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Newsletter

Virginia Association of Broadcasters

April 2009

Boucher Warns Performance Rights Act Could Pass

NAB Increases Pressure with Radio Commercial and Grassroots Website

Virginia Democrat Rick Boucher, chairman of the House Telecom Subcommittee, told broadcasters he thinks the Performance Rights Act is gaining traction, more so than last year. "The votes exist today to pass a simple royalty on terrestrial radio. That bill could pass the House."

Speaking at the National Association of Broadcasters State Leadership Conference in Washington D.C., Boucher said it's time for terrestrial radio to get to the negotiating table and talk to the record labels, artists, and other industries, like cable and satellite, about performance royalties. "I think your industry is at risk of having legislation passed ... if you don't get involved," said Boucher.

Satellite and cable believe they pay too high a performance royalty, he said, and if terrestrial radio comes to the negotiating table, and agrees to pay, they could compromise on a lower fee for all.

"NAB has great respect for Chairman Boucher, but we would submit that the real negotiation should take place between the record labels and recording artists," said NAB Executive Vice President Dennis Wharton.

NO PERFORMANCE TAX
Oppose the record label-led performance fee on radio.

[About the Issue](#) | [Broadcaster Action Center](#) | [Multimedia and Resources](#) | [Newsroom](#) | [Take Action Now!](#)

It's Time to Get the Real Story On the Performance Tax

Olympians aren't the only ones who bring home the gold...

Local radio stations provide billions of dollars in promotional value to artists and record labels. In appreciation, the record labels bestow upon radio stations "gold" and "platinum" albums to show their gratitude.

So why do labels now want to "tax" radio for playing music – a practice that has put money in their pockets for more than 80 years?

[Get the real story](#)

Use the + and - controls to pan in and zoom on the hundreds of gold and platinum album record labels have sent to radio stations as gratitude for playing their artists.

Broadcaster Action Center
Radio stations: Find resources and tools to fight the performance tax.
[Log In Now](#)

Latest News
Get the latest information about how radio and listeners are fighting a performance tax.
[Visit Newsroom](#)

Radio Gives Back
Learn more about the outstanding public service of local radio and the many ways stations help their communities.
[Broadcasters' Public Service](#)

[CLICK HERE TO LEARN MORE](#) Use this and other banner ads on your site. [Download now!](#)

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"After the record labels have renegotiated all the abusive deals they have forced on artists, they should come see us."

The NAB has unveiled an anti-performance tax radio advertisement and a new grassroots Web site, www.NoPerformanceTax.org, in their effort to thwart the record-label effort to charge a new fee for

broadcasting music.

"Bolstered by this new ad, we are cautiously optimistic Congress won't impose a new fee that would decimate radio stations facing the worst advertising recession since the Great Depression," said Wharton.

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More Broadcasters Voice SHVERA Concerns in DC

Both ABC and Fox affiliate associations are following CBS and NBC affiliates, lobbying in Washington against the Satellite Home Viewer Extension and Reauthorization Act (SHVERA). Chairman of the House Communications, Technology & Internet Subcommittee Rick Boucher has said he understands broadcaster's concerns, but that there would need to be some fix to the split-market issue, either by negotiation between broadcasters, satellite and cable providers, or an act of Congress.

Boucher's subcommittee is considering modifying the distant signal rules to allow satellite, and potentially cable, to import signals from adjacent markets in certain

cases, including split markets, where the market crosses state lines and viewers in part of the market are getting stations from the neighboring state.

Speaking at the National Association of Broadcasters State Leadership conference in Washington, Boucher said he would try to pass the most narrow version possible of the SHVERA act, without "collateral issues" like retransmission consent reform. But he said a couple of issues would inevitably come before the committee: 1) allowing the importation of signals from adjacent markets to markets that lack that particular network affiliate signal, which is not controversial and which he supports, and 2) making sure

satellite operators carry TV stations in all 210 local markets. "I frankly have a feeling that unless we have a statutory mandate, the time may never come."

Boucher understands that allowing the carte blanche importation of adjacent-market signals "could be very disruptive of our tradition of giving broadcasters dominance in their DMA's," but he said the "unfortunate reality" is that if a proposal by Rep. Mike Ross (D-Ark.) to allow that importation were put to a vote today, "it would very likely pass."

"Rep. Ross has strong support for his provision," said Boucher, "but I think there

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VAB Newsletter

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Filing Freezes On FM Minor Change Applications

The FCC has announced it will not accept FM commercial and noncommercial educational minor change applications (FCC Form 301, for commercial stations, or FCC Form 340, for noncommercial educational stations) for the period beginning June 16, 2009, and ending June 25, 2009—the window of time during which applicants who wish to participate in the Commission's Auction 79 proceeding may file "short form" auction participation applications. For example, an FM broadcaster that wishes to change its community of license through the expedited minor change application process will not be permitted to file such an application during this period.

In addition to the June 16 to June 25 minor change application filing freeze, the FCC has announced another freeze, effective immediately, on the filing of (1) applications proposing to modify the reference coordinates of any of the 122 vacant non-reserved band FM allotments scheduled for Auction 79 and (2) petitions and counter-

proposals that propose a change in channel, class, community, or reference coordinates for any of the 122 allotments scheduled for Auction 79. (For your reference, we have attached the list of affected allotments to this Special Report.) The freeze will remain in effect through the date on which Auction 79 "long form" applications are due. Note: The long-form deadline has not been announced at this time.

According to the FCC, the temporary filing freezes are designed to avoid conflicts between the "frozen" filings and auction proposals and to promote a more certain, efficient auction process.

Auction 79 is scheduled to start on September 1, 2009. For additional information on this proceeding, broadcasters may wish to review the FCC's Auction 79 website at http://wireless.fcc.gov/auctions/default.htm?job=auction_summary&id=79.

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Remember to update your station profiles on the VAB website! New information has been added to make it easier for VBS media buyers to market your station. To update your information, please go to <http://www.vabonline.com/members/login.aspx>, log in, then click on "Your Stations." If you've forgotten your username or password, email christina.meyer@easterassociates.com.

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2009 Virginia Communications Hall of Fame Class



Hazel Trice Edney



Ronald MacDonald



Craig Merritt



Joel Rubin



Steven Soldinger

The 2009 class of inductees into the Virginia Communications Hall of Fame includes a decorated print journalist, an influential educator, a dedicated First Amendment lawyer, a service-minded public relations executive and television host and an innovative broadcasting executive.

Hazel Trice Edney, editor-in-chief of the National Newspaper Publishers Association New Service; the late Ronald MacDonald, who taught for three decades at Washington and Lee University; Craig Merritt, a lawyer who has worked with a number of media companies and organizations; Joel Rubin, CEO of Rubin Communications Group and former host of the roundtable show, "On the Record," and Steven Soldinger, who has managed a number of radio and television stations in Virginia and elsewhere, will be inducted in a ceremony on April 2 at the

Jefferson Hotel in Richmond. The School of Mass Communications will host the ceremony.

"This year's class of inductees has shown an admirable dedication to public service," said Judy VanSlyke Turk, chair of the Virginia Communications Hall of Fame Selection Committee and director of the VCU School of Mass Communications. They have contributed not only to the advancement of communications in their respective fields but to the improvement of their communities."

Edney, editor-in-chief of the National Newspaper Publishers Association News Service, has covered a host of major stories as a reporter and editor, including the 2000 presidential election, the 2001 terrorist attack on the Pentagon and the immediate aftermath of Hurricane Katrina. She also exclusively covered the flight of civil rights icon Rosa

Parks' body from Detroit to Montgomery with Parks' family.

MacDonald, who passed last July, joined the journalism department at Washington and Lee in 1969 and taught students there until his retirement in 2001. During his tenure at W&L, MacDonald greatly expanded news coverage at WLUR-FM, the radio station operated by the school's journalism department, and authored "A Broadcast Manual of Style," which has been used in local TV newsrooms nationwide.

Merritt, a partner in the Christian & Barton law firm, has represented the Virginia Press Association, individual newspapers and various broadcast stations for 15 years on a range of legal issues, including defamation defense, freedom of information and access issues, prepublication review and report-

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Study Finds Jobs and Salaries Decline As Amount of News Increases

Jobs in local television news dropped by 4.3 percent and salaries dropped by 4.4 percent last year. At the same time, stations set a record for the amount of news on the air while the net number of stations originating news declined by only 4 in the past 16 months.

These are the results of the 2009 RTNDA/Hofstra University Annual Survey, released today at the Radio-Television News Directors Association convention in Las Vegas. The survey showed that more than half of stations are making a profit on local news.

"It's clear that stations are banking on local news to carry them into the future," said Bob Papper, director of the survey and professor and chair of the department of journalism at Hofstra University. "Television is clearly suffering from the same stress as the entire economy, but stations are by no means giving up on local news."

Papper said he expects jobs and salaries to continue to decline in 2009, but looks for

improvement in 2010.

Among the survey highlights:

- Television news shed 1,200 jobs in 2008. The 4.3 percent decline was greater than the 3.8 percent drop in overall U.S. employment. U.S. newspapers reported cutting newsroom staff by 5,900 jobs or 11.3 percent in 2008.
- Almost four times as many stations reported cutting jobs as adding jobs.
- Hardest hit by salary cuts were news reporters (-13.3 percent), news anchors (-11.5), weather casters (-9.1) and sports anchors (-8.9).
- The typical station added a half-hour of local news per weekday in 2008, setting a new record for the amount of news -- 4.6 hours per weekday. Weekends stayed the same.
- The number of stations running news in 2008 dropped from 774 to 770. So far in 2009, three stations have stopped originating news, but three stations have started or announced plans to start local news, keeping

the total at 770.

- Of the four stations that stopped originating news in 2008, two are running news from another station. In 2009, two of the three stations that stopped originating news are running news from another station.
- Radio staffing stayed the same with the same percentage reporting cuts as those reporting hires, typically of one person.
- Radio salaries declined 1.8 percent and the amount of news dropped slightly.

The RTNDA/Hofstra University Survey was conducted the fourth quarter of 2008 among all non-satellite television stations and a random sampling of radio stations. Results on minority and women staffing and digital media will be released later in the year.

RTNDA is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA represents local and network news professionals in broadcasting, cable and other electronic media in more than 30 countries.

Performance Tax

(continued from page 1)

The 60-second spot, dubbed "Don't Feed the Fat Cat," was purchased by NAB and is airing on Washington, D.C. radio stations WMAL-AM and WTOP-FM. The advertisement is also available for radio stations to download from NoPerformanceTax.org.

The new website also provides radio stations with an array of online banner ads and sample letters to members of Congress. Users can also read background information on the performance tax issue, video clips from Congressional hearings and Capitol Hill events, NAB news releases, and news media coverage of the performance tax issue.

"This is a multifaceted resource that our members can use to educate lawmakers and listeners on the dire consequences of a performance tax that threatens the very survival of free, local radio," said Wharton. "On behalf of our 235 million weekly radio listeners, NAB urges member stations to take advantage of this new Web site and stand united against a cynical money-grab by the foreign-owned record labels."

The Local Radio Freedom Act (H. Con. Res. 49), unveiled in February at a Capitol Hill event hosted by the Free Radio Alliance, was introduced by Reps. Gene Green (TX-29) and Mike Conaway (TX-11). The resolution counters legislation supported by the RIAA, which would levy a new fee on local radio stations for music aired free to listeners. An identical resolution was introduced earlier last month in the Senate (S. Con. Res. 14).

"Congress should not impose any new performance fee, tax, royalty, or other charge



Every day radio stations provide valuable promotion to record labels and artists simply by playing their songs
...for free.

It's free play for free promotion. And it works. But the big international record labels have a problem – they haven't adapted to the digital age. Now they are asking Congress to tax local radio stations to line their pockets and preserve a declining business – to the tune of billions of dollars. The effects of this tax would be catastrophic, potentially forcing stations out of business, stifling new artists and harming the listening public who depend on local radio.

**Preserve local radio.
Fight the performance tax.**

relating to the public performance of sound recordings on a local radio station for broadcasting sound recordings over-the-air, or on any business for such public performance of sound recordings," reads The Local Radio Freedom Act.

To date, over 175 members of Congress have signed on in support of the The Local

Radio Freedom Act, most recently House Ways and Means Committee member and civil rights icon Rep. John Lewis (GA-5) as well as Reps. Betsy Markey (CO-4), Larry Kissell (NC-8), Roscoe Bartlett (MD-6) and Pete Olson (TX-22).

Save the Dates!
June 25 - 27, 2009

Virginia Association of Broadcasters

72nd Annual Convention

Awards Banquet June 26, 7 pm
Hilton Virginia Beach Oceanfront Hotel

register today at vabonline.com

FCC Studies Minority And Female Station Ownership



The FCC has issued an Order announcing its plan to collect additional data on minority and female broadcast ownership. The Commission has also issued a Further Notice of Proposed Rulemaking to determine whether it will require similar data to be filed by low power AM, low power FM, and LPTV broadcasters.

Diversity Reporting Order

In the Order, the Commission adopted changes to reporting requirements on the Ownership Report for Commercial Broadcast Stations, FCC Form 323, which is currently filed by certain full-power commercial AM,

FM, and television broadcasters to identify their organizational and ownership structures and to provide information on the race, ethnicity, and gender of owners.

The text of the Order has not yet been released. However, a press release announcing the Order states that “the Commission does not [currently] possess reliable data on the precise status of minority and female ownership – data that we will need to establish and maintain effective policies over time that the courts will insist upon if the Commission chooses to pursue more race- or gender-based approaches.” The Commission has determined that the FCC Form 323 changes are necessary to correct these “deficiencies.”

The FCC’s press release announcing the Order identifies the following changes, among others, to the FCC Form 323 reporting requirements:

- Addition of LPTV and Class A television stations to the class of stations required to file ownership information on FCC Form 323.
- Broadening of the scope of reportable interests to include not only all interests in

the licensee that are attributable, but also minority interests in a corporation with a single majority shareholder and interests in an eligible entity that would otherwise be attributable but for the operation of the higher Equity/Debt Plus attribution threshold applicable to financial interests in eligible entities. (The Order does not affect the Commission’s attribution rules, which continue in effect unchanged, but merely requires that certain non-attributable interests be reported on FCC Form 323 to ensure that the Commission’s data on minority and female ownership are complete.)

- Establishment of a uniform biennial filing date for stations filing ownership information on FCC Form 323. The Order established November 1, 2009, as the first uniform filing date for all filers, and every two years thereafter. Data must be current as of October 1.
- Improvement of data retrieval by modifying reporting procedures so that ownership data can be incorporated into the FCC database, can be searchable, and

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SHVERA Opposition

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are ways that his needs can be met, and broadcasters needs can also be met. But that only comes with a conversation involving all of the relevant parties.”

The bill would allow multichannel video providers, cable as well as satellite, to retransmit in-state TV signals in split markets. It would waive the nonduplication rules in that instance, and would not allow retrans deals to be written so as to prevent distant signal importation to adjacent “underserved” areas.

Broadcasters argue that they have paid for the exclusive rights to import syndicated programming. Allowing satellite and, potentially, cable operators to import the same programming would constitute a “free copyright license” that would “drive local TV stations out of business,” said ABC affiliate board chairman Darrell Brown in a letter to House Energy & Commerce Committee Chairman Henry Waxman (D-CA).

Brown says that without territorial exclusivity, networks, sports leagues and studios will move their content to cable and satellite, which would be “unfair to your constituents and local viewers,” he

tells Waxman.

Brown points out that cable and satellite can already import in-state weather and news to viewers in split markets just by asking the distant stations who have always said yes, he adds. And on the issue of sports, Brown suggests that they resolve the issue of split markets where viewers may not be getting the games of their home-state teams, either the NFL or NCAA could allow local stations to broadcast those games. “We urge you to ask the sports leagues and the NCAA to make games of local interest to your constituents available for broadcast on your local stations,” he says.

“Local television station personnel are being laid off and furloughed in record numbers, and many of these stations are now in receivership,” said Brown. “It is difficult to believe Congress would seriously consider giving pay cable and satellite companies an unfair competitive advantage of this kind over free, local, over-the-air television service.”

Fox Affiliate Board Chairman John Tupper echoed Brown’s concern.

“This proposal is a not-so-subtle strategy for eliminating retransmission consent fees paid by cable and satellite operators,” he wrote in a letter to Waxman. “When local broadcast television stations are bankrupted

by this proposal, only those viewers who are able to pay \$1,000 per year for unregulated subscription television will have access to any television programming of any kind.”

Boucher said they need “a negotiated solution in which we find a way that satisfies the core concerns,” while preserving, “to the greatest possible extent the traditional dominance of local broadcasters within their DMA’s.”

The House and Senate are currently considering reauthorization of SHVERA because the distant signal license expires at the end of the year. As such it is considered must-pass legislation, though broadcasters argue it must not pass with a broad DMA revision.



RTNDA Announces 2009 Murrow Regional Award Winners



The Radio-Television News Directors Association have unveiled the winners of its regional Edward R. Murrow Awards. The news professionals association handed out 540 nods in 14 categories.

WTOP-FM, a talk radio station, in Washington, D.C., took the most awards, scoring 11. The RTNDA said many of the awards were given for coverage of the 2008 presidential election and the recession. A comprehensive list is available on the RTNDA's website, www.rtnnda.org.

Regional Murrow winners automatically

qualify for the national awards competition held in early June. The national winners will be recognized at an event in New York Oct. 12.

The Radio-Television News Directors Association has been honoring outstanding achievements in electronic journalism with the Edward R. Murrow Awards since 1971. The Awards are named after Murrow in recognition of his pursuit of excellence in journalism and the spirit of excellence he made a standard for broadcast news.

Region 12 Murrow Award Winners

(Delaware, District of Columbia, Maryland, Virginia)

| | | | |
|---|--|--|---|
| Radio, Large Market Overall Excellence WTOP-FM, Washington, DC | Web site WTOP-FM, Washington, DC WTOP.com | Use of Sound - Radio only WJMA-FM Orange, VA Montpelier Races | Newscast WJLA-TV, Washington, DC 5PM Newscast |
| Breaking News Coverage WTOP-FM, Washington, DC A River on River Road | Writing WTOP-FM, Washington, DC Core Values (by Chris Core) | Web site WDEL-AM, Wilmington, DE WDEL.com | Sports Reporting WJLA-TV, Washington, DC Parkour |
| Continuing Coverage WBAL-AM, Baltimore, MD Unconventional Convention | Radio, Small Market Overall Excellence WDEL-AM, Wilmington, DE | Television, Large Market Overall Excellence WJLA-TV, Washington, DC | Videography - TV only WTTG-TV, Washington, DC ING Composite |
| Feature Reporting WTOP-FM, Washington, DC Fruitcake Must Die! | Breaking News Coverage WRVA-AM, Richmond, VA Building Collapse | Breaking News Coverage WJLA-TV, Washington, DC Maryland Twister | Web site WTTG FOX 5, Washington, DC myfoxdc.com |
| Feature: Hard News WTOP-FM, Washington, DC Hidden Hunter | Continuing Coverage WRVA-AM, Richmond, VA Swing State | Continuing Coverage WAVY-TV 10, Portsmouth, VA Suffolk Tornado | Television, Small Market Overall Excellence WBOC-TV, Salisbury, MD |
| Investigative Reporting WTOP-FM, Washington, DC Deadbeat Feds | Feature Reporting WVTF, Roanoke, VA Dinner in the Dark | Feature Reporting WTTG-TV, Washington, DC Mrs. Jones Basement | Breaking News Coverage WWBT-TV, Richmond, VA Plane Crashes Into House |
| News Documentary WTOP-FM, Washington, DC Sleep Matters | Feature: Hard News WFLS-FM, Fredericksburg, VA In the Line of Duty | Feature: Hard News WTTG-TV, Washington, DC Farm Fight | Continuing Coverage WDBJ, Roanoke, VA Randall Lee Smith's Return |
| News Series WTOP-FM, Washington, DC The Loneliest Disease | News Documentary WFLS-FM, Fredericksburg, VA Focus: Report from Kuwait | Investigative Reporting WTTG-TV, Washington, DC Calls for Help | Feature Reporting WTVR-TV, Richmond, VA Virginia's Heroes |
| Newscast WTOP-FM, Washington, DC 7am News | Newscast WDEL-AM, Wilmington, DE Delaware's Morning News | News Documentary WJLA-TV, Washinton, DC Project Immigration | Feature: Hard News WDBJ, Roanoke, VA Officer Lawrence |
| Sports Reporting WBAL-AM, Baltimore, MD Get Me To The Track On Time | Sports Reporting WFLS-FM, Fredericksburg, VA Rudy | News Series WAVY-TV, Portsmouth, VA Deportation Dilemma | Investigative Reporting WDBJ, Roanoke, VA Instant Audit |
| Use of Sound - Radio only WTOP-FM, Washington, DC Cathedral Bells | | | |

FCC Ownership

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can be aggregated and cross-referenced electronically.

- Authorization of Media Bureau random audits to ensure the accuracy of the reports.

Further Notice of Proposed Rulemaking

The Notice asks for comment on potential changes to FCC Form 323-E, the Ownership Report filed by non-commercial licensees of AM, FM, and TV broadcast stations, which currently does not ask questions about gender, race, or ethnicity.

Specifically, the Notice asks for comment on the following topics:

- Requiring non-commercial licensees to include gender and racial/ethnic information on FCC Form 323-E.
- Requiring low power FM licensees and permittees to begin filing FCC Form 323-E reports (low power FM licensees and permittees are currently exempt from this filing requirement).
- How to define ownership, including minority and/or female ownership, in the noncommercial context. The Notice seeks comment on what kind of information should be reported for non-commercial educational broadcast licensees that are non-profit, non-stock entities, or governmental organizations controlled by governing boards or trustees who do not have a financial stake in the licensee organization.
- Whether the uniform biennial filing date adopted for commercial filers of FCC Form 323 should be applied to non-commercial filers of FCC Form 323-E.
- How to minimize any potential reporting and recordkeeping burdens on non-commercial licensees that could occur through the expanded reporting requirements.

The effective date of the new reporting requirements adopted in the Order and the comment and reply comment deadlines for the Notice are not yet known. We will apprise you of the effective dates and deadlines when they become available.

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SPJ Joins Fairness Doctrine Opposition

The Society of Professional Journalists (SPJ) has now officially joined opposition to reintroduction of the Fairness Doctrine, which would allow the government to control broadcast editorial content.

"SPJ in general opposes government intervention on speech. The Fairness Doctrine does that and discussion about having it again should end," said SPJ President Dave Aeikens. "The SPJ Code of Ethics requires fairness in news coverage, but we don't want the government to mandate that." Read the SPJ ethics code here.

The history of the doctrine and its use by the FCC began in 1949, when broadcasting regulations first stipulated attention to both sides of a controversial issue. However, the original policy did not require equal airtime. The largely informal policy was officially codified in FCC regulations in 1967 and unsuccessfully challenged by Supreme Court cases in 1969 (Red Lion Broadcasting v

FCC) and 1984 (FCC v League of Women Voters of California). Without judicial or legislative intervention, the FCC repealed the doctrine in 1987.

Some members of Congress, including House Speaker Nancy Pelosi, have indicated support for the Fairness Doctrine. President Obama, however, has stated he does not favor its return.

SPJ believes firmly that just as government has no business regulating words printed in a newspaper, the public good is not served by mandating how to broadcast news or opinions on radio or television.

Founded in 1909 as Sigma Delta Chi, SPJ's stated mission is to promote the free flow of information vital to a well-informed citizenry, to inspire and educate the next generation of journalists, and to protect First Amendment guarantees of freedom of speech and press.

2009 Hall of Fame

(continued from page 3)

ers' privilege matters. For instance, Merritt argued and won two recent major Virginia Supreme Court appeals on freedom of information issues on behalf of several Virginia newspapers. Merritt also represents the press in the Virginia General Assembly.

Rubin hosted "On the Record," an issues-oriented Sunday morning roundtable talk show from 1991 to 2008 on WVEC-TV in Norfolk. He taped more than 700 shows during that period and interviewed thousands of guests.

Prior to hosting "On the Record," Rubin worked for 16 years as an award-winning news and feature reporter with WAVY-TV in Norfolk. Rubin started Rubin Communications Group, a full-service marketing and public relations firm in Virginia Beach, in 1991. Rubin also has been a frequent moderator for community symposiums, debates and town hall meetings.

Soldinger, who has worked in broadcasting since he was a teenager, is currently the vice president and general manager for three television stations owned by CBS in Tampa, Atlanta and Portsmouth. He has served in a range of management roles during his career and is known as a trailblazer for managing multiple stations in multiple markets.

Professionals with exceptional careers in journalism, public relations, advertising and



other media fields are eligible for selection to the Virginia Communications Hall of Fame. Possible inductees must have significant ties to Virginia. The newest class of inductees increases the hall's membership to 112.

The Hall of Fame, established by VCU's School of Mass Communications in 1986, recognizes individuals who have shown exceptional achievement in the fields of print, broadcast, public relations, advertising and interactive media, including cable and the Internet. Inductees are nominated and selected by their peers.

The VAB congratulates all five of the 2009 inductees, who have each had an extensive impact on broadcasting in the Commonwealth.



Exposing Some Common Employment Law Myths

By John G. Kruchko
and Paul M. Lusky*

Like stories about sightings of the abominable snowman or the Loch Ness monster, certain myths about employment law just keep popping up in discussions about employee rights. The following examples demonstrate the value of getting legal advice before taking employment action based on assumptions of what the law provides.

1. If an employee is on probation, I can fire him for any reason at all.

Not true! A probationary employee is protected by most employment laws just like any other employee. For example, although an employee must work for an employer for one year before he is protected by the Family and Medical Leave Act, other laws against discrimination protect employees from day one of their employment. Thus, a probationary employee with a disability may be entitled to a leave of absence as a reasonable accommodation for his disability. Of course, protection against other kinds of discrimination, e.g., race, sex, age, national origin or religion, also apply to probationary employees so it is best to have a performance-based reason for discharging a probationary employee rather than a reason that might be demonstrated to be a pretext for discrimination.

2. As long as my secretary is paid a salary every week, she does not have to be paid overtime.

Wrong! Payment on a salary basis is only one of the requirements for the exemption from overtime. There is also a duties test - only some positions are exempt from

overtime. The most common exemptions are executive, professional or administrative positions. Thus, many secretaries will not qualify for the exemption unless they are administrative assistants who regularly exercise independent discretion with respect to matters of significance that are related to the management or general business operations of the employer.

3. Non-competition clauses are unenforceable in court.

Sometimes legal decisions out of California get too much publicity. Although California has held that provisions in employment agreements that restrict competition are void, courts in other states will enforce non-competition clauses. These clauses, which prohibit former employees from working for competitors, must be narrowly drafted, however. Courts dislike non-competition clauses and will often look for ways to restrict their application. The rules for enforcement vary from state to state but, generally, a non-competition clause will be enforced if it is reasonable in its geographic scope and reasonable as to its duration and limitation on duties.

4. An employee is entitled to a one-half hour lunch break every eight hours of work.

Federal wage and hour law does not require employers to give meal periods to its workers. Also, neither Maryland nor Virginia require employers to provide meal breaks. In fact, at least 30 states have no laws requiring lunch breaks. However, watch out for those states - like California - that do!

5. Employees who have worked for an employer for ten years are entitled to sever-

ance pay.

No - the above statement is false. There is no law in Maryland, Virginia or the District of Columbia requiring employers to pay severance no matter how many years they have worked for an employer. Severance pay is a matter of agreement between an employer and its employees. If the employer has no severance pay policy, it need not pay severance to discharged employees.

6. Employers must abide by the rule of seniority when laying off employees.

The so-called "rule of seniority," as applied to layoffs, means that employees who were hired last by an employer must be the first to be let go when a layoff is necessary. In other words, those employees who have worked the longest for an employer should be safe from layoff because they have more seniority than employees who were hired after them. There is no law, however, requiring employers to use seniority in determining which employees should be chosen for layoff. Although years of service do provide an objective standard for layoffs and, thus, should avoid claims of discrimination, such a criterion may not allow an employer to keep its best performers after a layoff. If an employee has demonstrated excellent performance but has less seniority than an employee who has performed poorly, an employer should be able to retain the better performing employee. Fortunately, the law allows such discretion for employers. Only where an employer is restricted in a collective bargaining agreement with a union to abide by the rule of seniority will an employer be forced to retain a poorly performing employee.

(continued on next page)

7. Discharged employees are entitled to a copy of their personnel file, especially if they get a lawyer.

No, this is not true. Unless the request for a copy of the personnel file is a discovery request during post-discharge litigation, an employer has no obligation to turn over a copy of the personnel file to a discharged employee, lawyer or no lawyer. Although some public employees have access to personnel files in Virginia and the District of Columbia, an employee discharged from private employment cannot force an employer to turn over a copy of the employee's personnel file, absent litigation.

8. An employer who fails to pay overtime to an employee can provide "comp time" to an employee at a later date to substitute for the overtime payment.

Under federal wage and hour law and under most state statutes, there is no such thing as "comp time". It is not a legal method for

compensating employees for hours worked over 40 in a week. Overtime pay must be calculated and paid on a weekly basis. It cannot be deferred until a later date.

9. Employees who work in "right to work" states cannot be terminated at-will.

The employment-at-will rule means that an employee can be terminated for good reason, bad reason, or no reason at all. The rule is subject to many exceptions including the many statutes that protect against discrimination. Thus, although most states do nominally follow the employment-at-will rule, it is best to have a performance-based reason for the discharge of an employee.

The "right to work" statutes have nothing to do with the employment-at-will rule. Right to work states prohibit the parties to a collective bargaining agreement from negotiating a union shop clause. Such clauses require employees to join a union within 30 days of their employment or face discharge.

These are only some of the mistaken assumptions about employment law. It is better to contact an employment lawyer before you proceed with a policy that may be based on myth rather than reality. For employers that operate in more than one state, it is even more important to check local laws before assuming a particular employment act is legal.

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John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia. Paul M. Lusky is a partner with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Mr. Lusky at (410) 321-7310; or jkruchko@kruchkoandfries.com, or plusky@kruchkoandfries.com. This article is published for general information purposes, and does not constitute legal advice.

NAB Collaborates With EPA On Green Guide

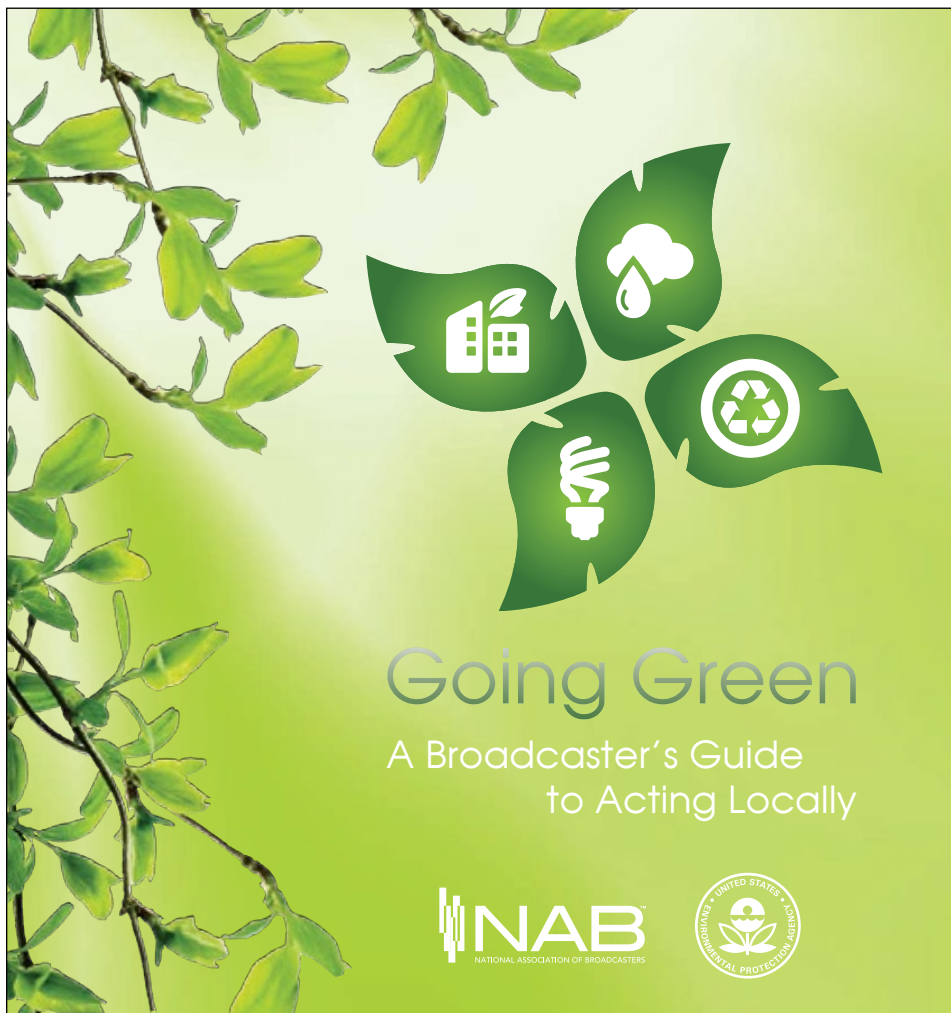
The NAB has partnered with the Environmental Protection Agency (EPA) to create a "Going Green" guidebook that describes and encourages 'green' practices for radio and television broadcasters. "Going Green: A Broadcaster's Guide to Acting Locally," contains environmental facts and lists a variety of suggested efforts stations can undertake to promote a more eco-friendly environment and healthier lifestyle.

"We're proud to count the National Association of Broadcasters as partners in celebrating Earth Day 2009, and in our long-term efforts to protect human health and the environment," said EPA Administrator Lisa P. Jackson. "Together, we're educating audiences and industry members so that they can play a role in reducing environmental impacts and protecting communities."

The guidebook, which was published using recycled resources, was mailed to NAB members in advance of Earth Day.

As part of Earth Month, NAB is also making available to stations a variety of unique PSAs and practical action tips for better air, water, health and greener places everywhere. Stations can access these online at www.NABSpotCenter.org.

A copy of the Going Green guidebook can be viewed and downloaded in PDF format at www.nab.org/xert/NationalCampaigns/GoingGreen/GoingGreen_Guidebook.pdf.



APRIL 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.
- Only jobs emailed to the VAB will be included in the newsletter.

Submit to the Online Job Bank:

- Go to www.vabonline.com
- Click on "Member Area" (top right menu)
- Log in. (If you do not know your login or password, please email christina.meyer@easterassociates.com)
- Upon login, you will see a menu at left. Select "Your Jobs." From here you can enter new jobs, edit jobs or delete job postings that have been filled.
- Don't forget, members can also view resumes by clicking on the "Resume Bank!"

Job Bank Questions:

Please contact Derek Breen at the Association office: 434-977-3716 or by email at derek.breen@easterassociates.com.

Production Assistant

Part-Time Production Assistant No experience necessary, just a strong desire to learn. This position requires varied hours, early mornings, nights, weekends and holidays. Applicants must enjoy a high-volume, multi-task environment. Starting rate is \$7.25 per hour. Send your cover letter and resume to openings@tv3winchester.com. Please put Production in the title. If using mail, TV3 Winchester, Attn: Production 633 Millwood Ave., Winchester, VA 22601 EOE, good DMV, drug-free workplace.

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. Minimum 2 to 3 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. NO phone calls please. EOE.

Local Sales Manager

WRIC-TV - the ABC affiliate in Richmond, Virginia is seeking an experienced leader for a team of media sales professionals. The successful candidate will manage all aspects of local sales, including creative implementation of revenue generating sales projects. To succeed in this position you must excel in recruiting, training and motivating staff. The major focus will be on developing and increasing alternative streams of revenue. The ideal candidate will be a great leader with a lot of enthusiasm and energy. Strong presentation

skills are essential. Job responsibilities include: Managing and leading staff in all facets of sales; creation and implementation of NTR projects; forecasting and budgeting of all revenue streams and backing up of General Sales Manager. 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. NO phone calls please. EOE.

Television Production Specialist

(Part-time 26 hours/week) Immediate opening for someone with strong working knowledge of television broadcast facility. Audio operation and character generator operation experience preferred. Other duties include studio set-up and maintenance, studio camera operation and floor direction, video tape operation, and other assigned duties. Early morning, late night and weekend work required. 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. NO phone calls please. EOE.

Account Executive

Account Executive position in Sales Department. Advertising sales background helpful. 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. NO phone calls please. EOE.

Video Journalist

WRIC-TV is looking for a Video Journalist who can shoot, edit, and write. The ideal candidate must be able to work independently, generate story ideas, and produce innovative content for all newscasts. One year shooting and reporting experience preferred. Please send non-returnable DVD and resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464. NO phone calls please. EOE.

Receptionist/Accounts Payable Clerk

WWBT NBC12 seeks sharp, energetic individual for fast-paced reception area. Reception duties include answering multi-line phone system, greeting clients, interacting with the public, processing mail and courier services and managing vendors. Accounts Payable duties include scanning all invoices into new paperless system and coding invoices. Ideal candidate will have 1-3 years experience as receptionist and general knowledge of accounts payable. Knowledge of Excel, Word and ability to multi-task a must. Send cover letter with salary requirements and resume to Judy Gibson, Human Resources Director, WWBT, P. O. Box 12, Richmond, VA 23218. EOE M/F/D.

Sales Assistant

VERSTANDIG BROADCASTING IS A GROUP OF FIVE RADIO STATIONS BASED IN HARRISONBURG, VA. WE ARE HIRING A SALES ASSISTANT - A FAST PACED POSITION WITH RESPONSIBILITIES THAT INCLUDE MARKETING RESEARCH FOR SALES PRESENTATIONS, LOGISTICAL SUPPORT FOR STATION PROMOTIONS, CUSTOMER SERVICE AND MORE. IF YOU'RE ABLE TO HANDLE MULTIPLE TASKS, MEET DEADLINES AND PLAY A SUPPORTIVE ROLE IN OUR SALES TEAM, THIS MAY BE THE PERFECT JOB FOR YOU. KNOWLEDGE OF MICROSOFT OFFICE SUITE REQUIRED WITH

ABILITY AND DESIRE TO LEARN NEW SOFTWARE PROGRAMS AS NEEDED. DAYTIME HOURS/COMPANY BENEFITS. MAIL YOUR RESUME TO P.O. BOX 752, HARRISONBURG VA 22803 OR E-MAIL JOBS@VALLEYRADIO.COM. VERSTANDIG BROADCASTING IS AN EQUAL OPPORTUNITY EMPLOYER.

Executive Producer - New Media

Richmond's number one rated news operation seeks Executive Producer-New Media to supervise editorial direction and management of NBC12's new media operations. Responsibilities include working with News Director, Internet Sales Director and Marketing Director to develop and implement marketing strategies for clients. Successful candidate will have college degree and proven professional track record with significant editorial and internet marketing strategy experience. Send resume to Nancy Kent Smith, News Director, NBC12, 5710 Midlothian Turnpike, Richmond, VA 23225. No phone calls. Drug Screen required. EOE M/F/D/V.

Maintenance Engineer

WHSV-TV3 has an opportunity in its engineering department for a full-time maintenance engineer. Job requirements and preferred skills include the following: 1) Strong IT knowledge and skills required 2) General engineering knowledge and skills preferred, including education/ experience in the following areas: - Electronics theory, troubleshooting and repair, including rf systems - Mechanical theory, troubleshooting and repair - Electrical theory, troubleshooting and repair 3) Ability to read/interpret schematics/plans helpful 4) Experience with audio/video systems/equipment, especially broadcast systems, a plus 5) Must be able to work occasional odd hours, including overnight hours and weekends 6) Must be able to lift 100lbs, and work in various positions (standing, sitting, bending, squatting) for extended periods of time 7) Must be able to multi-task, and continuously re-prioritize work, based upon changing and emerging needs and conditions in a fast-paced environment. This is a full-time, hourly position with full benefits and 401K. Reply with cover letter and resume with salary requirement to: WHSV-TV3 Attn: Mike Dunlap, Chief Engineer 50 North Main Street Harrisonburg, VA 22802.

Roanoke Reporter/Video-Journalist FT

Primarily responsible for gathering news, as well as shooting and editing videotape of news, sports, and special features. This person must display high journalistic standards and be prepared to cover stories alone which will require using effective interviewing techniques. The individual must be a good communicator, work well with others, and take direction from management regarding job performance and shooting/editing style and technique. ESSENTIAL JOB QUALIFICATIONS: Advanced Education in the field of Broadcast Journalism which has given the applicant the ability to perform the required functions of the job or equivalent broadcasting work experience, which has prepared the applicant to perform the required functions of the job. Demonstration of skills by performance in audition or aircheck, supported by references and pre-employment interviews. available 24 hours per day, seven days per week, and for extended periods of overtime, if needed. Valid Virginia Driver's license within 30 days of employment. Please apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588, or

To view the latest listings visit www.vabonline.com and click "Careers."

apply in person at WSET-TV, 2320 Langhorne Road, Lynchburg, VA 24501. No phone calls please! EEO/M/F.

Account Executive

Centennial Broadcasting II, LLC is expanding our sales department. We are currently seeking an experienced outside sales person to represent WBQB 101.5 FM and WFVA 1230 AM. If you possess at least two years of outside sales experience (does not have to be media related) with a successful track record, a desire for a positive career change and unlimited earnings potential, please e-mail your resume to David Smith, Mid-Atlantic Regional Manager at dsmith@wbqb.com. We also provide a powerful training program. Centennial Broadcasting II, LLC is an Equal Opportunity Employer

Chief Engineer

WRLH TV in Richmond, VA is seeking a Chief Engineer to lead and manage our engineering department. You must have an in depth knowledge of digital and analog technologies as used in a broadcast environment, as well as a complete understanding of IT networks, high power UHF transmitters, broadcast equipment, and microwave RF technology. Responsibilities: manage the day to day technical operations of the station, oversee equipment maintenance, management of engineering and on-air staff and prepare and manage expense and capital budgets. Requires a minimum of five years experience in television technical leadership roles. College degree, SBE certification and A+ certification are highly desired. Candidates must apply online to be considered at www.sbg.net. Sinclair Broadcast Group/WRLH-TV is proud to be BEA drug free and an Equal Employment Opportunity workplace!

Inventory Control Supervisor

Under the supervision of the General Sales Manager, the Traffic Coordinator is responsible for managing and maintaining the Traffic computer system. In addition, the Traffic Manager is responsible for producing daily logs and reports from the Traffic system as requested. Further, the Traffic Manager works with the Sales department in order to maximize inventory profitability and station revenue. The Traffic Coordinator typically works 40 to 50 hours per week (Monday - Friday). There are high amounts of repetitive motion and moderate amounts of eyestrain associated with this position due to frequent computer use. Work-related travel is typically for training purposes only. The Traffic Coordinator has no supervisory responsibilities. There is minimal risk of injury, and little exposure to noise. There is a minimal amount of lifting associated with this position. The Traffic Coordinator has contact with people outside the organization a couple of times per week. Equal opportunity employer.

General Sales Manager

lead our outstanding sales team in beautiful Fredericksburg. Our cluster includes Hot AC WBQB and News/Talk WFVA 1230. The ideal candidate will possess excellent leadership skills, a solid record of success, an ability to monetize our digital products and an obsession with new business development. Please send your resume and cover letter to David Smith, Mid-Atlantic Regional Manager: dsmith@wbqb.com. Centennial Broadcasting II, LLC is an equal opportunity employer.

Reporter

Reporter -NBC12, Richmond's No. 1 TV news station seeks reporter with proven track record investigating and reporting stories. Live remote reporting experience is critical. Two years professional experience preferred. Excellent computer and internet skills required. Send cover letter with salary requirements, resume and non-returnable demo tape to Nancy Kent Smith, News Director, NBC12, P. O. Box 12, Richmond, VA 23218. Drug/Background Screen. EOE M/F/D.

Experienced Sales Account Executive

If you wish the company you worked for didn't have so much corporate paperwork and allowed you to be more creative, then we might have what you're looking for. If you have media sales experience and thrive on competition and creativity, we want to talk to you. Generous commissions, established clients and a sales environment that breeds success. WINC has been a legendary radio station for years and now we have a sales position open for just the right person. ***Join a company that believes people make the difference! Send your resume and cover to: vreyolds@winc.fm. No phone

calls please. Centennial Broadcasting II, LLC is an equal opportunity employer.

Web Sales Production Coordinator

Web Sales Production Coordinator WAVY TV 10 / FOX 43 WVBT-TV This position will work closely with the Internet sales and graphics departments to implement all components of web sales. This individual will design, code and integrate web applications and user interfaces to meet client and station marketing goals. This person must have the ability to work in a fast-paced environment, juggle competing priorities and meet deadlines. Qualified candidates will have strong communication skills and a minimum of 2 years of web development experience. They should also have extensive knowledge of web content management tools, HTML, Flash, JavaScript, Photoshop and Illustrator. Strong skills in design, layout and typography are essential. Please send cover letter, resume and URL's to Michelle Campbell Internet Director WAVY-TV 10/ WVBT FOX 43-TV 300 Wavy Street Portsmouth, VA 23704 No phone calls, please. EOE.



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