

The FCC Race to Replace Chairman Just Got a Lot More Interesting

The odds of President Obama nominating a woman to head a top federal agency just got much better.

Dozens of Senate Democrats have jointly sent a letter to the White House recommending that he choose a current Federal Communications Commission official, Jessica Rosenworcel, to succeed outgoing Julius Genachowski as chairman. Last Friday, Genachowski announced that he will be leaving the FCC soon. If Obama nominates Rosenworcel, she wouldn't have to be confirmed by the Senate — and she would become the first woman to head the agency in its 79-year history. In addition to her current work as one of five FCC commissioners, Rosenworcel was also a top aide to then-Commissioner Michael Copps in the 2000s.

In all, 37 liberal senators signed the letter. The list includes Senate Commerce Committee Chairman Jay Rockefeller, D-W. Va.; Senate Majority Whip Dick



Durbin, D-Ill.; and Senate Intelligence Committee Chairwoman Dianne Feinstein, D-Calif. It's not much of a surprise to see Rockefeller get behind Rosenworcel; as his former staffer on the Commerce Committee, she enjoys close ties with the senator.

It's unlikely that all of the Senate signatures could have been assembled without a lot of preparation, meaning that the letter is as much a demonstra-

tion of Rosenworcel's political clout as an expression of Senate support. There's just one problem: It makes picking a nominee much more politically delicate for the White House.

Rosenworcel is a junior commissioner. The only way she could be nominated for Genachowski's job is if Obama passes over a more senior FCC official who is also a woman: Commissioner Mignon Clyburn. If that last name sounds familiar, it's because she is the daughter of Rep. James

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FCC continued

Clyburn of South Carolina, the third-rank-ing Democrat in the House.

You can see where this is headed. Although Rosenworcel's chances are now much improved, Obama will have to make somebody unhappy. Either he'll have to snub someone related to a key figure in the House, or he'll have to upset a handful of allies in the Senate.

Other top names that have been floated to become the FCC chair include Tom Wheeler, a former representative for the cable-TV and wireless industries who raised \$246,000 for the 2012 Obama campaign; Karen Kornbluh, the sitting U.S. am-

bassador to the Organization for Economic Cooperation and Development; and Larry Strickling, head of the Obama administration's advisory body for telecom issues.

Among the president's second-tier options are Cathy Sandoval, the California Public Utilities Commission chief, and Susan Crawford, a former economic adviser to Obama under Larry Summers. According to one industry insider, both Crawford and Sandoval are "wishful thinking" choices and aren't likely to be picked given their rather liberal positions on telecom issues. ■

Article courtesy of Brian Fung from the National Journal.

WAVY-TV 10 and WVBTV FOX43 Win NPPA Station of the Year Award For a Fourth Time!

The National Press Photographers Association has selected WAVY-TV 10 and WVBTV FOX43 as the Medium Market Television News Photography Station of the Year for the fourth year in a row in the 2013 Best of Photojournalism Television competition. This is the first time any medium market station has received the award four consecutive times.

"I am very proud of my photography team for winning the medium market NPPA Station of the Year for the fourth year in a row," said WAVY Chief Photographer Jeff Myers. "Our goal is to serve the viewers of Hampton Roads with the best possible news product in the market. We do it through consistency, teamwork and excellence in photojournalism. It is great to be recognized on a national level."

WAVY News Director Jim Gilchrist said it is gratifying to have his team of photojournalists recognized with such a prestigious honor. "With solid journalism at the foundation, our team works hard at storytelling that is visually compelling," said Gilchrist. "To say I am proud of the team's dedication and commitment would be an understatement."

WAVY-TV 10 and WVBTV FOX43's staff of photojournalists is comprised of 14 individuals, each with varying degrees of experience in the television news business. Myers insists each photographer at WAVY believes in the philosophy of the story being paramount. Additionally, he said each photographer knows every story is unique and must be told fairly and accurately through pictures, writing and use of sound. "WAVY-TV's entry had some of the best sequences I've seen yet," said Judge Brian Kaufman. Judge Lynn French said, "Every story was just shot so rock-solid, there was good audio all around."

WAVY-TV 10 and WVBTV FOX43's photography staff has focused on their commitment to photojournalism during the last year by participating in NPPA's TV Quarterly Clip Contest, by judging contests and participating in NPPA workshops.

Every year, the National Press Photographers Association honors those who have supported the organization, assisted photojournalists, and have contributed to excellence in the profession of photojournalism. WAVY-TV 10 and WVBTV FOX43 are proud to be among those recognized for exemplifying superior photojournalism four years in a row. ■

UVA Broadcaster Named Virginia's Big Brother of the Year



A University of Virginia celebrity has just been given a big honor. Cavalier fans in Charlottesville know him for his voice but now all of Virginia knows him for being a stand-out mentor. To Wahoo fans, Dave Koehn is the voice of the Cavaliers, calling Virginia games on the radio. But now he has a new title as the Virginia Big Brother of the Year because of his relationship with 11-year-old Adrian.

"I got hooked up with Dave because we had stuff in common - like sports and video games and stuff like that," Adrian said.

Adrian and his Big Brother Koehn have spent the last three years enjoying what they have in common. "Today is a perfect example here fishing - we didn't catch a single fish - the process of just hanging out and being together and that's what makes it fun that's where the magic is in the program," Koehn said.

Adrian says he's changed a lot since he met Koehn. "I have somebody to talk to if I need to or if something happened, I could tell

them what happened or I can trust him," he said. And Koehn agrees.

"It's been fun to watch Adrian grow up and go from a little boy, go into that adolescent phase and then you get to see him kind of begin that process of becoming a man," he said. "To feel like you have a role in perhaps helping to shape that is one of the best parts about the project."

Now these two are hoping to recruit others to the program that brought them together. "There's tons of little kids out there that want bigs but we don't have enough," Adrian said.

Koehn says he hopes other mentors will join the program he's found so rewarding. "He enriches me just as much as I hope that I enrich him," he said.

Now that he's Virginia's Big Brother of the Year, Koehn is in the running for a national title. ■

Article courtesy of Kristin Twiford from www.NBC29.com.

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In this issue, the VAB takes a closer look at three members from this year's Best of the Best Leadership Program class.

Meet the VAB's Best of the Best



Richard Graves

Where did you grow up/go to school?

I grew up in Atlanta and went to school at Emory & Henry College.

What was your first job in broadcasting?

I interned at 99.7 FM WNNX, an alternative rock station in Atlanta, and loved it.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

I am hoping to get a larger perspective on the landscape of the broadcast industry and where there would be opportunities for me to shape its future.

What do you like to do in your free time?

I collect records and manage the folk rock group Annabelle's Curse.

If you could have dinner with somebody from the past, present or future who would it be and why?

I would like to (and will at some point) sit down and talk with author Chuck Klosterman because I use his interviews and writing as an example of great music journalism that I try to emulate with radio programs I produce. Or with myself in 30 years.



Rich Jacobs

Where did you grow up/go to school?

I grew up in Richmond and attended Trinity High School, then Virginia Commonwealth University.

What was your first job in broadcasting?

While going to VCU, I was Studio Manager for a radio reading service for the blind.

What is your career goal?

Commercial radio continues to reinvent itself. I believe long-term players will need to possess a broad range of skills. The more you bring to the table, the more valuable you are to a broadcasting company. My goal: Master every opportunity and improve my skills constantly.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

Learning how other organizations address problems/opportunities that we all face.

What do you like to do in your free time?

I play guitar and have been accused of playing golf.

If you could have dinner with somebody from the past, present or future who would it be and why?

Thomas Jefferson. That would be an interesting conversation.



Kim Mitchell

Where did you grow up/go to school?

I grew up in Weyers Cave, VA (in the Shenandoah Valley), but moved away when I was a sophomore in High School to Oklahoma City, OK and then to Franklin, WV where I graduated from Franklin High School. I then moved back to the Valley to attend college at Bridgewater College (a small private liberal arts school).

What was your first job in broadcasting?

My first job in broadcasting was a Receptionist temp, but my first full time job was the Production Director.

What is your career goal?

My career goal is to continue moving up the ladder and one day become a General Manager.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

There are three advantages of being part of the Best of the Best – 1) learning new ideas that I can apply to our stations, as well as becoming more educated about radio strengths and challenges, 2) networking with my broadcasting peers from all across the State, and 3) learning ways to be a better leader to my Sales Staff.

What do you like to do in your free time?

I love spending time with my family and watching my kids play sports. My daughter is an amazing all star cheerleader, which means travelling quite a bit for competitions, and my son is in his second year of baseball.

If you could have dinner with somebody from the past, present or future who would it be and why?

If I could have dinner with anyone, it would have to be my Dad who passed away 15 years ago. I'd love to catch him up on my life, introduce him to my children, and see what advice he has to offer me to move me towards reaching my goals (he was a successful business owner and an amazing sales person back in the day).

Watch for additional Best of the Best class members in upcoming issues of the newsletter.

Have News for the VAB Newsletter?

Send your news and announcements along with any photos to Marci Malinowski at marci.malinowski@easterassociates.com.

“Internet technology now permeates the consumer experience, and mobility has become a requirement. As we look forward to next-generation television standards, we want to take advantage of advances in compression and transmission technologies that will keep millions of people informed and entertained through broadcasting’s inherently efficient one-to-many architecture.”

ATSC Requests Proposals for Next-Gen Standard

As part of its work to develop a next generation of broadcast standard, the Advanced Television Systems Committee (ATSC) has issued a call for proposals for the “physical layer” or core transmission system that would be the basis of a new standard known as ATSC 3.0.

No time table has been set for the completion or deployment of the new standard. But work on ATSC 3.0 is deployed is intended to allow broadcasters to deliver a wide array of new services and features, including Ultra-High-Definition, the distribution of content to mobile devices and improved spectrum efficiency.

Initial responses to the call for proposals are due on Aug. 23. Detailed technical descriptions of proposals are due on Sept. 27.

“Technology continues to advance and we are always looking to the horizon,” noted ATSC President Mark Richer in a statement. “Internet technology now permeates the consumer experience, and mobility has become a requirement. As we look forward to next-generation television standards, we want to take advantage of advances in compression and transmission technologies that will keep millions of people informed and entertained through broadcasting’s inherently efficient one-to-many architecture.”

Glenn Reitmeier, ATSC Chairman, added in another statement that “the ATSC 3.0 effort is a crucial time for broadcasters, professional equipment manufacturers, consumer device manufacturers and all stakeholders to collaborate and create the future capabilities of over-the-air broadcasting.”

The ATSC 3.0 Technology Group (TG3) will develop the Standards and Recommended Practices for the next-generation digital terrestrial TV broadcasting system.



In calling for proposals, TG3 is looking for “ATSC 3.0 physical layer technologies to define the modulation and error coding technologies that will provide a foundation for the next terrestrial broadcast system,” for both fixed and mobile devices, the group noted.

In addition to spectrum efficiency, the ability to support increased data rates necessary for Ultra HD, the group is also looking for technologies that would enable a smooth transition to ATSC 3.0 and for approaches that would make ATSC as compatible as possible with transmission standards outside the U.S.

“ATSC 3.0 is expected to provide robust mobile services to devices that move, such as phones, tablets, laptops and personal televisions,” Richer noted in a statement. “Since these devices are likely to move across borders, it’s highly desirable that the specification contains core technologies that will have broad international acceptance and enable global interoperability.”

Details on the ATSC 3.0 Call for Proposals can be found on the ATSC.org website. ■

Article courtesy of George Winslow from www.broadcastingcable.com.

Spectrum Sellers Blast FCC Pricing Plan

The group of broadcasters hoping to cash in its spectrum during the FCC's incentive auction next year is complaining that the FCC apparently plans to set prices of spectrum by "scoring" or evaluating stations using its own criteria.

"It is universally acknowledged that widespread broadcaster participation is the indispensable key to a successful auction," the Expanding Opportunities for Broadcasters Coalition says in informal comments filed with the commission today.

"The commission's proposal to manage the prices paid to broadcasters by 'scoring' stations is driving broadcasters away from the auction. And, the ... plan is inconsistent with the Spectrum Act, which provides for

the prices to be received by broadcasters to be determined by the market forces of the auction...."

Under the law, the FCC has no authority to set prices, particularly on the basis of a station's population coverage, it says. "If the commission offers a station with less population coverage a lower value, it could cause that station to forego auction participation, notwithstanding the fact that the station will greatly hinder the agency's repacking efforts," it says.

"Already, the prospect of such scoring is causing some stations to rethink their plans to participate in the auction." ■

Article courtesy of tvnewscheck.com.

"Already, the prospect of such scoring is causing some stations to rethink their plans to participate in the auction."

Radio Fights Off Static from Rival Technologies

Radio broadcasters face being squeezed off the dial as stereo makers offer an array of new apps with thousands of new listening options in new cars.

A far cry from local AM/FM sets of the past, the latest units not only offer satellite or HD radio, but apps that bundle signals from Internet radio broadcasters across the country. The result is that conventional broadcasters are being forced to adapt by emphasizing quality local or targeted content, working different distribution channels or maybe becoming part of a bundle themselves.

The competitive path will only get tougher as the newest stereo units arrive either through new car purchases or the aftermarket. "AM/FM broadcast, as a technology, will be much more under the gun," says Thilo Koslowski, a Gartner vice president who tracks digital technology in cars. "Content is king. Having a transmitter does not guarantee you're successful."

The avalanche of listening choices is hastened by the arrival of Internet-based radio that allows shoestring upstarts to compete against big-money broadcasters, much as magazines and newspapers are under assault on the Web by bloggers and other content creators.

So far, though, radio broadcasters haven't see a ratings drop-off, even among younger listeners, Arbitron reports. Nearly six of 10 adults listen to AM/FM radio either all or most of the time they are in the car, the ratings agency reports, far ahead of listening to CDs at 15%, portable digital players at 11% or satel-

lite radio at 10%.

Young listeners are driving a resurgence of country-music stations in urban markets, says Arbitron spokeswoman Kim Myers. Radio reaches 23 million teenagers a week.

Automakers have taken notice and have no plans to yank radios from cars. "We see a bright future for radio," says General Motors spokesman Scott Fosgard, although he grouses his 22-year-old son will listen to a broadcast station "if there's a game on."

While AM/FM is not at "peril," Ford Motor spokesman Alan Hall says "you're going to see more options" for in-car entertainment amid "fierce" competition.

Car stereo makers are picking up on the trend by jamming more apps into their systems. Pioneer Electronics, a large maker of units both for automakers and the aftermarket, lists 35 app choices on its AppRadio site. On music, a single app paired through a smartphone can have hundreds of listening choices -- from personalized music providers such as Pandora or Aupeo, to bundled radio stations such as iHeartRadio or Livio.

As Internet-based technologies gradually take over, AM/FM station owners will have to adapt. Those that specialize or embrace specialized programs that set them apart will do fine, says Dave Garland, a media broker in Houston. "They are trying to figure out how to do it," he says. ■

Article courtesy of Chris Woodyard from USA Today.

Family and Medical Leave Act: Recent Developments and New Poster Requirement

John G. Kruchko is a Partner with the Management Labor and Employment Law Firm of Kruchko & Fries in Tysons Corner, Virginia. Kathleen Talty is a Senior Counsel with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Ms. Talty at (410) 321-7310 or JKruchko@KruchkoandFries.com, or KTalty@KruchkoandFries.com. This article is published for general information purposes, and does not constitute legal advice.

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February, 2013 marked the twentieth anniversary of the signing of the federal Family and Medical Leave Act ("FMLA") into law by President Clinton. In recognition of that event, the United States Department of Labor ("DOL") released the results of a survey that it conducted on employer opinion of the FMLA. The conclusions reached by the DOL as a result of the survey were that:

The study shows that employers generally find it easy to comply with the law, and misuse of the FMLA by workers is rare. The vast majority of employers, 91 percent, report that complying with the FMLA has either no noticeable effect or a positive effect on business operations such as employee absenteeism, turnover and morale. Finally, 90 percent of workers return to their employer after FMLA leave, showing little risk to businesses that investment in a worker will be lost as a result of leave granted under the act.

The DOL also found that 85% of the employers reported that complying with the FMLA was very easy, somewhat easy, or has no noticeable effect. Further, the DOL stated as a result of the recent survey that employers reported that misuse of the FMLA by employees was rare.

The conclusions reached by the DOL differ significantly from a 2007 survey that was conducted by a national personnel association which found:

- ▶ **63%** of human resources professionals found it "very difficult" or "somewhat difficult" to comply with the FMLA.
- ▶ **73%** of human resources professionals reported it "very difficult" or "somewhat difficult" in determining whether an intermittent medical condition should be protected by the FMLA.
- ▶ **39%** of human resources professionals stated that they have had to grant FMLA requests that they perceived to be illegitimate because of the DOL regulations and interpretations.

While the 2007 survey is five years old, the results from that survey, in contrast to the recent DOL survey, would appear to represent to most Human Resources personnel the actual reality of administering the FMLA.

Another development in February, 2013 was the DOL's issuance of its Final Rule implementing expansions of the FMLA as it relates to the military leave provisions and airline personnel. The revisions now expand the availability of leave for qualifying exi-

gencies to include members of the Regular Armed Forces, and not just members of the National Guard or Reservists as previously stated in the FMLA. A further condition, however, was added to eligibility of the covered military member's use of the leave. Now, the deployment of the military member upon whom the eligibility for the leave is based must be to a foreign country.

The Final Rule also revised aspects of the existing list of circumstances that qualify as exigency leave under the FMLA. For example, the period of time for Rest and Relaxation leave is now extended from five days to fifteen days. A new circumstance for qualifying for military leave was added in February, 2013. The new condition for emergency leave now allows eligible employees to take parental care leave to provide care for the parent of a military member when the parent is incapable of self-care.

Additionally, the definition of covered serviced member was expanded to include veterans who were active members of the military within the five-year period before the eligible employee first takes military leave. Further, the definition of a serious injury or illness for a current service member is expanded to include injuries or illnesses that existed before the beginning of active duty and were aggravated by service in the line of duty while on active duty in the Armed Forces.

As a result of the issuance of the Final Rule, employers will need to revise their FMLA policies to incorporate the changes noted in this article, as well as other revisions stated in the Final Rule. Moreover, as of March 8, 2013, employers must begin using the updated FMLA notice and certification forms, which are no longer included as appendices to the regulations. The new forms are available on the DOL web page. Finally, employers must post the new FMLA poster by March 8, 2013 to ensure compliance with an employer's obligation under the FMLA. The new FMLA poster is also available from the DOL web page.

In addition to revising the organization's FMLA policies, using the updated FMLA

notices and certification forms and posting the new FMLA poster, employers should also consider providing training to their supervisors on the FMLA and when leaves of absence requests are covered by the FMLA. A recent court case illustrates the monetary consequences to a company when an employee's request for FMLA leave was ignored by the company.

In *Hurley v. Kent of Naples*, a employee suffered from depression and anxiety for a period of time. While his conditions were monitored by his physician for a number of years, there was minimal improvement. Eventually, the employee's physician recommended that the employee take a leave of absence. Although the employee couched his request for a leave with the statement that his medical healthcare provider recommended that he take a leave of absence, the request was denied. The employee persisted and candidly told his supervisor that he was diagnosed with depression and needed time off to address the condition.

The supervisor responded to this information by telling the employee that "we've had a great run together, but it is time to part ways." He then terminated the employee. The supervisor's response was not only callous, but completely contrary to the law. After the employee's termination, he immediately filed a claim under the FMLA, alleging interference and retaliation.

Not surprisingly, the discharged employee prevailed at the jury trial and he was awarded a substantial amount of damages, which was estimated to be in excess of One Million Dollars, in the form of back pay, front pay, liquidated damages, attorney fees and interest.

To minimize such situations from arising, supervisors need to be alert to situations which may implicate the FMLA and to alert the Human Resources Department that an employee may need FMLA leave. Effective training will provide supervisors with this necessary guidance. ■

"The DOL also found that 85% of the employers reported that complying with the FMLA was very easy, somewhat easy, or has no noticeable effect."

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.

Sales Representative Roanoke, VA

Mel Wheeler Inc. has a rare opening for an Account Representative on our staff for stations WXLK "K92" and WVBE "Vibe". We are seeking a person who can excel at new business development and serving existing advertising clients. Candidates must be highly motivated with a strong work ethic, and the utmost in integrity. In addition to the skills and talents to do the job, the successful candidate should contribute to making the company a positive place to work for all staff members. To apply, visit our website at www.wheelerbroadcasting.com or email cskinner@wheelerbroadcasting.com. Mail to HR Director, Mel Wheeler, Inc., 3934 Electric Road, Roanoke, VA 24018.

Meteorologist Harrisonburg, VA

WHSV-TV is looking for a meteorologist to replace one who is jumping 140+ markets. The successful candidate will be able to translate complex weather science into relevant forecasts for viewers in a conversational way. Experience with WSI is a plus. Also should be avid on social media, posting relevant pictures and forecasts to our website and social media sites. To apply, send your resume, cover letter, three references and a link to your most recent weathercast to: Kay Norred, News Director, knorred@whsv.com. You may also mail your resume packet to WHSV-TV, 50 North Main Street, Harrisonburg, VA 22802. WHSV-TV is a drug free workplace. EOE.

Production Assistant Winchester, VA

TV3 Winchester is searching for a candidate to fill a part-time live TV

production associate for its newscasts. Candidate should be comfortable working in a time-sensitive environment and will be working closely with the news team to produce high-quality, clean on-air broadcasts. Schedule will include late evenings/early mornings and major holidays. Any combination of non-linear editing, graphics design, camera work and audio mixing techniques is a plus. Reply to jobs@tv3winchester.com. TV3 Winchester will perform pre-employment drug screening and driving record check. EOE.

Local Sales Manager Richmond, VA

WRLH-FOX Richmond is seeking a full time Local Sales Manager who will lead our local sales department in maximizing all sales opportunities, with an emphasis on new business development. At least 3 years broadcast sales experience, with television sales and management experience preferred. Proven success in developmental business and multimedia platforms including web and mobile applications. Experience with OSI, AdConnections, Kantar and Media Audit preferred. You must apply online to be considered at www.sbg.net. No phone calls please. EOE.

Reporter/Photojournalist Harrisonburg, VA

WHSV-TV is looking for an experienced and imaginative storyteller who can take a routine story and make viewers care about it. This position is primarily responsible for gathering and reporting news, as well as shooting and editing video. The successful candidate will be comfortable on camera, have strong journalistic skills in writing, interviewing, and ethical decision-making. The ideal candidate would have at least one year

of experience on camera. A Broadcast Communications / Journalism degree or equivalent work experience is needed. A good driving record is also required. E-mail resume, cover letter, and link to reel to: knorred@whsv.com. You may also mail your materials to: WHSV-TV 3, Attn: Kay Norred, News Director, 50 North Main St., Harrisonburg, VA 22802. WHSV-TV is a drug free workplace. EOE.

Account Executive Charlottesville, VA

According to a recent survey, people who are happy at work are more productive. It makes sense, really. And when you consider that the average full time employee works fifty weeks, or approximately two hundred and fifty days each year ... shouldn't you find a job that's a great fit for you? We think so. If you're self-motivated, driven to succeed and looking for a great job, we're looking for a great employee. Send your resume to adsales@3wv.com. EOE.

Anchor/Producer Harrisonburg, VA

WHSV-TV is looking for a dynamic personality to replace an anchor that just moved up 130+ markets. We're looking for someone with anchoring experience and strong producing skills. A background in reporting is also helpful. Proficiency with I-News and non-linear editing is a plus. Superior presentation, writing, producing, and leadership skills are required. Mail your cover letter, resume, and reel to: Kay Norred, News Director, WHSV-TV, 50 North Main Street, Harrisonburg, VA 22802. You may also email your materials to knorred@whsv.com. WHSV-TV is a drug free workplace. EOE.

**Development Associate/
Administrative Assistant
Harrisonburg, VA**

WMRA Public Radio is accepting applications for a part-time development associate/administrative assistant. Serves as front-line customer service representative; assists with development staff on fundraising activities; provides administrative support to the department; and other duties. Must possess strong customer service experience and a dedication to excellent customer service. Demonstrated experience as administrative assistant or receptionist. This position requires demonstrated skills in Microsoft Word and Excel and the ability to learn to use new software. To view the full posting and apply go to JobLink.jmu.edu and reference posting number 0405154. Pay \$12.00/hour. AA/EOE. Questions? Contact Diane Halke, Assistant General Manager at 540.568.3808 or halkedl@jmu.edu.

**Director of Membership
& Volunteer Services
Harrisonburg, VA**

WMRA Radio Network is seeking a Director of Membership to ensure the success of WMRA's individual fundraising efforts by providing primary coordination and analysis of all membership support mailings, Telemarketing, and other fundraising effort, as well as coordination of volunteers. This is a grant funded position. Candidates must possess strong customer service experience. Excellent word processing (Microsoft Word), writing and interpersonal communication skills. Experience working with databases (Microsoft Excel) and mail merges. Ability to multi-task. Familiarity with public radio preferred. Experience with fundraising software, Allegiance preferred. Questions? Contact Diane Halke, 540.568.3808 or halkedl@jmu.edu To view the full posting and to apply go to JobLink.jmu.edu and reference posting number 0405153. Pay range: \$35,000-\$45,000. AA/EOE.

**TV Marketing Producer
Richmond, VA**

We seek a highly motivated team player to write, shoot and edit news topical promotions, station image campaigns, proof of performance spots and commercials as needed. Must be social media savvy, know how to speak to fans on Facebook and Twitter by creating compelling and engaging content. Must think across multiple platforms to promote and grow the "On Your Side" brand, be self motivated and able to multitask and work under deadlines. Panasonic P2, Avid, After Effects, Photoshop, Premier and Edius experience a plus. Minimum one year experience in television, advertising or media production. Send cover letter with salary requirements, resume and video examples to Marketing Director, NBC12, P. O. Box 12, Richmond, VA 23218. No phone calls please. Drug Screen required. EOE M/F/D/V.

**Sales Assistant
Richmond, VA**

The NBC12 Advertising Sales department seeks a creative, technology savvy Sales Assistant capable of producing high impact sales presentations, managing multiple projects simultaneously and being a part of the selling process. This position requires someone who understands what it means to work hard and is comfortable in a fluid and fast paced environment. For the right person, this opportunity can be a stepping stone to future opportunities in our organization. Just ask our former Sales Assistant. Please send cover letter with salary requirements and resume to Judy Gibson, Human Resources Director, at jgibson@nbc12.com or mail to NBC12, P. O. Box 12, Richmond, VA 23218. Drug Screen and Motor Vehicle Record check required. EOE M/F/D/V.

**Associate News Producer
Roanoke, VA**

WDBJ Television is searching for an entry level Associate Producer to join our news department. This individual will help in producing content for newscasts and web by researching and writing stories, and filling in as producer of a show or fill-in for other positions, such as assignment editor, when

needed. We're seeking a self-starter with six months-1 year experience in broadcast news. A bachelor's degree is required, along with a valid driver's license and good driving record. Interested candidates please visit the following web site: www.schurz.com/careers/career-opportunities/ and search Requisition Number WDBJ1219 to learn more about the position and apply.

**TV Control Operator - Temporary
Lynchburg, VA**

Efficiently and accurately execute the on-air programming of WSET-TV, as scheduled on the pre-printed log supplied daily by the Traffic Department. Must be knowledgeable in the operation of personal computers. Basic understanding of audio-video components, some knowledge of electronics is preferred, but not necessary. Availability to cover all shifts as needed. 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.

**Digital Executive Producer
Norfolk/Portsmouth/Virginia Beach, VA**

WAVY.com/FOX43tv.com is seeking a Digital Executive Producer to oversee the editorial development of the lifestyle and entertainment content for our web and mobile platforms. Applicants must be innovative, full of creativity and well versed in all things Hampton Roads. The DEP will be responsible for developing and coordinating lifestyle content on our digital platforms to complement and extend the coverage of our award-winning WAVY news team. Degree in journalism; daily newspaper or news site experience required. Please send resumes and inquiries to Tim Moreau, Digital Media Director, WAVY/WVBT, 300 Wavy St., Portsmouth, VA 23704. tim.moreau@wavy.com No phone calls; 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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VAB participated in the Virginia Supreme Court proceedings to emphasize the serious implications of the case for broadcast news departments, which often seek out lawyers to analyze and discuss important legal issues and court proceedings.

Hunter v. Virginia State Bar: Virginia Supreme Court Upholds Regulation of Lawyer Blog

In October 2012, VAB filed an amicus curiae brief in *Hunter v. Virginia State Bar*, a case then pending before the Virginia Supreme Court arising from the Virginia State Bar's efforts to regulate a blog authored by Horace Hunter, a criminal defense attorney practicing in Richmond. Hunter maintains an Internet blog titled "This Week in Richmond Criminal Defense," on which he writes about various legal issues and cases, including criminal cases in which Hunter represented the criminal defendant.

The State Bar charged Hunter with misconduct, claiming that his blog violated certain Rules of Professional Conduct, the ethical rules that govern the practice of law in Virginia. In particular, the Bar cited Rules 7.1 and 7.2, which prohibit lawyer "advertisements" that are false and misleading or that "create an unjustified expectation about the results the lawyer can achieve." The Bar claimed that any discussion by a lawyer about his or her case results is inherently misleading unless it is accompanied by a "disclaimer" informing the public that the lawyer cannot guarantee similar results in any other case. Hunter responded to the Bar's charges by insisting that his blog served as commentary on important public issues and that the First Amendment prohibits the Bar from regulating his classic political speech about the workings of the criminal justice system.

VAB participated in the Virginia Supreme Court proceedings to emphasize the serious implications of the case for broadcast news departments, which often seek out lawyers to analyze and discuss important legal issues and court proceedings. Before Hunter, the practice of broadcasting lawyer commentary had not been thought to raise ethical issues related to the lawyer "advertising" his or her own legal services. But the Bar's assertion of authority to regulate lawyer analysis of criminal cases could unsettle broadcasters' longstanding practice. According to the State Bar's reasoning, every lawyer interview on the courthouse steps, and potentially even "talking head" legal commentary, must be

accompanied by an advertising disclaimer, regardless of the content of the speech (even if it is nothing more than commentary about legal issues and court proceedings) and regardless of the lawyer's intent (or lack of intent) to market his or her legal services. The technical and logistical burdens such a requirement would impose on broadcasters would create significant disincentives to air legal commentary—and thus would limit if not eliminate the public's access to informed analysis about important legal issues, contrary to core principles of the First Amendment.

In a February 28, 2013 decision, a majority of the Justices of the Virginia Supreme Court concluded that Hunter's blog posts amounted to commercial speech because they were motivated at least in part by a desire to advertise his services as a lawyer. Because the blog had the "potential to be misleading," the Court concluded that the State Bar has a substantial governmental interest in regulating Hunter's speech to prevent deception of the public and that that interest would be directly served by requiring that Hunter post advertising disclaimers on each blog entry. For these reasons, the Virginia Supreme Court found that the regulation of Hunter's blog did not violate the First Amendment.

Two Justices dissented, disagreeing with the majority that Hunter's blog posts were potentially misleading commercial speech. The dissenters noted that speech discussing the workings of and critiquing the criminal justice system has long been thought to lie at the heart of the First Amendment and concluded that the Constitution prohibits the State Bar from regulating that protected speech.

Although the Virginia Supreme Court's decision concludes proceedings before the Virginia courts, it is possible that Mr. Hunter will ask the United States Supreme Court to review the case further in light of the significant First Amendment issues involved. ■

Article by Julia C. Ambrose and Mark J. Prak, Attorneys, Brooks, Pierce, McLendon, Humphrey & Leonard LLP.