bill provides, however, that access shall not be denied to the person who is the subject of the record. The bill defines "financial institution" and contains an emergency clause. The bill is a recommendation of the Freedom of Information Advisory Council. Patron: Griffith

HB 449 Freedom of Information Act; injunctive relief for public bodies under certain circumstances. Provides that any public body may petition a court for injunctive relief to restrain a requester from harassment or other abuse of the rights or privileges granted under FOIA. Patron: Ware, R.L.

HB 478 Local database of citizen reported issues and requests. Requires every locality to establish a database of citizen-reported issues and requests for information, and the governmental responses to such citizen inquiries. Such database shall be maintained in a format that allows public access via the Internet. Patron: Carrico

HB 518 Freedom of Information Act; applicability; disclosure of criminal records; noncriminal incident information. Clarifies that the Virginia Information Technologies Agency (VITA) is not the custodian of records stored or maintained by VITA on behalf of other state public bodies. Such records, however, shall be provided by VITA upon the request of any state public body for which VITA stores or maintains such agency's records in with FOIA. However, other records of VITA shall be public records and subject to FOIA. The bill also expands



the exemption for criminal investigative files and clarifies that noncriminal incident materials held by any state or local law-enforcement agencies are exempt from the mandatory disclosure provisions of FOIA. Patron: Rust

HB 613 Personal property tax; machinery and tools. Classifies new investments in machinery and tools for manufacturing, processing and reprocessing, mining, and television broadcasting made after July 1, 2010, as intangible personal property and not subject to local property tax. Patrons: Purkey; Senator: Wagner

HB 641 Freedom of Information Act; requests for records. Provides that FOIA requests may be made by any citizen of the United States and not just citizens of the Commonwealth. The bill contains a technical amendment. Patron: Armstrong

HB 689 Freedom of Information Act; proceedings for enforcement. Clarifies that when an FOIA petition is filed, the party against whom the writ is brought must be served with a copy of the petition prior to filing. The bill contains a technical amendment. Patron: Miller, J.H.

HB 765 Communications sales and use tax; distribution formula for localities. Requires the Auditor of Public Accounts to increase the amounts on a pro rata basis if a locality did not collect the tax revenues for the entire 12 months of Fiscal Year 2006, when calculating each locality's share of the
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Industry-Related Legislation

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communications sales and use tax. Patron: Lewis

HB 836 Government Data Collection and Dissemination Practices Act; social security account numbers. Clarifies that a government entity cannot require an individual to furnish his entire social security number or any portion thereof. The bill also clarifies that a social security number or any portion thereof cannot be displayed on a student or government identification card. Patrons: Carr and May

HB 903 Threat assessment teams; records. Exempts all records of threat assessment teams established at public institutions of higher education from the provisions of the Freedom of Information Act, and allows these teams to receive health and criminal history records of students for the purposes of assessment and intervention. Patron: Bell, Robert B.

HB 976 Freedom of Information Act; proceedings for enforcement. Clarifies that when an FOIA petition is filed, the party against whom the writ is brought must be served with a copy of the petition prior to filing. The bill contains a technical amendment. Patrons: Anderson and Lingamfelter

HB 977 Freedom of Information Act; record exclusion for visitor information systems in public schools. Excludes from the mandatory disclosure requirements of FOIA software programs, data, or other records relating to electronic or automated security systems used to monitor or control access to public school buildings or other school property, the disclosure of which would jeopardize the operational or access control features of such system, or would reveal personal information of individuals seeking access to a school building or other school property. The bill defines personal information. Patron: Anderson

HB 1028 Freedom of Information Act; recording of public meetings. Prohibits any public body from conducting a meeting required to be open in any building or facility where any recording devices are prohibited. The bill also clarifies that no public body may prohibit or prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. Patrons: Pollard; Senator: Stuart

HB 1261 Political campaign advertisements; disclosure requirements. Provides that advertisements on the Internet that do not contain sufficient space to display the required disclosure statement may meet disclosure requirements by providing a direct link to another Internet site that displays the required disclosure statement. Patrons: Englin, Morrissey, Sickles and Toscano

SB 147 Freedom of Information Act; proceedings for enforcement. Clarifies that when an FOIA petition is filed, the party against whom the writ is brought must be served

with a copy of the petition prior to filing. The bill contains a technical amendment. Patron: Puller

SB 207 Threat assessment teams; records. Exempts all records of threat assessment teams established at public institutions of higher education from the provisions of the Freedom of Information Act, and allows these teams to receive health and criminal history records of students for the purposes of assessment and intervention. Patron: Edwards

SB 274 Animal control records. Exempts from release to the public the name and address of the owner of an animal that has been taken into custody by animal control officers, law-enforcement officers, humane investigators, or any pound or shelter. Patron: Whipple

SB 381 Communications sales and use tax; Tazewell County. Provides that Tazewell County shall receive its share (\$215,276.00) of the communications sales and use tax revenues based on the revenues it would have collected if the cable franchise company in the county had not gone bankrupt in the 2005-2006 fiscal year. Patron: Puckett

SB 432 Freedom of Information Act; record exemption for the Statewide Agencies Radio System. Provides an exemption from FOIA for documentation or other information that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the Statewide Agencies Radio System (STARS) or (ii) relates to radio frequencies assigned to or utilized by STARS, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, programming maintained by or utilized by STARS; those portions of engineering and construction drawings and plans that reveal critical structural components, interconnectivity, security equipment and systems, network monitoring, network operation center, master sites, ventilation systems, fire protection equipment, mandatory building emergency equipment, electrical systems, and other utility equipment and systems related to STARS; and special event plans, operational plans, storm plans, or other pre-arranged programming, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of any person. Patron: Edwards

SB 525 Cooperative Marketing Fund of the Virginia Tourism Authority; dedication of soft drink excise tax and litter tax revenues. Dedicates the revenues from the Commonwealth's soft drink excise tax and litter tax to the Cooperative Marketing Fund administered by the Virginia Tourism Authority. The first priority for moneys in the Cooperative Marketing Fund shall be as a match for private funds to be used for the promotion, marketing, and advertising of the Commonwealth's tourist attractions and locations. Current law dedicates the revenues from the two taxes to the Litter Control and Recycling Fund. Patron: Norment ❖



Office Romances Can Result in Employer Liability

By John G. Kruchko
and Kathleen A. Talty*

With Valentine's Day around the corner, the topic of "love contracts" in the workplace may be a timely consideration for human resource professionals.

Office romances are not a new phenomenon. However, the ending of those relationships can have disturbing and monetary consequences on employers. This is particularly so when one party to the relationship is not pleased by the dissolution and alleges sexual harassment by the other party. At that point, what may have been initially viewed as a private matter between two consenting adults becomes a matter that the company must investigate pursuant to its sexual harassment policy and its obligations under the fair employment practice laws. Additionally, romantic liaisons in the workplace can lead to accusations of poor judgment, breaches of ethics, favoritism, lost productivity, poor employee morale and even workplace violence, as well as claims of sexual harassment.

One recent survey of 8,000 employees revealed that forty (40) percent of

the employees had dated a co-worker at some point in their work lives. Of those surveyed in that same study, four in ten indicated that the person whom they dated or were involved with romantically was the employee's immediate supervisor or manager. It is this latter relationship – the one between a supervisor and a subordinate – that can be the source of considerable concern to human resource personnel not only while the relationship is on-going, but also when the relationship ends. If a boss is dating an employee, it becomes necessary to distinguish between sexual harassment and a mutually agreeable relationship.

While employers acknowledge that they are not in the business of "policing" employee relationships and that the adoption of a personnel policy that prohibited or banned workplace dating or romantic relationships would be almost impossible to enforce, there is a growing recognition that measures need to be taken because, if these workplace romances end on a sour note, employers may be found liable for sexual harassment. For this reason, employers are increasingly adopting policies that are

colloquially referred to as "love contracts" and requiring the parties who are involved in the romantic relationship to execute such contracts as a condition of employment.

The increasing popularity of these agreements among employers should not be construed as an automatic "rubber stamp" for their use or applicability in any given situation at your company. For example, some types of discrimination-based claims are not capable of being waived prospectively (i.e., before the alleged discrimination occurs), and some claims are not capable of being waived at all through private contractual agreements. As such, employers should use caution and consult their employment counsel before simply handing out these types of agreements to employees who engage in romantic relationships.

However, assuming their use might, in some situations, be appropriate, employers must keep in mind that love contracts are not intended to replace an employer's sexual harassment policy. Rather, such contracts are designed to supplement a company's strong work-

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place harassment policy and effective reporting and investigation policy.

There are some provisions in the love contract that would be common in all such agreements without regard to who signs the documents. However, when the employees are on the same reporting level, the contract should contain a statement that the employees will not seek or accept a position where one reports to the other. If one of the employees is already in a supervisory role to the other employee involved in the relationship and it is not possible to transfer the other individual, the contract should contain language that represents the supervisor's acknowledgement that he/she will not be involved in any decision-making authority, e.g., performance evaluations, merit or salary increases, etc., with regard to the other party.

Those elements of the love contract that would be common in all agreements include the following:

1. An acknowledgment that the relationship is voluntary and consensual;

2. An acknowledgment to abide by the employer's anti-discrimination, anti-harassment, and workplace conduct policies (and copies of those policies are attached to the contract);

3. An acknowledgment that the parties will behave professionally and not allow the relationship to affect their work;

4. An acknowledgement that they will not engage in favoritism;

5. An acknowledgment that either party can end the relationship without fear of work-related retaliation; and

6. An acknowledgement that any perceived harassment by the other party will be immediately reported to management.

The employees who are asked to sign a love contract should be given the opportunity to review the document and to ask questions about its contents. Employees should not be forced to sign a love contract.

The company should also adopt a specific "love contract" or "consensual, personal relationship" policy which should be set forth in the employee handbook. One aspect of the written policy is the requirement that employees who become involved in romantic workplace relationships must advise Human Resources of the existence of the relationship. Employees should be advised of the contents of the policy through the customary avenues that a company uses to inform employees of revisions to personnel policies or the adoption of new personnel policies. As with all personnel policies, the policy must be consistently and uniformly enforced. Therefore, if management becomes aware of a workplace romance and the parties to the relationship have not volunteered that information, Human Resources should contact the couple and request that they sign the love contract. ♦

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Save The Date

73rd Annual VAB Summer Convention

June 24-26, 2010

Hilton Virginia Beach Oceanfront



JANUARY JOB BANK

SUBMIT JOBS

Submit to VAB Newsletter:

- Please email the listing directly to derek.breen@easterassociates.com.
- Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Submit to the Online Job Bank:

- Go to www.vabonline.com

Part Time Receptionist

WRLH Fox Richmond has a great opportunity for you! We are seeking a Part Time Receptionist. You must be personable, professional, upbeat and have a clear speaking voice. Reliability and good work ethic are important. Duties include greeting clients, sorting mail, computer work, and assisting other departments when necessary. Hours: Mon-Fri/8:30 am to 1:00 pm. Candidates for consideration must apply online at www.sbgj.net. Sinclair Broadcast Group/WRLH-TV is proud to be a drug free & an Equal Employment Opportunity Workplace!

Multi-Platform Sales Account Executive

Be a part of the expanding and exciting world of multi-platform marketing and join the most successful sales team in the market selling Television, Internet and Mobile advertising solutions. Applicants must have excellent communication, organizational, computer and follow-through skills. The ideal candidate should be competitive and goal oriented with a strong desire to succeed. Individuals must be comfortable meeting with prospects, making presentations and have a desire to help businesses grow. College degree preferred. Please send cover letter and resume to Jane Plante, Local Sales Manager, WAVY-TV, 300 WAVY Street, Portsmouth, VA 23704 or jane.plante@wavy.com. No phone calls, please. EOE.

Creative Services Director

WAVY TV (NBC) / WVBTV (FOX), LIN Television's duopoly in Hampton Roads, Virginia seeks a Creative Services Director to lead the strategic marketing for both stations and their websites. The ideal candidate will be a college graduate with 3-5 years experience in managing the brand in a News-centric station. Responsibilities include Marketing, Promotion, Graphics, Community Marketing and Budget Management. Creativity, multi-project coordination & communication are key attributes of this position. The WAVY/WVBTV CSD must be a skilled Writer and Producer and have a strong foundation with Avid. The CSD will coordinate the business plan with all Department Heads and have specific oversight of Promotions Producers, Graphic Designers and Community Affairs. Proficiency in Social Networking is vital. This individual will also create and implement external media plans, and be experienced in Nielsen ratings, station research & strategy. Strong leadership skills and a commitment to success in a multi-platform media landscape round out the best candidate. Please send your resume and a DVD or weblink of work to Doug Davis, President & General Manager, WAVY/WVBTV, 300 Wavy Street, Portsmouth, VA 23704 or doug.davis@wavy.com. EOE. No calls, please.

Technical Director/Production Assistant

Bonten Media Group is looking for a Technical Director/Production Assistant. Duties include: Direct and punch newscasts. Responsible for all pre-production associated with newscast. Production Assistant -operate audio, CG, robotic cameras for newscasts. Promotion and commercial production. Experience: Previous television experience as director/technical director preferred. Requirements: College degree in broadcasting, engineering or related field and a minimum of 2 years experience preferred. Additional Information: Television production skills: knowledge of video switchers, audio equip, CG. Ability to operate robotic studio cameras. Ability to perform duties during fast paced live newscasts. Photoshop. Final Cut Pro Editing. EOE/M/F/H/V WCYB-TV maintains a drug free workplace. Contact: Human Resources Dept. Bonten Media Group 101 Lee Street Bristol, VA 24201 Job posted by an EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER

Marketing Consultant

Centennial Broadcasting II, LLC/B101.5 WBQB Fredericksburg are looking for an experienced Marketing Consultant to work the Northern Virginia, Maryland, D.C. area. This person should have a minimum of 3 years broadcast sales experience, strong communication skills and a proven track record in development of new business with both agencies and direct advertisers. Excellent earning potential with base salary, commission and benefits package. EOE. Send cover letter and resume to jbutler@wbqb.com.

Traffic Manager

WWBT, the #1 TV station in Richmond, VA seeks traffic manager. Candidates must have at least 5 years of broadcast TV traffic experience and be familiar with the operations of various traffic systems. Thorough knowledge of commercial log procedures, continuity coordination, sales order clearance and inventory management is a must. Knowledge of station advertising sales and the ability to lead a team is key. Only qualified candidates should send their resumes to Judy Gibson, Human Resources Director, NBC12, P. O. Box 12, Richmond, VA 23218. EOE M/F/H/V Drug Screen.

News Producer

NBC12, Richmond's No. 1 news organization has immediate opening for creative, dynamic news producer. Successful candidate must be strong writer, energetic, self motivated and strong leader. No show stackers...just experienced leader with vision and skills to develop content. Send cover letter, resume and non-returnable demo tape to Frank Jones, Assistant News Director, NBC12, P. O. Box 12, Richmond, VA 23218. EOE M/F/H/V Drug Screen.

Local Sales Assistant

Local TV stations in the Roanoke/Lynchburg market are seeking a team player. Candidate must be detail-oriented, professional and able to work on multiple projects under tight deadlines, have advanced skills in Microsoft Word, PowerPoint and Excel as well as Adobe Creative Suite. This position reports directly to the Local Sales Manager. Send cover letter and resume to Kim Smith, Local Sales Manager, Grant Broadcasting - FOX 21/27 & CW5, 2618 Colonial Avenue, SW, Roanoke, VA 24015 or by email at ksmith@fox2127.com

Account Executive

WSIG & WBOP are seeking a self-starting, highly motivated individual for Outside Sales. We have a great staff in place and are looking for one more person to complete our Sales Department. Come work in a non-corporate, creative environment where we still love what we do! Send your letter of interest and resume to mike@rebel955.com. Vox Communications is EOE! No calls please.

News Producer

WRIC TV presently has the following openings. It is our policy to encourage the application of minorities and women as WRIC TV is an Equal Opportunity Employer and does not discriminate in the hiring, training or promotion of employees by reason of race, color, religion, sex, or national origin. Excellent benefits available. Due to the urgency of filling these positions, an immediate response is recommended. Please notify us immediately if you will not be disseminating information about this job opening to potential candidates. News Producer WRIC-TV8 is looking for a producer who is a strategic thinker that can execute a plan. The successful candidate will be excellent handling breaking news situations, possess strong writing and people skills and exhibit solid editorial judgment. One to two years newscast producing preferred. Send resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464, or fax your resume to (804) 330-8881, or email your resume to personnel@wric.com. personnel@wric.com. NO phone calls please. EOE

Reporter / Videojournalist

WVEC-TV is looking for someone to report, shoot and edit news stories within assigned deadlines. Stories should be compelling, factually correct, creative and written in a clear, concise conversational manner. Work primarily independently to set up, shoot and deliver reports, including live reports with energy, confidence, a professional appearance and voice quality. Interact productively and positively with station personnel and general public. Keep abreast of local, national, and world news, and current events. You'll need a valid driver's license, good driving record and operate a company news gathering vehicle to and from different locations. A Bachelor's degree in Journalism, Communications or Electronic Media or related field is required and a minimum of two years previous video journalism experience. You will need excellent writing and oral communications skills, strong camera expertise and ability to work under deadlines and flexibility with schedule. You will be writing and editing print and video stories for wvec.com. If you want to live in a great region near the ocean, send cover letter, resume and nonreturnable tape or DVD of your work to Mike Lopez, Assistant News Director, WVEC-TV, 613 Woodis Avenue, Norfolk, Virginia, 23510. WVEC-TV is an Equal Opportunity Employer.

Account Executive

We're looking for a superior seller with a track record of superior performance. Monticello Media is bucking the trends with consistent revenue increases and we're looking for top performers who see the opportunity and are willing to work for the payoff. The potential is unlimited for those who hit the streets and provide local clients with the highest level of service. We're in Charlottesville, Virginia with six great radio stations and interactive opportunities for you to make money with. If you're committed to outworking the rest of the market and focused on winning, let's talk soon. Send a cover letter and resume today. Monticello Media is an equal opportunity employer and a small private company.

JANUARY JOB BANK

Sales Assistant

Monticello Media is looking for sales support for a team of 10+ account executives at our radio stations in Charlottesville, VA. The right candidate will be a supreme multi-tasker with a positive attitude and team-first approach. Job requires candidate to have excellent relationship skills, to be resourceful and positive and to have great organizational skills. Candidate must have strong computer skills that include Word, Excel and PowerPoint as well as the ability to use other in house systems for reporting and presentation purposes. Send resume and cover letter today. Monticello Media is a locally based company and an equal opportunity employer.

Bureau Photojournalist

WDBJ, the CBS affiliate in Roanoke, VA has an opening for a BUREAU PHOTOJOURNALIST in our Lynchburg newsroom. We are looking for a creative/talented photojournalist. We want someone who is creative, with a sharp eye and can do it all under deadline pressure. Ideal candidate will have experience with Panasonic P2 cameras, non-linear Grass Valley editors, and microwave and SNG trucks. Interviewing and writing skills preferred. Must have a valid driver's license with a good driving record. Background and pre-employment drug screen required. What we want to offer you is a chance to become a better journalist as well as a better photographer. That "little extra" we can offer you is feedback, helping you grow. We have the people who will take the time to look at the details and help you grow. Please send your resume and a non-returnable tape to: WDBJ Television, Inc. Attn: Human Resources 2807 Hershberger Road Roanoke, VA 24017 Or email: jobs@wdbj7.com WDBJ Television is an Equal Opportunity Employer.

Radio Sales Representative

We're looking for a superior seller with a track record of superior performance. Monticello Media is bucking the trends with consistent revenue increases and we're looking for top performers who see the opportunity and are willing to work for the payoff. The potential is unlimited for those who hit the streets and provide local clients with the highest level of service. We're in Charlottesville, Virginia with six great radio stations and interactive opportunities for you to make money with. If you're committed to outworking the rest of the market and focused on winning let's talk soon. Send a cover letter and resume to jobs@cvillestations.com or to Sales, Monticello Media, 1150 Pepsi Place #300, Charlottesville, VA 22901. Monticello is an equal opportunity employer and a small private company that's a great place to work.

Account Executive

Sell Radio Advertising in the Washington, DC Metropolitan Area. Previous business to business sales experience preferred. Marketing and advertising experience a plus. Compensation includes Salary, Bonuses and Incentives plus Health/Life/401(k). Women and Minorities encouraged to apply. WAVA Radio is an Equal Opportunity Employer. Fax Resume to 703.807.2249 or mail resume to Tom Moyer, Station Manager, WAVA Radio, 1901 North Moore Street, Suite 200, Arlington, VA 22209.

News Producer

WVEC-TV is looking for someone to produce a fresh, concise and accurate newscast while maximizing all sources of news information and production techniques. You will be responsible for timing and controlling flow of the newscast during air time, direct and control on air reporters and make decisions during the newscast. You must have the ability to solve problems to maintain quality of the product. Also, supervise reporters in their assignments. This position would require some overtime. Live in a great region and near the ocean. If you have more than one year of commercial television news producing and a degree in communications (or equivalent), please send us your cover letter, resume and nonreturnable tape or DVD of your work to Doug Wieder, Executive Producer, WVEC-TV, 613 Woodis Avenue, Norfolk, Virginia, 23510. Phone calls accepted to 757-628-6219. WVEC-TV is an Equal Opportunity Employer.

Weekend Meteorologist

Top 50 Station seeks seasoned meteorologist to join the #1 weather team in the market. We dominate in severe weather coverage, maintain a 24-hour local weather channel, and excel in unique web content. Duties will include creating clear & concise graphics; maintaining weather cameras; updating web content; staying current on changing weather technology. Must be a clear communicator, solid forecaster, and ready for wall-to-wall coverage scenarios. AMS and/or NWA seals strongly preferred, but will also consider candidates with 5+ years experience and/or related degree. Please send cover letter, resume, and DVD to: tape Kathy Hostetter, News Director, WAVY-TV/WVBT-TV/FOX 43 News, 300 Wavy Street, Portsmouth, VA 23704. No phone calls, please. EOE.

Board Operator

Part-time position available at WAVA Radio Applicant must have current knowledge of digital broadcast studio operations and be computer proficient. Good verbal and written communications skills required. Experience in similar format preferred. Women and minorities encouraged to apply. WAVA is an equal opportunity employer. Fax resume to 703.807.2248 or mail resume to WAVA Radio, Attn: Bob Jones, Broadcast Operations Director, 1901 North Moore Street, Suite 200, Arlington, VA 22209. EOE

Account Executive

Account Executive Position 1/5/10 WTVR-TV is hiring an Account Executive to become part of our CBS 6 local sales team. This is a great opportunity to work in a fast paced environment with strong growth potential. We are searching for an individual with a minimum of three years media (or related field) sales experience who is a highly motivated self-starter, detail oriented, and knows how to provide outstanding customer service. Send cover letter and resume to: syoung@wtr.com or f) 804-342-3418, or Local Sales Manager, WTVR-TV CBS 6, 3301 W. Broad St., Richmond, VA 23230. EOE M/F

Programming Coordinator

This position serves as the coordinator and clerical support for all station on-air programming. Duties include but are not limited to scheduling all on-air programming, working closely with the General Manager, Inventory Control Supervisor, Central Traffic Operation, NBC, Steve Gleason, Central Paid Programming Dept. to insure best decisions are made regarding on-air programming. This position is on-call for after hours programming decisions in emergency situations. Additional duties include support to GM and coordination of public tours. EOE

Research Specialist

Under the supervision of the Local Sales Manager, the Research Specialist is primarily responsible for giving support to Sales and Traffic personnel. This includes creating sales presentations for potential clients, running monthly competitive reports, maintaining One Domain data, coordinating marketing projects and completing other tasks as requested by Sales personnel. In addition, the Marketing Research Specialist is responsible for completing the duties of the Inventory Control Supervisor and National Sales Assistant in their absence. EOE

Account Executive Trainee

Under the supervision of the Local Sales Manager, the Account Executive Trainee is responsible for supporting sales management making revenue budgets. This includes selling advertising time to existing clients and generating new business via traditional and non-traditional revenue streams. In addition AE will be responsible for obtaining interactive media budgets and convergence budgets with sister newspapers in the market. EOE

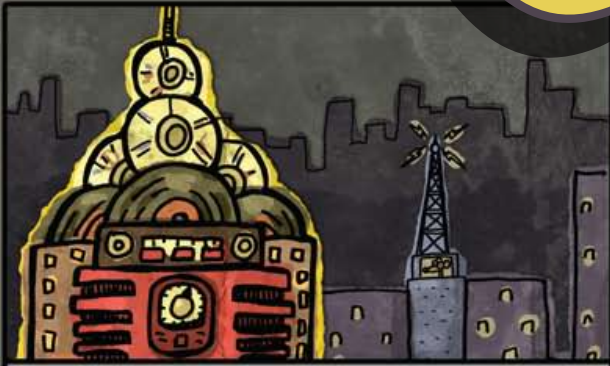
Promotions Director

Lead the Promotions team for a 3 station, privately owned radio group. Qualified candidates should show a strong background in contesting, event planning and execution, sales support and interaction, creative station visibility, marketing, meticulous attention to detail, and inter-departmental communication. This is a Department Head position, so leadership and management skills are a must as well. Thrive by attracting attention to the stations, and providing strong marketing partnerships with clients. Rush your most impressive examples. To apply, send cover letter with salary requirements, résumé, and success stories to: The Star Radio Group (WFLS/WWUZ/WVBX) Attn: Human Resources 616 Amelia Street Fredericksburg, VA 22401 Email: jobs@freelancestar.com. An Equal Opportunity Employer

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ARE YOU PROMOTING CONCERTS?

ALL THE TIME?

WHERE'S OUR PROFIT?

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CALL IT A "PERFORMANCE RIGHT."

...COVER OUR TRACKS.

IT LOOKS BAD FOR RADIO.
IT LOOKS BAD FOR MUSIC.



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