



Newsletter

Virginia Association of Broadcasters

October 2010

NAB Radio Board Endorses Conditions Necessary For Performance Fee Resolution

At its regularly-scheduled Fall Board meeting on October 25th in Washington, the National Association of Broadcasters Radio Board of Directors voted in favor of presenting musicFIRST representatives a legislative "Term Sheet" designed to resolve the longstanding performance fee issue. The Radio Board conditioned their support for today's Term Sheet on the understanding that all provisions would remain part of any legislative package. The vote is subject to ratification by the NAB Joint Board of Directors.

"NAB remains 100 percent opposed to performance fee legislation pending in Congress," said NAB Radio Board Chair Caroline Beasley, CFO of Florida-based Beasley Broadcast Group. "However, in a good faith effort to resolve this issue in the best interests of both radio and the music industry, we have endorsed a solution ensuring that broadcasters

"No broadcaster that I know relishes paying a new fee, but the terms of this agreement provide badly needed certainty for our business to move forward, and the positives of this accord far out-weigh the negatives."

have a foothold in digital platforms of tomorrow."

"The endorsement includes provisions that are essential to the future of free and local radio, and we're hopeful that the musicFIRST Coalition finds it in their best interest to say 'yes' to this proposal," Beasley said.

Under language included in the Term Sheet, music-playing terrestrial radio stations would agree to pay a limited performance fee, which would be set at between 0.25% and one percent of a station's net revenue, depending on

a provision related to the penetration of radio-activated mobile phones in the U.S. The endorsement from the NAB Radio Board was made with the understanding that any legislative resolution supported by NAB must include the following:

- Permanent removal of the Copyright Royalty Board from rate-setting of transmissions of terrestrial on-air music or Internet streaming;
- Resolution of the "AFTRA issue" outside of the legislative process by the

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FCC Forecasts Major Spectrum Shortage



Given the growing U.S. consumer demand for mobile technologies, the shortage of spectrum is likely to reach 300 megahertz in the next five years, according to a new whitepaper released by the FCC.

The FCC's spectrum forecast found that "the amount of mobile data demanded by American consumers is likely to exceed capacity of our wireless networks in the near-term."

Driving the demand for spectrum is growth of the mobile technologies such as smart phones, tablet computers and e-books like the iPad and Kindle. The paper estimates that mobile broadband traffic will increase by 35 times the amount of recent levels.

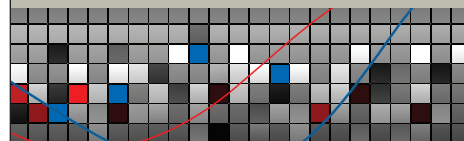
Spectrum is the "oxygen of our mobile communications infrastructure," FCC Chairman Julius Genachowski said, emphasizing the importance of meeting the growing demand.

The value of this exploding spectrum market is about \$120 billion, the paper found. The paper was released in conjunction with a spectrum summit held at the FCC. Forecasting spectrum is far from an exact science, Morgan Stanley telecom analyst Simon Flannery said at the event, calling it something of a "dark art." ❖

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Endorsement *continued from page 1*

musicFIRST coalition that would facilitate simulcast of over-the-air radio commercials on the Internet;

- musicFIRST's acknowledgment and recognition of the unparalleled promotional value of terrestrial radio airplay;
- Simplified airplay reporting requirements similar to the model used by ASCAP/BMI;

- Congressionally-mandated radio-activated chips in mobile devices such as cell phones and BlackBerry smartphones, with an acceptable phase-in period and inclusion of HD Radio chips when economically feasible. If a legislative mandate (which musicFirst has agreed to support) becomes initially unattainable, radio broadcasters would agree to an initial performance fee payment of .25% of net industry revenue. Under this scenario, the performance fee would mirror the actual percentage of radio-activated mobile phones in the United States. Once market penetration of radio-activated mobile devices reaches and maintains a level of 75 percent of all mobile devices, broadcasters agree to pay the full one percent terrestrial transmission performance fee;

- Assuming a successful mandate of radio-activated chips in mobile devices, streaming rates that broadcasters pay for simulcasts, webcasts and other non-terrestrial transmissions of music through 2016 would be reduced. In the event that a legislative mandate for radio chips in mobile devices is not achieved, the streaming rate reduction would not take effect until 50 percent of mobile phones have radio chips;

The Term Sheet provides accommodations for small radio station operators, noncommercial stations, religious broadcasters and incidental uses of music by news/talk and sports stations. The Term Sheet also envisions that both the radio and music industry will work cooperatively to offer consumers more and better ways to listen to music.

The Radio Board's action is a culmination of more than a year of discussions and dialogue between radio executives, the NAB and its membership, musicFIRST, and key leaders in Congress. It comes after more than 260 members of the U.S. House of Representatives and 27 members of the U.S. Senate expressed bipartisan opposition to pending Performance Rights Act legislation that was passed out of two committees in Congress last year.

"From a position of strength, we have fashioned a Term Sheet for resolving the performance fee issue that in the long run is acceptable for radio," said NAB Joint Board Chairman Steve Newberry, president and CEO of Kentucky-based Commonwealth Broadcasting. "No broadcaster that I know relishes paying a new fee, but the terms of this agreement provide badly needed certainty for our business to move forward, and the positives of this accord far out-weigh the negatives."

NAB President and CEO Gordon Smith said the Term Sheet "represents a path forward for radio broadcasters and musicFirst to resolve this contentious issue in a manner that is fair and equitable to both sides. Radio stations, artists and the record labels have more commonalities than differences, and adoption of legislation that reflects this Term Sheet will provide a framework for untold new revenue opportunities for both sides. We look forward to working with musicFIRST and its allies for swift legislative adoption of this entire package of initiatives that will help our businesses flourish in the digital age." ❖

Government Kept On Sidelines in Cable Dispute

The government has little ability to do anything about the continuing cable-fee dispute between Cablevision and the Fox network that now threatens to keep Cablevision customers from watching Major League Baseball's World Series.

The process to determine how much cable companies should pay broadcasters to carry their signal, formally known as retransmission-consent negotiations, is by and large the province of the private companies involved.

The FCC and several politicians have put pressure on the companies by admonishing them publicly and introducing legislation that would create a formal role for government intervention, but they are now without any enforcement tools to force a settlement.

"While federal law provides that the terms will be set by agreement between private companies, Fox and Cablevision share responsibility for protecting their audience's interests," FCC Chairman Julius Genachowski said in a statement issued on October 16. "I expect both companies to live up to this responsibility."

But beyond the action the commission has already taken, there may not be much incentive to do more.

When it comes to the cable-fee dispute, "the FCC is stuck between a rock and a hard place," said Jeffrey Silva, an industry analyst at Medley Global Advisors. "There is growing pressure for the commission to help bring the negotiations to an end, but a heavy hand is not politically palatable with the GOP railing against big government as we approach the midterm elections."

Meanwhile, Cablevision customers in the New York area have been without Fox programming for more than a week after the two companies failed to reach an agreement over how much Cablevision should pay Fox to carry its signal. According to Cablevision, Fox is asking for \$150 million, more than twice the amount previously paid. Fox denies this figure, saying Cablevision is distributing false information.

If the spat is not resolved by Wednesday, Cablevision customers, who have been denied coverage of pro football



"While federal law provides that the terms will be set by agreement between private companies, Fox and Cablevision share responsibility for protecting their audiences interests."

FCC CHAIRMAN JULIUS GENACHOWSKI

games, won't be able to watch the World Series. The companies have not spoken to one another since last Thursday.

Citing a provision of the Communications Act that requires both parties to negotiate "in good faith," the FCC has requested that both parties submit information proving they have done so.

FCC Media Bureau Chief William Lake sent a letter to Fox and Cablevision last Friday asking them to "describe with specificity what has transpired" since the negotiations began and "detail the efforts" each company "is making to end the current impasse."

In its response to the FCC, filed with the agency today, Cablevision accused Fox of negotiating in bad faith.

"News Corp. [parent company of Fox] never engaged in real negotiations," Charles Schueler, Cablevision's executive vice president of communications, said in a statement. "They only made a 'take it or leave it' proposal for Fox 5, and they timed the Fox blackout to leverage major national sporting events to force Cablevision to accept unreasonable demands."

Cablevision is arguing that the FCC does have the authority to make Fox agree to binding arbitration.

Fox disputes these claims. "We have never made any 'take it or leave it' demands," Fox stated. "For Cablevision to still be making those claims is yet another example of their ploy to secure an advantage through government intervention."

In Fox's response to the FCC, the network declined to comment on whether Cablevision has been negotiating in good faith. Binding arbitration, Fox argued, is not an "effective path to the resolution of retransmission consent disputes."

But even if the agency finds that one or both companies did not negotiate in good faith, it can't force a settlement.

"The FCC doesn't have the authority to determine which side is right and what should be the financial terms of an eventual settlement," said Howard Waltzman, a former chief counsel of telecommunications and the Internet for the House Energy and Commerce Committee. "The commission's authority here is largely limited to fines." ♦

Interview Questions an Employer Should Avoid

By John G. Kruchko
and Christin L. Eberst

As the economy slowly starts to turn around, the hiring process is also beginning to turn gears. That means hours, sometimes days, of interviews trying to find that perfect candidate. However, in its quest for a new employee, an employer should be aware of what it can and cannot ask a candidate during an interview. Federal, state, and local laws prohibit an employer from asking applicants certain personal topics—some might be blatantly obvious to avoid, while some are more surprising.

Generally, an employer should avoid questions that appear to discriminate against an applicant based on his/her age, race, religion, national origin, marital status, or disabilities. While this list is not exhaustive, the following are some examples of questions an employer should avoid asking.

How old are you?

The Age Discrimination in Employment Act ("ADEA") prohibits employers from discriminating against persons who are 40 years old and older in favor of younger employees. While the ADEA does not specifically restrict an employer from asking a candidate's age or date of birth, such questions give an appearance that an employer may be basing employment decisions on age. Thus, employers should avoid questions which attempt to determine or appear to try to determine an applicant's age (i.e., what year did you graduate college?).

Where were you born?

"Where were you born? Where did you grow up? That is an interesting name, what nationality are you?" While all these questions may be used to jumpstart a conversation, they may also be perceived as illegal discrimination based upon a person's national origin. Employers may only employ those individuals who are legally allowed to work in the United States (i.e., both U.S. citizens and legal immigrants). However, questions of employment eligibility prior to hiring an individual are



Generally, an employer should avoid questions that appear to discriminate against an applicant based on his/her age, race, religion, national origin, marital status, or disabilities.

prohibited by the Immigration Reform and Control Act of 1986 ("IRCA"). Thus, to promote non-discriminatory hiring decisions, IRCA requires an employer to wait until after the applicant has been offered a position to question a new employee's eligibility to work in the U.S.

Do you have any disabilities?

While this question may seem necessary when interviewing for certain jobs, the American with Disabilities Act ("ADA") makes it illegal. Legally, an employer may not ask about an applicant's disability, or the extent, nature or severity of a disability. However, an employer may question the application on the candidate's ability to perform essential job functions and under certain circumstances, condition employment on the successful completion of a medical examination. Regardless, an employer is required to make reasonable accommodations for those employees with qualified disabilities under the ADA.

Do you observe Ramadan?

An employer may have many reasons to inquire about an employee's religious practices. Whether these questions are for scheduling purposes and/or to determine a candidate's ability to work certain days/holidays, these reasons are not legally justified.

Not only is an employer prohibited from discriminating against a candidate based on religion, it is also required to reasonably accommodate for an employee's religious beliefs and necessary time-off from work. Thus, any questions attempting to determine an applicant's religious practices and views should be avoided.

Are you married? Do you plan to have children?

Whether an applicant is married seems like a fairly innocent question. However, federal law makes decisions based on an individual's marital status illegal. Although it may seem extreme,

we recommend that questions such as "Would you rather be called Ms., Mrs. or Miss?" be avoided.

On the other hand, the necessity for avoiding questions regarding pregnancy may be more evident. The Pregnancy Discrimination Act prohibits employers from refusing to hire a woman who is pregnant or who plans to get pregnant. While an employer may have concerns about women taking pregnancy-related leave, federal law makes it illegal to base employment decisions on pregnancy-related conditions.

What race are you?

This may be obvious, but no situation justifies an employer inquiring about an interviewee's race. Racial discrimination in all aspects of employment is clearly prohibited by law.

This list is merely a glimpse of the types of questions that should not be asked during an interview. Other questions, such as a candidate's involvement in the National Guard, Reserves or off-the-job activities (such as drinking and legal smoking), are not recommended and may appear discriminatory.

These restrictions may be overwhelming, but information that is prohibited is not necessary to determine who may be a successful candidate for a position. Furthermore, nothing restricts an employer from asking questions to determine an applicant's education, long-term goals, and motivation for success.

As this is a highly sensitive area of law, we recommend you consult your Labor and Employment attorney to create a list of interview question "Do and Don'ts." ♦

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SIRIUS XM Adds Over 334,000 Net Subscribers in the Third Quarter

SIRIUS XM Radio (Nasdaq: SIRI) has announced that it added 334,727 net subscribers in the third quarter of 2010, compared to a net subscriber gain of 102,295 in the third quarter of 2009.

In the first three quarters of this year, SIRIUS XM added 1,089,417 net subscribers compared to a loss of 488,126 net subscribers in the first three quarters of 2009. The Company ended the third quarter with a record-high 19,862,175 subscribers, an increase of more than 1.3 million subscribers from September 30, 2009.



Of these amounts, in the first three quarters of this year:

- XM satellite radio added 469,165 net subscribers compared to a loss of 145,855 net subscribers in the first three quarters of 2009; and
- SIRIUS satellite radio added 620,252 net subscribers in the first three quarters of this year compared to a loss of 342,271 net subscribers in the first three quarters of 2009.

XM ended the third quarter with 10,218,265 subscribers, an increase of more than 513,000 subscribers from September 30, 2009. SIRIUS satellite radio ended the third quarter with 9,643,910 subscribers, an increase of more than 833,000 subscribers from September 30, 2009.

SIRIUS XM also announced the following additional third quarter 2010 subscriber metrics:

- Self-pay churn improved to 1.9% for the third quarter of 2010 from 2.0% for the third quarter of 2009; and
- The conversion rate from a trial subscription included in the sale of a vehicle to a self-pay subscription improved in the third quarter of 2010 to 48.1%, up from 46.2% for the third quarter of 2009.

The Company expects to end the year with approximately 20.1 million subscribers, implying net additions of approximately 1.3 million in 2010.

SIRIUS XM plans to release full third quarter 2010 financial results in November 2010. ♦

GOT NEWS?

For coverage in future issues, please send announcements/press releases and accompanying photographs to marci.malinowski@easterassociates.com or mail to:

VAB Newsletter
600 Peter Jefferson Parkway, Suite 300
Charlottesville, VA 22911

Submissions may be edited for length. Inclusion is not guaranteed and may be excluded due to space.



OCTOBER JOB BANK

SUBMIT JOBS

Submit to VAB Newsletter:

- Please e-mail the listing directly to marci.malinowski@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 Morning/Weekend News Editor Richmond, VA

Experience in editing on non-linear system, preferably Edius. Applicant must be able to work under tight deadlines. News background and computer skills preferred. Successful applicant will also be responsible for organizing and maintaining news archive system. 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.

Director of Digital Sales Richmond, VA

Primary responsibility is to grow digital ad revenue on wric.com and related sub domain sites. Work with GM/GSM/LSM to establish goals and strategy to grow digital revenue. Develop new initiatives based on client needs and new technology. Create and present digital marketing campaigns to generate results for local clients. 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. EOE.

Television Production Specialist (PT) Richmond, VA

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 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 Richmond, VA

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 per-

sonnel@wric.com. No phone calls please. EOE.

Part-Time On-Air Personality Harrisonburg, VA

Clear Channel Harrisonburg is looking for a part time air personality to voice track air shifts and handle some public appearances for WKCY FM. Hours can be flexible to work in other schedules. Looking for at least previous full time experience in radio on-air work and prefer a country radio format background. For appearances, person should be able to lift at least 50 pounds, have a good driving record and some full time experience in radio public appearances, working with clients and the public. Please forward air check and resume to: Steve Knupp, Program Director Clear Channel Radio 207 University Blvd. Harrisonburg, VA 22801 SteveKnupp@ClearChannel.com Email attachments should be less than 3 mgs. No phone calls please. EOE.

Newscast Web Producer Richmond, VA

WTVR-TV has an immediate opening for a full time Newscast/Web Producer. Successful candidate must be a strong writer, have solid news judgment, produce energetic and compelling newscasts and handle multiple live shots and breaking news. We are also looking for a producer who can be decisive and communicate well in the control room under intense pressure. Candidates should also be able to present creative ideas in support of our brand while having solid knowledge of local and national news. The producer will also be responsible for creating stories for our Web site and various other social media platforms on a daily basis. Please send your resume and most recent newscast to: WTVR-CBS6, Attention Sheryl Barnhouse, Assistant News Director, 3301 W. Broad Street, Richmond, VA 23230. EOE.

6 & 11 PM Anchor Harrisonburg, VA

WHSV-TV 3 (ABC) is looking for a candidate to compliment our established male anchor on our 6pm and 11pm newscasts. The ideal person will be an outstanding writer who has a command of the anchor desk. Candidates should also have a strong producing and reporting background. In addition, this person should enterprise stories,

have a good understanding of computer-assisted reporting and news gathering and be proficient in social networking. Knowing how to shoot and edit is important. RUSH your resume and reel to Ed Reams, VP/News, c/o WHSV-TV, 50 North Main Street, Harrisonburg, VA, 22802. You may email materials to ereams@whsv.com. WHSV is a drug-free workplace. EOE.

Master Control Operator Roanoke, VA

Immediate opportunity for 24-hr operator. Must be able to work any shift to start. Perform all on-air operations in a very busy TV control room. Record programming from outside sources, prepare program material for air. Applicant must be reliable, a self-starter, able to manage time and perform accurate detailed work. Knowledge of electronics, computers, previous broadcast experience or building maintenance engineer experience a plus. We offer an exciting TV broadcast environment with an excellent benefits package. If you are interested in joining our professional team, please send resume with cover letter and wage requirements to: Fox 21/27 and CW5, Attn: Chief Engineer, 2618 Colonial Ave., Roanoke, VA 24015, no phone calls please. EOE.

Reporter FT (2 POSITIONS AVAILABLE) Lynchburg, VA

The reporter is primarily responsible for gathering news and then preparing the information gathered for on-air presentation. This individual will write news copy, prepare voice-overs, perform stand-ups, and provide direction to the technical crew regarding the emphasis and production of the story. Must be a good communicator, exhibit strong traits of creativity, initiative, judgement, ability to work well with others, and take direction from management regarding job performance and on-air appearance. Advanced Education in the field of Broadcast Journalism or equivalent broadcasting work experience. Demonstration of skills by performance in audition or aircheck, supported by references and pre-employment interviews. Available 24/7 and for extended periods of overtime, if needed. Valid Virginia Driver's license. Knowledge of journalistic standards as they relate to on-air presentation of news stories. Accurate and comprehensive writing skills, ability to act and react appropriately on camera and to maintain professional personal appearance. Please apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588, or apply in person at WSET-TV, 2320 Langhorne Road, Lynchburg, VA 24501 from 8:30 a.m. to 5:30 p.m., Monday through Friday. No phone calls please! Applicants for posi-

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tions in the News Department should submit a non-returnable VHS or DVD resume tape with letter, resume, and references. EOE.

Senior Account Executive Chesapeake, VA

Saga's Tidewater Communications, LLC in Norfolk/Virginia Beach, is searching for talented and experienced Sales Representatives to join our team. We offer great broadcast facilities and an outstanding work environment based on mutual respect. We have the tools you need to win and we provide on-going training to help you be the best. The successful candidates for this position will thrive on selling new business and growing agency accounts. We are seeking individuals with at least two years experience selling Radio and Interactive advertising. You must have a proven track record of growing local direct business and strong writing skills. We offer highly competitive pay, a solid benefits package and unlimited opportunities for the right individuals. College Degree preferred and experience using Microsoft Office software is required. Send cover letter and resumes to Diane Hubel, VP/GM at dhubel@tciradio.net. EOE.

Regional Interactive Director Richmond, VA

WTVR-CBS 6 is seeking a full time Regional Interactive Director to be responsible for setting the Richmond and Norfolk market strategic direction for interactive and creating and managing all interactive sales related revenue streams including spot television, web, mobile, event marketing and other non-traditional streams for Richmond. Primary responsibilities include leading the Richmond sales team in the achievement of revenue goals; effective yield management; accurate forecasting; sales training and development; departmental budget creation and management of budget. Norfolk market responsibilities include setting strategy and driving results in concert with the Norfolk General Sales Manager and Interactive Sales Manager. Please e-mail your resume to DDavies@wtr.com or mail to Dee Davies, General Sales Manager, WTVR-CBS 6, 3301 West Broad Street, Richmond, VA 23230. EOE.

Reporter Harrisonburg, VA

WHSV-TV is accepting resume for a full-time Reporter/Photojournalist based out of our Staunton bureau. We are looking for an imaginative storyteller who can take a routine story and make viewers care about it. Candidates must be able to shoot and edit with P-2 or DVC cameras and be familiar with non-linear editing. Experience with

web-publishing a plus. A good driving record is also required. RUSH a tape and resume to: WHSV-TV, Attn: Ed Reams, News Director, 50 North Main St., Harrisonburg, VA 22802. You may also email resumes to ereams@whsv.com. WHSV-TV is a drug free workplace. EOE.

Staff Engineer Arlington, VA

Staff Engineer Full Time Position available in Washington, DC. Salem Media of Virginia, Inc., (WAVA 780 AM & 105.1 FM, WRC 1260 AM) and Salem Satellite Media, LLC (FamilyTalk, XM 170) are currently seeking an individual for the role of Staff Engineer. Responsibilities to include the technical upkeep and compliance of the station's studio and transmitter sites. The successful candidate will have at least three years experience in the operation and maintenance of high-power and directional AM stations and FM broadcast systems as well as studio maintenance experience. Written and verbal communications skills and computer skills are required. Send resume to WAVA/WRC/XM170 Radio, Attn: David Ruleman, 1901 N. Moore Street, Suite 200, Arlington, VA 22209, fax to 703/807-2216 or send an e-mail to davidr@wava.com. Salem Media of Virginia, Inc. and Salem Satellite Media, LLC are EOE.

Account Executive Winchester, VA

TV3 Winchester has an opening for a smart, energetic, highly motivated Account Executive to join our team. You will work directly with local clients to achieve marketing goals through our multi-media outlets. Sales experience is a must. Strong presentation, organizational and computer skills are necessary. Salary and commission based on managing established accounts and generating new business make up the income package with a corporate benefits package and 401K. Send cover letter and resume to TV3 Winchester, Attn: Teri Lloyd, 633 Millwood Ave., Winchester, VA 22601 or by email jobs@tv3winchester.com. WHSV-TV is a drug free workplace. EOE.

Traffic Log Editor Roanoke, VA

Responsibilities include maintaining accuracy of the station's master logs by checking program accuracy, late additions, break times, and advertiser competition. Computer experience required. This position requires attention to detail, strong organizational skills, and the ability to meet daily deadlines. Pre-employment background and drug screen required. Send cover letter and resume to: Human Resources Attn: Traffic Position WDBJ Television, Inc. 2807 Hersberger Road Roanoke, VA 24017 or email: jobs@wdbj7.com EOE.

On Air Personalities Norfolk, VA

Entercom Norfolk is looking for future air personalities both full and part time. 3 to 5 years experience is necessary for full time positions and some experience is necessary for part time positions. Full time air personalities will also be expected to be proficient in public appearances, voice work and commercial production. Entercom Norfolk is an Equal Opportunity Employer and offers a competitive compensation package. To be considered for this position, please apply online at www.entercom.com and click on "Careers".

Part Time Promotions Assistant Norfolk, VA

WWDE-FM, WPTE-FM, WVKL-FM and WN-VZ-FM have part time positions available for promotions. The qualified candidates will be responsible for setting up remote broadcasts, driving station vehicles, interacting with account executives, listeners and clients, handling heavy equipment, and maintaining promotional equipment. The qualified candidates MUST BE 21 YEARS OR OLDER, have a flawless driving record, be outgoing, organized, possess strong communication skills, available nights and weekends and able to handle heavy equipment without problems. To be considered for this position, please apply online at www.entercom.com and click on "Careers". EOE.

Account Manager Harrisonburg, VA

Verstandig Broadcasting is looking for a local account manager. This job involves devising and selling advertising campaigns and marketing strategies that will help local businesses increase their sales and profits. The right candidate will have some outside sales experience and a media background is preferred. Send resume to PO Box 752, Harrisonburg, VA 22803 or jobsatvalleyradio.com. EOE.

Promotion Coordinator FT Lynchburg, VA

Originate, produce, and coordinate station advertising and promotion. Coordinate overall station image. Formal education equivalent to a high school diploma or equivalent broadcasting work experience, which has prepared the applicant to perform the required functions of the job. Two years of advertising/marketing experience and 6 months of television production experience, or equivalent. Creative aptitude. Ad portfolio or resume tape required. Valid Virginia driver's license. Apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588. Applicants for positions in the News Department should submit a non-returnable VHS or DVD resume tape with letter, resume, and references. EOE.



Virginia Association of Broadcasters LEGAL REVIEW



Reasonable Access for Federal Candidates in the Closing Days of the 2010 Election Season

By Stephen Hartzell

As the 2010 election season winds down, stations should keep in mind their obligation to provide federal candidates with "reasonable access" to their broadcast facilities. The "reasonable access" requirement pertains only to "uses" by "legally qualified" candidates for federal elective office, which this year includes the U.S. Senate, and the U.S. House of Representatives. "Reasonable access" does not require stations to give free time to federal candidates—it simply means that a station may not have a policy of refusing to sell or give a "reasonable" amount of time to federal candidates.

With only a few days left before the general election on November 2, stations may find themselves experiencing increasing inventory pressure and increasing requests for time by federal candidates. Thus, at this late stage of the election season, stations may wish to consider the following points when evaluating requests for access by federal candidates. (Note: The following points do not represent the complete universe of issues to consider, and stations that face access requests from federal candidates in the waning days of the election season would be well-advised to consult with their communications counsel.)

- **Potential Disruption.** The station may consider the potential for disruption of other programming that would result from granting the access request. However, the FCC has said that the fact that a station might have to make some changes in its program schedule is

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not a sufficient basis for denying a request unless the changes would have a "substantial disruptive impact" on the station's overall programming.

- **Amount of Time Previously Provided.** The station may consider the amount of time previously provided to the candidate. The greater the amount of time previously provided, the more justification the station would have for denying the request.
- **Equal Opportunities Impact.** The station may consider the impact that a grant of the request to purchase time may have on its "equal opportunities" obligations to other candidates.
- **Timing of the Request.** The station may consider the timing of the access request. The amount of advance notice given by the candidate may determine the reasonableness of the request.
- **Specific Times or Specific Programs.** A federal candidate is not entitled to a particular placement of his or her announcement on a station's broadcast schedule. However, a station cannot place a

flat ban on the sale of time in any programming except the news.

- **Prime Time and Drive Time Spots:** Stations may not have a blanket policy of refusing to sell or give prime time or drive time programming to federal candidates. Rather, federal candidates' requests for time for their "use" must be negotiated on an individual basis, reflecting what is reasonable under the circumstances. The FCC has said that federal candidates have a right to purchase some prime time or drive time programming if they so desire.

Finally, stations may not deny access to a federal candidate unless the station has a well-reasoned, well-documented, reasonable explanation for denying the candidate's request. Reasons that a broadcaster might assert include the likelihood of subsequent requests by other candidates, the potential disruption of regular programming, and the amount of time previously sold or given to the candidate. It is insufficient to deny access simply because the federal candidate's request for time does not fit into the station's normal format. Again, the importance of consulting with communications counsel to address reasonable access issues in the closing days of the election season cannot be overstated. ❖

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