

VAB Honors Four Virginians

The Virginia Association of Broadcasters awarded four outstanding Virginia citizens on June 22 for their contributions to broadcasting and the Commonwealth.

Recipients were presented with the awards following the 75th Annual Summer Convention Awards Banquet held at the Hilton Virginia Beach Oceanfront Hotel. The presentation followed the Annual Virginia Broadcast Awards, which recognizes excellence in broadcasting at member television and radio stations (*see page 3*).

2012 Distinguished Virginian Award

Phil Vassar is as driven today, as he was when he first left his Lynchburg, Virginia home to pursue – and realize – his dream of making his mark in Country music. A career that has seen the release of eight albums, two ASCAP Songwriter of the Year trophies, countless hits as a singer and songwriter and a mantle full of awards continues to expand and evolve.

Known as one of Nashville's top tunesmiths, Phil was racking up hits on the radio long before he even began his own recording career. "My Next Thirty Years," and "For A Little While," (both by Tim McGraw)

and "She's Right On The Money," (Alan Jackson) are just a few of the songs he's penned that other artists have recorded and taken to the top of the charts.

The Virginia native is definitely no stranger to a good time, and he makes sure with every performance that his fans feel exactly the same way. Years of playing clubs, and even owning his own nightspot at one point, helped Phil cultivate the easygoing, fun-loving manner he displays onstage and the infectious energy that infuses every single show he does. Phil has that love for chilling out with his toes in the sand or in the water has even influenced the name of Phil's new venture, Rodeowave -- a fitting title for a guy who definitely has a country heart, but a laid-back, Jimmy Buffett soul. Our logo is a dude with a cowboy hat on a surfboard, which is kind of cool. And that's me right there!"

The logo is a perfect one for an artist who has endured his share of ups and downs in life and the "biz" and now is ready to make some waves. "It's absolutely the perfect time for me to do this," says Vassar. "I'm not going out there to try and change the world, but for me, this is my thing, this is my little world that I can control now, and I'm really excited about this new musical journey and getting new music out to the fans. For me that's what it's all about."

The Distinguished Virginian Award honors those who, by their own actions, have contributed substantially to the wellbeing of the Commonwealth, its citizens, or the broadcast industry. Recipients have spent a majority of their life in Virginia, and command the respect of broadcasters and the general public.

2012 C.T. Lucy Distinguished Service Award

Linda Forem has worked at almost every level of broadcasting from promotions to sales to general management over the course of her career spanning 3 decades. Having worked at many amazing stations during that time, she has called the Radio One family home in Richmond, Virginia for the past 9 years. Her 27 years in Richmond, include raising hundreds of thousands of dollars in her community through events and Radio-thons for Children's Hospital, Make A Wish, Stop Child Abuse Now, City of Richmond Parks & Recreation, St Jude, Research Hospital,



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Awards continued

National Lung Cancer Partnership, American Diabetes Association. The Urban League in Richmond honored her as a Community Legend. The City of Richmond has commended her stations for their community service the past two years.

She has also had the honor of serving as Treasurer of the VAB as well as serving as a board member for many years. Linda defined the role of "super mom" raising two wonderful children with her husband Gary Donohue and leading her radio stations to new heights. Born and raised in Richmond, VA. She graduated from The George Washington University majoring in Journalism and Theater.

Named for the founder of the VAB, the C.T. Lucy Distinguished Service Award honors a broadcaster who spent a significant part of his or her career at one or more Virginia broadcast properties and who has become a leader in the state's broadcast industry.

2012 George A. Bowles, Jr. Broadcast Journalism Award

Jim Kent is a native Virginian who has spent most of his 40-plus years in journalism at radio and TV stations in Virginia. He worked at Richmond stations WRVA and WRNL while going to college at Virginia Commonwealth University.

After graduation, he reported and anchored at WLVA-TV (now WSET) in Lynchburg and WAVY-TV in Portsmouth. He worked for 18 months at WBRZ-TV in Baton Rouge, Louisiana, then returned to Virginia to anchor and produce the 6 p.m. news on WDBJ-TV in Roanoke.

Kent spent 30 years at WDBJ7, the last 16 years as news director. In 2008, Kent went to work as news director and morning anchor at WFIR radio, one of the stations of Wheeler Broadcasting in Roanoke. Kent lives in Roanoke County with his wife Margaret. Between them they have four children and three grand-

children, with a fourth grandchild on the way.

The George A. Bowles, Jr. Award is presented to a reporter or news director who is distinguished in the field of broadcast news, has longevity in Virginia broadcasting, is respected by peers and exhibits enthusiasm for his or her work and the community.

2012 J. Jerry Freeman Engineering Award

John Mullins was born in Bluefield, WV and lived in Bradshaw, WV until 1984 when his family relocated to Galax, VA. John became an Amateur Radio Operator in 1996. While in High School, John became a 5 year Volunteer Member of the Carroll County Search and Rescue Team, and took part in several searches for missing persons. He graduated from Carroll County High School in 1998, and then attended New River Community College where he studied Electronic Technology. In March 1999, John started work at WBRF 98.1 FM as an Assistant to Randy McKenzie, Chief Engineer, at the time. John learned quickly from Randy, and the late Ralph Epperson, Co-Owner of the Station and also a Broadcast Engineer. He became the Chief Engineer of WBRF-FM, WWWJ-AM, WPAQ-AM, and WSYD-AM Radio Stations in February 2001, and still remains in that Position today.

On April 26, 2003, John married the former Heather Combs of Galax. He became a Father on March 9, 2005, when his son, Ian Jonathan Mullins was born. John was appointed to the Virginia State Emergency Communications Committee in May of 2008 as the Chairman of the Marion Operational EAS Area. He continues to serve in that capacity.

The J.J. Freeman Engineering Achievement Award honors those who have made an outstanding contribution to broadcasting and who have shown technical knowledge, dedication, dependability and leadership in broadcast engineering affairs. ■



Winners of the 75th Annual VAB Station Awards Announced

Virginia radio and television stations were recognized for excellence in broadcasting at the 75th Annual Virginia Broadcasting Awards, held Friday, June 22nd at the Hilton Virginia Beach Oceanfront Hotel in Virginia Beach, Va. This year's gala event included a "75th Anniversary" themed reception and awards ceremony recognizing individual achievement in broadcasting.

Awards are based on projects first aired between January 1 and December 31, 2011, with the sole exception of the Outstanding News-cast Award. Commercial and non-commercial stations are judged separately, and the award categories are broken down by market size.

The VAB is grateful for the assistance of the Pennsylvania Association of Broadcasters for the judging of all entries.

Only VAB-member radio and television stations are eligible to participate.

For a complete list of entry rules and descriptions of each category, please download the complete award packet at www.vabonline.com.

And the Winners Are

Best Commercial

- ▶ Radio - Large Market, WNOB-FM, 1st Place, Air Specialty Heating and Cooling
- ▶ Radio - Large Market, WVHT-FM, 2nd Place, Greenbrier Farms
- ▶ Radio - Medium Market, WFVA-AM, 1st Place, Pile of Window Stickers- Chrysler of Culpeper
- ▶ Radio - Medium Market, WHTE-FM, 2nd Place, Hurricane City Tees- I.R.S.
- ▶ Radio - Small Market, WIGO-FM, 2nd Place, As the Big Box Turns Part 1 & 2
- ▶ Radio - Small Market, WXGM-FM, 1st Place, Quarterdeck- Pirate
- ▶ Television - Commercial WVEC-TV, 2nd Place, Culpepper Landing
- ▶ Television - Commercial WWBT-TV, 1st Place, Carrera's Jewelers "Perfection"

Best Documentary or Public Affairs Program

- ▶ Radio - Large Market, WURV-FM, 2nd Place, Focus Richmond- Audio Tour of the Historic Byrd Theater- Sept. 25
- ▶ Radio - Medium Market, WFVA-AM, 1st Place,

Awards are based on projects first aired between January 1 and December 31, 2011.

continued on page 4

From the Executive Director - Doug Easter

What a great convention we had for the 75th Anniversary of the VAB. Starting on Thursday afternoon, Brad Eure took us through a presentation on how to be better managers and Kevin Miller gave our sales folks a great presentation on polishing sales skills. During the evening we enjoyed social time and mingled with our peers from across the state. It was nice to see all of the returning families and new faces who attended this year.

On Friday, we had a great line-up of speakers thanks to Michael Guld. Andy Azula from the Martin Agency was exceptional and Jonathan Friedman, who won the Doritos Superbowl Commercial Competition, shared how he created his commercial on a budget of just \$20 and won \$1M! We ended our sessions with Steve Lanzano from TVB and John Potter from RAB, as well as the small market luncheon. During the evening we had our awards banquet and toasted the 75th Anniversary of the VAB with our largest crowd ever

of over 350 guests! Congratulations to all of our winners.

We ended the conference on Saturday with a breakfast for all attendees. I would like to thank all in attendance and encourage those who were unable to attend this year's event to make plans for 2013. Whether it is talking to peers across the state about ideas to improve what's going on at your station or insights from our speakers, I promise that you will get a lot out of the weekend.

Finally, I want to personally thank Francis Wood for his leadership over the last two years and welcome Bob Willoughby as our incoming President. I would also like to recognize those members who are leaving the Board of Directors: Bob Scutari, Denny Royer and Leonard Wheeler. The VAB is thankful for your service and all of you leave the Board at a time when we are financially strong and more prepared to serve our members than any other time. ■

Awards *continued*



VAB staff members along with Executive Director Doug Easter pose with outgoing President, Francis Wood and wife Chris Wood.

9/11- Ten Years Stronger- Ted Schubel & Chuck Archer

- ▶ Radio - Non-Commercial or Public, WHRV-FM, 2nd Place, Another View: Keeping African American Boys in School
- ▶ Television - Non-Commercial or Public, WBRA-TV, 2nd Place, Virginia State Parks: 75 Years and Still Growing
- ▶ Television - Non-Commercial or Public, WHRO-TV, 1st Place, Classroom to Community: WHRO Celebrates 50 Years

Best Human Interest Series

- ▶ Radio - Large Market, WLNI-FM, 1st Place, Living History; The Civil War in Central Virginia
- ▶ Radio - Medium Market, WBTM-AM, 1st Place, "God's Pit Crew"
- ▶ Radio - Medium Market, WCNR-FM, 2nd Place, Zombie Prom
- ▶ Radio - Non-Commercial or Public, WHRV-FM, 1st Place, Hearsay: Hunting- A Sport of the Past?
- ▶ Radio - Small Market, WFLO-AM/FM, 2nd Place, WWII Veteran Shares His Talent with Community
- ▶ Radio - Small Market, WMBG-AM, 1st Place, Philip Newbery & the Heritage Humane Society
- ▶ Television - Commercial, WAVY-TV, 1st Place, "Cure In a Cup of Lemonade"
- ▶ Television - Commercial, WTVR-TV, 2nd Place, Kids Battle Rare Cancer
- ▶ Television - Non-Commercial or Public, WHRO-TV, 1st Place, What Matters: Community Impact Awards

Best Morning Show

- ▶ Radio - Large Market, WKHK-FM, 2nd Place, Catfish and Lori in the Morning

- ▶ Radio - Large Market, WNOR-FM, 1st Place, Rumble in the Morning
- ▶ Radio - Medium Market, WBQB-FM, 2nd Place, Chris and Dee in the Morning!
- ▶ Radio - Medium Market, WFLS-FM, 1st Place, Steve and Jessica in the Morning
- ▶ Radio - Non-Commercial or Public, WHRV-FM, 1st Place, Morning Edition on WHRV
- ▶ Radio - Small Market, WFLO-AM/FM, 1st Place, The Call FLO Radio Show
- ▶ Radio - Small Market, WMBG-AM, 2nd Place, Philip Newbery's Morning Melodies
- ▶ Television - Commercial, WRIC-TV, 2nd Place, Good Morning Richmond
- ▶ Television - Commercial, WWBT-TV, 1st Place, NBC12 News Today

Best Public Service/Community Event

- ▶ Radio - Large Market, WKHK-FM, 2nd Place, Resolution Blood Drive 2011
- ▶ Radio - Large Market, WUSH-FM, 1st Place, Operation Homefront
- ▶ Radio - Large Market, WVXX-AM, 2nd Place, Aprendiendo Ingles con La Gringa (Learning English with The Gringa)
- ▶ Radio - Medium Market, WBQB-FM, 1st Place, Pinktober
- ▶ Radio - Medium Market, WZRV-FM, 2nd Place, Camping for Hunger
- ▶ Radio - Non-Commercial or Public, WHRV-FM, 1st Place, NowPlayingVA.org Minute
- ▶ Radio - Small Market, WFTR-AM, 2nd Place, Camping for Hunger
- ▶ Radio - Small Market, WMBG-AM, 1st Place, Jaycees Cardboard Boat Regatta
- ▶ Television - Commercial, WAVY-TV, 1st Place, WAVY W82TXT (wait to text) Campaign
- ▶ Television - Commercial, WVEC-TV, 2nd Place, The Write Stuff

Best Station Promotion/Contest

- ▶ Radio - Large Market, WKHK-FM, 2nd Place, K95 Countryfest
- ▶ Radio - Large Market, WKJS-FM, 1st Place, Occupy Kissmas
- ▶ Radio - Medium Market, WBQB-FM, 1st Place, Kids Conventions
- ▶ Radio - Medium Market, WFLS-FM, 2nd Place, Earthquake & Hurricane News Promo
- ▶ Radio - Non-Commercial or Public, WHRV-FM, 1st Place, HD Radio
- ▶ Radio - Small Market, WLQM-FM, 1st Place, WLQM Holiday Giveaway

- ▶ Radio - Small Market, WMBG-AM, 2nd Place, Magic License Plate Frames
- ▶ Television - Commercial, WVAW-TV, 2nd Place, Newsplex We Believe
- ▶ Television - Commercial, WVEC-TV, 1st Place, 13News Summer Weather Campaign
- ▶ Television - Non-Commercial or Public, WHRO TV, 1st Place, "What Has WHRO Created In You?"

Outstanding Feature Promoting

- ▶ Radio - Large Market, WAVA-FM, 1st Place, DC Opportunity Scholarship Program Saved
- ▶ Radio - Medium Market, WBTM-AM, 1st Place, "Live from Haiti"
- ▶ Radio - Medium Market, WFLS-FM, 2nd Place, Manassas Battlefield
- ▶ Radio - Non-Commercial or Public, WCVE-FM, 2nd Place, Tornado Coverage- Gloucester
- ▶ Radio - Non-Commercial or Public, WMRA-FM, 1st Place, Stepping is Folk
- ▶ Television - Commercial, WHSV-TV, 2nd Place, Appalachian Trail and Earl Zook
- ▶ Television - Commercial, WTVR-TV, 1st Place, And the Beat Goes On

Outstanding News Series

- ▶ Radio - Medium Market, WBTM-AM, 2nd Place, "Health Beat"
- ▶ Radio - Medium Market, WFVA-AM, 1st Place, Changed World: The Impact of 9/11 Here- Ted Schubel
- ▶ Radio - Non-Commercial or Public, WCVE-FM, 1st Place, Science Matters
- ▶ Radio - Non-Commercial or Public, WHRV-FM, 2nd Place, Hearsay: From the Headlines
- ▶ Radio - Small Market, WFLO-AM/FM, 1st Place, People Talk
- ▶ Television - Commercial, WHSV-TV, 2nd Place, Many More Tomorrow's
- ▶ Television - Commercial, WRIC-TV, 1st Place, Black Market Baby

Outstanding Newscast

- ▶ Radio - Large Market, WKHK-FM, 1st Place, December 27
- ▶ Radio - Large Market, WNOR-FM, 2nd Place, FM99 News with Shelley
- ▶ Radio - Medium Market, WNTX-AM, 1st Place, 6 O'Clock News Hour, December 15, 2011
- ▶ Radio - Non-Commercial or Public, WCVE-FM, 1st Place, WCVE News- 8:04AM Dec. 15, 2011

- ▶ Radio - Small Market, WFTR-AM, 1st Place, News at Noon- December 15
- ▶ Television - Commercial, WDBJ-TV, 2nd Place, News 7 at Six 12/13/11
- ▶ Television - Commercial, WSET-TV, 1st Place, ABC13 News at 5

Outstanding Sports Coverage

- ▶ Radio - Large Market, WKDE-FM, 2nd Place, Altavista- Dan River District Tournament Over-time
- ▶ Radio - Large Market, WNOR-FM, 1st Place, FM99 Sports with Rod Fitzwell
- ▶ Radio - Medium Market, WINA-AM, 2nd Place, WINA- Sports
- ▶ Radio - Medium Market, WKSI-FM, 1st Place, Handley @ Sherando High School Football 10/17/11
- ▶ Radio - Non-Commercial or Public, WMLU-FM, 1st Place, WMLU Sports Highlights and Promos for 2011
- ▶ Radio - Non-Commercial or Public, WWER-FM, 2nd Place, Eagles Football, On the Field and in the Locker Room
- ▶ Radio - Small Market, WLQM-FM, 1st Place, Franklin Basketball - Triple Overtime
- ▶ Radio - Small Market, WWWJ-AM, 2nd Place, Hal Epperson with Play by Play Coverage of the First Ever Appearance of the Galax High School Football Team in the Division IA VA State Championship Game
- ▶ Television - Commercial, WRIC-TV, 2nd Place, Chic-fil-a Bowl Special
- ▶ Television - Commercial, WWBT-TV, 1st Place, NBC12 Sports

Outstanding Website

- ▶ Radio - Large Market, WNOB-FM, 2nd Place, 937bobfm.com
- ▶ Radio - Large Market, WPZZ-FM, 1st Place, www.praiserichmond.com
- ▶ Radio - Medium Market, WBQB-FM, 1st Place, www.B1015.com
- ▶ Radio - Medium Market, WGRX-FM, 2nd Place, thunder1045.com- Thunder 104.5 On-line
- ▶ Television - Commercial, WAVY-TV, 1st Place, www.wavy.com
- ▶ Television - Commercial, WCAV-TV, 2nd Place, www.newsplex.com
- ▶ Television - Non-Commercial or Public, WBRA-TV, 1st Place, BlueRidgePBS.org ■



An ice sculpture commemorating the 75th Anniversary of the Summer Convention was donated by the Hilton Virginia Beach Oceanfront.

Will the FCC Punt on Indecency?



The Federal Communications Commission may not make any decisions soon on indecency, leaving broadcasters wondering what to do the next time someone lets a naughty word fly on live TV the way Cher did at the 2002 Billboard Music Awards.

The Supreme Court punted the issue of broadcast indecency back to the Federal Communications Commission last week, with a narrow, procedural decision in *FCC v. Fox Television Stations* that didn't rule on the First Amendment implications of the current indecency guidelines.

Given the declining number of indecency complaints and the resources necessary for their investigation, don't be surprised if the FCC itself finds a way to punt on this issue, at least until after the presidential election.

According to Commissioner Robert McDowell, the FCC has a backlog of 1.5 million indecency complaints on file covering about 9,700 broadcasts. If the FCC picks up where it left off in 2006, when it began to shelve complaints while the issue was dealt with in the courts, it could quickly exhaust the agency's resources.

Resolving indecency complaints can take years. In *FCC v. Fox*, the offending shows that led to the complaint aired in 2002 and 2003, and an order wasn't adopted until late 2006.

Rather than take up the backlog of complaints, FCC Chairman Julius Genachowski could issue a notice of proposed rule-making on the subject, with an eye to clarifying guidelines that the Supreme Court characterized as "vague" in its recent ruling.

It's also possible that at least some of the backlogged complaints are on shaky legal ground. For instance, programming that aired between a July 2010 appeals court decision that struck down the commission's authority to regulate the content of broadcasts and last week's Supreme Court ruling could be considered subject to the appellate ruling.

Aside from a few activists, there doesn't seem to be a popular appetite for cracking down on broadcasters. According to the FCC website, complaints shot up between 2003 and 2006, when the Parents' Television Council and other activist groups were actively encouraging aggrieved viewers to file them. In the first six months of 2006, the FCC received more than 327,000 indecency complaints, compared to just 1,746 complaints logged over the last six months for which figures are available.

Tim Winter, president of the Parents' Television Council, thinks it's time for the FCC to get back into the indecency business. "The FCC must now rule on the merits of more than 1.5 million backlogged indecency complaints," he said in a statement.

"There's a question of prudence of how many of the past complaints should be acted on," said Patrick Trueman, president and CEO of the activist group Morality in Media. But he does feel strongly that the FCC should pick up where it left off in 2006 and, "get busy now and be vigorous enforcers of indecency law."

Current FCC guidelines define broadcast

indecent as “language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.” This somewhat tortured definition comes down from the Supreme Court ruling in *FCC v. Pacifica Foundation*, the famous case involving George Carlin’s monologue, “Seven Words You Can Never Say on Television.”

In her concurring opinion in *FCC v. Fox*, Justice Ruth Bader Ginsburg said it was time to reconsider the *Pacifica* ruling. Justice Clarence Thomas said that ruling in *Pacifica* was “unconvincing” in a 2009 concurring opinion, when the Supreme Court first ruled in *FCC v. Fox*. And in *Fox* oral arguments, Justice Samuel Alito said “broadcast TV is living on borrowed time,” perhaps suggesting that the special rules for the medium were increasingly irrelevant.

Ultimately, *FCC v. Fox* was decided in a unanimous ruling that left *Pacifica* untouched. Only Chief Justice John Roberts and Justice Antonin Scalia appeared to express unqualified support for the idea of a strong regime of broadcast content regulation in oral arguments. With two justices in open revolt against *Pacifica* and uncertainty as to the views of five more, the only thing that seems clear is that before long, partially redacted “f-bombs” will find their way into the official record of the nation’s high court.

“Whatever the FCC does here, it’s a safe bet they’ll wind up before the Supreme Court again in a few years, defending their broadcast censorship rules for a third time,” said Berin Szoka, founder of the technology think tank TechFreedom. ■

Article courtesy of Adam Mazmanian from the National Journal.

“Whatever the FCC does here, it’s a safe bet they’ll wind up before the Supreme Court again in a few years, defending their broadcast censorship rules for a third time.”

RADAR: Radio’s Audience Continued to Remain Strong

Arbitron Inc. (NYSE: ARB) has announced highlights from its June 2012 RADAR® 113 National Radio Listening Report. The report shows radio’s audience increased slightly year over year by 590,000 persons aged 12 and older, representing nearly 93% of the population.

In addition to increasing its audience of persons aged 12 and older, young radio listeners also increased slightly with persons aged 12 to 17 at 22.8 million weekly listeners. Adults aged 18 to 34 showed the largest increase year over year, adding 845,000 weekly radio listeners. Adults aged 18 to 49 and Adults aged 25-54 showed year over year declines in weekly radio listening. Radio attracts 126.3 million adults aged 18 to 49 and 119.9 million adults aged 25 to 54 on a weekly basis.

Radio’s diverse listener base saw a big jump in the June 2012 RADAR study compared to the June 2011 study. The number of Black (non-Hispanic) and Hispanic weekly radio listeners saw impressive increases across most demographic segments.

- ▶ The June 2012 RADAR report shows a significant increase in Hispanic weekly listeners. Radio’s Hispanic audience aged 12 and older grew by more than 2.5 million versus the June 2011 report. Radio reaches nearly 95% of Hispanics aged 12 and older.
- ▶ Hispanic Adults aged 25 to 54 increased the most over the past year, adding more than 1.8 million weekly listeners.
- ▶ Black (non-Hispanic) listeners also grew year over year, gaining 1 million weekly listeners aged 12 and older. Radio reaches approximately 93% of the Black (non-Hispanic) population.

The June 2012 RADAR illustrates radio’s ability to attract affluent, educated consumers. More than 95% of adults aged 18 to 49 with a household income of \$75K or more and a college degree tune in to radio on a weekly basis, that’s 22.5 million listeners in this demographic. Also, nearly 34 million, or 93%, of Adults aged 18 to 34 with a household income of \$75K or more tune into radio on a weekly basis. ■

Article courtesy of Arbitron.

HUMAN RESOURCES

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EEOC Issues Guidance on Criminal Background Checks

A common screening device used by employers during the selection process is the criminal background check. However, an employer's use of criminal record information during its selection process may violate Title VII. This point was recently reinforced by the Equal Employment Opportunity Commission ("EEOC"), the agency that enforces federal laws prohibiting employment discrimination.

This spring, the EEOC issued updated Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964. As stated by the EEOC Chair Jacqueline A. Berrien when the agency issued the Guidance, "the new guidance clarifies and updates the EEOC's long-standing policy concerning the use of arrest and conviction records in employment, which will assist job seekers, employees, employers, and many other agency stakeholders." In light of the EEOC's Guidance on the use of arrest and conviction records, employers should carefully evaluate their policies and procedures in this area.

The Guidance addressed both arrest records and convictions and distinguishes the way that employers can use these types of records. The use of arrest records as a bar to employment will always be viewed with suspicion by the EEOC. This is because the EEOC believes that arrests are not reliable evidence that a person has actually committed a crime. An employer may, however, deny employment based on conduct underlying an arrest where that conduct indicates that the applicant would be unfit for the position in question.

Employer screening devices that



contain provisions for the automatic exclusion of applicants because of arrest or conviction records may disproportionately exclude African-Americans and Hispanics, thereby creating a disparate impact on those minority groups. In such cases, the EEOC will find that the employer's policy is in violation of Title VII.

This was the situation in which Pepsi Beverages ("Pepsi") recently found itself. Based on its investigation, the EEOC found reasonable cause to believe that the criminal background policy used by Pepsi discriminated against African-Americans in violation of Title VII. To resolve the matter, Pepsi agreed to pay \$3.13 million to resolve a charge of race discrimination based on a criminal background check policy that disproportionately excluded black applicants from employment.

Under Pepsi's policy, job applicants who had been arrested pending prosecution were

not hired for a permanent job even if they had never been convicted of any offense. Pepsi also denied employment to applicants for employment who had been arrested or convicted of certain minor offenses.

In addition to the monetary relief, Pepsi will offer employment opportunities to victims of the former criminal background check policy who still want jobs at Pepsi and are qualified for available positions. The company will supply the EEOC with reports on its hiring practices under its revised background check policy. Pepsi will also conduct Title VII training for its hiring personnel and all of its managers.

When an employer's criminal background policy is challenged, the employer must be able to "demonstrate that the challenged [policy] is job related for the position in question and consistent with business necessity." The Guidance describes two circumstances in which the EEOC believes employers will consistently meet the "job related and consistent with business necessity" defense. One is validation of the criminal background policy pursuant to the EEOC's Uniform Guidelines on Employee Selection Procedures. The second way is by developing a targeted screen that considers at least the nature of the crime, the time elapsed, and the nature of the job. In addition, the employer's policy must provide an opportunity for an individualized assessment of the situation. The individualized assessment would include notification to the individual that he/she may be excluded from consideration because of past criminal conviction, an opportunity for the individual to demonstrate that the exclusion does not properly apply to him/her and then consideration whether, based on the new information provided by the individual, the policy as it applies to the individual is still job-related and consistent with business necessity.

In addition to policies that have a disparate impact on protected groups, an employer's criminal background policy may also be found to be in violation of Title VII on the basis of disparate treatment. For example, there is Title VII disparate treatment liability where the evidence shows that an employer

rejected an African-American applicant based on his/her criminal record but hired a similarly-situated white applicant with a comparable criminal record. According to the EEOC's recently issued Guidance, there are different types of evidence that can be used to establish that race, national origin, or other protected characteristics influenced or motivated an employer's use of criminal records in a selection decision. This kind of evidence can include: biased statements that express group-related stereotypes about criminality or inconsistencies in the hiring process, which can be found when background checks are requested more often for individuals with certain racial or ethnic backgrounds.

The EEOC Guidance recommends the following "Employer Best Practices" for employers considering criminal record information when making employment decisions.

General considerations:

1. Eliminate policies or practices that exclude people from employment based on any criminal record.
2. Train managers, hiring officials, and decision-makers about Title VII and its prohibitions on employment discrimination.

Developing a Policy:

1. Develop a narrowly-tailored written policy and procedures for screening criminal records. Identify essential job requirements and the actual circumstances under which the jobs are performed.
2. Determine specific offenses that may demonstrate unfitness for performing such jobs. Identify criminal offenses on all available evidence.
3. Determine the duration of exclusions for criminal conduct based on all available evidence. Include an individualized assessment.
4. Record the justification for the policy and procedures.

An employer's implementation of these EEOC-recommended "Employer Best Practices" should serve to minimize an employer's liability in this area. ■

"In addition to policies that have a disparate impact on protected groups, an employer's criminal background policy may also be found to be in violation of Title VII on the basis of disparate treatment."

Article courtesy of John G. Kruchko and Kathleen A. Talty, Kruchko & Fries.

How to Submit to the VAB Job Bank

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

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

Assistant to Chief Engineer Roanoke, VA

Manage and maintain 27 transmitter, translator, and STL repeater sites. Assume Chief Engineer's technical duties in Chief's absence. Assist with maintenance of main studio equipment and facilities. Require advanced knowledge of broadcast electronics at component level. Mastery of analog TX and HD multicasting. Will be in charge of all remote transmitter (9), translator (13), and STL repeater sites (5), maintaining all station assets and equipment at these sites, including all analog and HD electronics, emergency power plants, HVAC systems, and physical structures. Assists with maintenance of the main WVTF studio and satellite studio equipment and facilities, including all terrestrial, Internet, and Radio Reading Service subcarrier broadcast functions. Consult with and provide training to station staff about the technical operation. Monitor daily operations to insure legal compliance with FCC rules and regulations. Details and to apply: www.jobs.vt.edu. Job posting # 0121997. EOE.

New Business Account Representative FT Danville, VA

The sale of television and web advertisement to new and existing accounts, the supervision and follow-through of all sales, and the development of New Business as defined by the Sales Manager. Advanced education or equivalent sales background which has prepared the applicant to perform the required functions of the job. Sales aptitude with one year previous television or media sales experience. Disciplined, self-motivated individual. Automobile and valid Virginia driver's license. Please apply in writing to Director of

Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588. Applications may be obtained at the station from 8:30 a.m. to 5:30 p.m., Monday through Friday, or online at www.wset.com. No phone calls please! EEO/M/F.

News Producer Richmond, VA

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.

Community Affairs Coordinator/ Producer

Portsmouth, VA
WAVY TV10 / WVBT FOX43 – Hampton Roads, VA The Station On Your Side WAVY-TV 10 and WVBT FOX43 is searching for a highly organized and efficient Community Affairs Coordinator/Producer. You must know how to strategically plan and oversee multiple projects and generate new partnerships for the legacy NBC affiliate and powerhouse FOX affiliate in Hampton Roads. You will attend functions and represent WAVY-TV 10 and FOX43. Additionally, you will plan banquets and awards ceremonies for Partners On Your Side initiatives. The position requires impeccable communication and correspondence skills. You must be savvy with social media and possess a strong writing background. You will be responsible for creating and producing content for two community

affairs shows. An integral part of the position also includes coordination and management of the community calendar. You will also be required to write all station press releases on tight deadlines. Coordinating all Public Service Announcements, FCC Quarterly Reports and assisting on various production needs is also expected. Qualified applicants should have proven experience with media relations, event planning and sponsorship building techniques. A college degree is preferred. All applicants are encouraged to email kristen.joyal@wavv.com or mail a copy of your resume and cover letter to WAVY-TV 10, Attn: Kristen Joyal, Creative Services Director, 300 WAVY Street Portsmouth, VA 23704 No phone calls please. EOE, M/F.

Anchor/Producer/Reporter Harrisonburg, VA

This is your chance to work in one of the most beautiful settings in the Shenandoah Valley. WHSV-TV is looking for a dynamic personality, who loves to use social media, to anchor and produce our weekend newscasts. This person will also report three days a week. Candidates need superior presentation skills, writing, producing and reporting experience. The ability to shoot/edit P2 and experience with web-publishing is a plus. A good driving record is required. E-mail your cover letter, resume and demo link to: Kay Norred, News Director at knorred@whsv.com or mail to: WHSV-TV 50 North Main Street, Harrisonburg, VA 22802. WHSV-TV is a drug free workplace. EOE.

Master Control Operator Richmond, VA

WWBT, the NBC affiliate in Richmond, VA seeks full & part-time Master Control Operator responsible for

operation of all systems within a multi station master control. Duties include, but are not limited to, operation of station broadcast automation systems, editing on-air playlists, setup and record satellite and other electronic delivery feeds, ingest and prepare video content onto servers, live on-air switching and quality control of all programming and transmission systems. Must be able to understand and adhere to basic FCC rules including EAS systems and logs. Work shift could include weekends and holidays. Successful candidate must work well in a high pressure, fast paced, live news environment and possess superior level computer skills in Windows XP and applications. Good communication/people skills required. 2 years previous master control experience desired. Send cover letter and resume with salary requirements to: WWBT, Attn: Bruce Tinoco, Director of Engineering, P. O. Box 12, Richmond, VA 23218 or email btinoco@nbc12.com. No phone calls please. EOE-M/F/D/V.

**Account Executive
Roanoke, VA**

WDBJ7 is looking for a dynamic account executive with strong negotiation and presentations skills to grow an established account list, develop new direct business, and increase web sales. College degree preferred. Minimum of three years broadcast sales or equivalent experience preferred. Must be self-motivated with a proven track record of success. Must have a valid driver's license with a good driving record. Background and pre-employment drug screen required. Send cover letter and resume to: Human Resources Account Executive Position WDBJ Television 2807 Hersherberger Road Roanoke, VA 24017 or email: jobs@wdbj7.com. EOE.

**Account Manager
Harrisonburg, VA**

Be guaranteed \$40,000 a year in annual salary and have the opportunity to earn even more!!!! Verstandig Broadcasting is looking for an additional Account Manager to join

our sales team! Guaranteed starting annual income of \$40,000 a year! Health benefits, 401(k) plan, vacation and other benefits. No experience needed; we will train you – but you must be energetic, self motivated and carry yourself like a professional! Call Kim Mitchell – 540/434-0331. We are equal opportunity employers and we will also give you an equal opportunity to earn even more than \$40,000 a year! If you're ready for a new challenge in a fun industry, find out how you can join the verstandig team!

**Broadcast Operations Coordinator
Roanoke, VA**

WVTF Public Radio and RADIO IQ, Roanoke, Virginia seek an experienced broadcast professional to coordinate station operations including program streams, automation, traffic, and satellite systems. The broadcast operations coordinator assures the smooth daily operation of all program streams originating from the WVTF and RADIO IQ broadcast facilities. The successful candidate will possess proven ability in audio production techniques and editing. Additionally, the applicant must have knowledge of broadcast rules and regulations and good communication/interpersonal skills. The broadcast operations coordinator reports to the program director. Details and to apply: www.jobs.vt.edu. Job posting # 0121900. EOE.

**Account Executive FT
Lynchburg, VA**

The sale of television and web advertisement to new and existing accounts, the supervision and follow-through of all sales, and the development of new clients as defined by the Sales Manager. Advanced education in the field of Marketing and Advertising or equivalent sales background which has given the applicant the ability to perform the required functions of the job. Sales aptitude with one year previous television or media sales experience preferred. Disciplined, self-motivated individual. Automobile and valid Virginia driver's license. Please apply in writing to Director of Human Resources,

WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588. Applications may be obtained at the station from 8:30 a.m. to 5:30 p.m., Monday through Friday, or online at www.wset.com. No phone calls please! EEO/M/F.

**Satellite Truck Operator FT
Lynchburg, VA**

Maintains and operates satellite truck for scheduled news, weather and sports events, along with breaking news coverage and special projects. Flexible hours and on-call availability are required. Successful candidate will maintain a Commercial Driver's License (CDL) and be familiar with DOT logs and documentation. Previous television and Video-Journalist experience a plus. Formal education equivalent of a high school diploma. Experience with television broadcast maintenance and television microwave or satellite RF equipment maintenance. Valid Virginia Driver's license and good driving record. Basic knowledge of video, audio, and RF television systems. Ability to maintain satellite truck electronic systems and equipment. Ability to travel and work flexible hours to meet the needs of news coverage. Good communication and organizational skills. Must be able to read and speak English well enough to carry on conversation, understand highway traffic signs and signals, and fill in information on reports and records. Please apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588. Applications may be obtained at the station from 8:30 a.m. to 5:30 p.m., Monday through Friday, or online at www.wset.com. No phone calls please! EOE.



LEGALREVIEW

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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Virginia TV Stations Should Have License Renewal Post-Filing Underway

As we have previously advised, 2012 is a license renewal year for all television stations licensed to a community in Virginia. Renewal of your television station's FCC license(s) for full eight-year terms will carry your station(s) through October 1, 2020. All Virginia television (full power, Class A, low power, and translator) stations were required to electronically file their FCC license renewal applications (and accompanying EEO report on FCC Form 396) by June 1, 2012. In addition, non-commercial Virginia television stations were also required to electronically file biennial ownership reports by June 1, 2012. In addition, each TV station was required to begin airing its post-filing announcements on June 1, 2012.

Overview of Remaining Critical Dates. Here are the remaining critical deadlines relevant to the renewal application process for Virginia TV stations:

- ▶ Renewal Applications were due by June 1, 2012.
- ▶ Post-Filing Announcements must be broadcast on June 1, June 16, July 1, July 16, August 1, and August 16, 2012.
- ▶ Post-Filing Announcement Certifications must be placed in the Public File by August 23, 2012.
- ▶ Deadline for public to file a Petition to Deny is September 4, 2012.
- ▶ Current licenses expire October 1, 2012. (A station's authority to operate is automatically extended while its renewal application is on file with the FCC and under review.)

Content of the Post-Filing Announcements

The text of the required post-filing announcements is prescribed by the FCC. Each full-power and Class A television station's post-filing announcement should read as follows (the requirements for low power and TV translators are somewhat different, and you should consult with your station's legal counsel for further information about the public notice requirements for low power and translator stations):

On [INSERT DATE OF LAST LICENSE RENEWAL GRANT], [INSERT STATION CALL SIGN] was granted a license by the Federal Communications Commission

to serve the public interest as a public trustee until October 1, 2012.

Our license will expire on October 1, 2012. We have filed an application for renewal with the FCC. A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last eight years.

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by September 4, 2012.

Further information concerning the FCC's broadcast license renewal process is available at [INSERT STREET ADDRESS OF STATION'S MAIN STUDIO WHERE PUBLIC FILE IS MAINTAINED] or may be obtained from the FCC, Washington, D.C. 20554.

Dates/Times of Broadcast for Post-Filing Announcements

The post-filing announcements must be broadcast on each of the following days in 2012: June 1, June 16, July 1, July 16, August 1, and August 16. Three of these six post-filing announcements must air between 6 p.m. and 11 p.m. Of the remaining three announcements, one must air between 9 a.m. and 1 p.m., one must air between 1 p.m. and 5 p.m., and one must air between 5 p.m. and 7 p.m.

Post-Filing Certificate of Broadcast

A certificate of broadcast of the post-filing announcements must be signed and placed in each station's public inspection file after the last announcement is broadcast on August 16, 2012, and no later than August 23, 2012. The post-filing announcement certificate is not filed with the FCC.

Any station in Virginia that has not yet filed its license renewal application or that has not yet commenced its post-filing announcements should contact its communications counsel immediately. ■

Article by Stephen Hartzell, Attorney, Brooks, Pierce, McLendon, Humphrey & Leonard LLP.