



# Virginia Association of Broadcasters Legal Review



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## Legal Memorandum

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### FCC Lifts Freeze on LPTV and TV Translator Minor Modification Applications

The FCC has [announced](#) that it has lifted its “freeze” on the filing of minor change applications for all low power television and TV translator stations (collectively, “LPTV Stations”). The FCC imposed the freeze back in December 2017 in order to preserve channels and stabilize the Commission’s database as it prepared to open the Special Displacement Window, during which certain displaced LPTV stations were able to file displacement applications for a new channel in the repacked TV spectrum. Because the Special Displacement Window closed on June 1, the FCC now sees fit to allow the filing of minor change applications for LPTV Stations.

The Commission reminded stations that its freezes on the filing of applications for displacement, for digital companion channels, and for new digital LPTV/translator stations and major changes remain in effect. (Similarly, the freeze on filing minor change applications for full power and Class A television stations that would result in a contour expansion in any direction remains in effect at this time.)

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## TV Station Copyright Royalty Claims Due July 31, 2018

It's again that time of year for television stations to file distant signal copyright royalty claims. Claims for 2017 must be filed **no later than 11:59 p.m. EST on July 31, 2018**. A television station is considered the copyright owner of its locally produced programming, such as news and public affairs coverage. And, when a television station's copyrighted programming is retransmitted by cable or satellite as a "distant" signal, the station may be entitled to receive payment of copyright royalties. The United States Copyright Royalty Board collects copyright royalties from cable systems and satellite carriers and then distributes them to the copyright holders. NAB oversees the distribution of individual royalty shares to qualifying stations.

The Copyright Royalty Board encourages stations to file claims online, using its electronic filing system called [eCRB](#). The Copyright Royalty Board provides online filing instructions [here](#). Claims can also be filed in hard-copy form, but stations who opt to file paper claims should note that there are special certified mail or hand delivery procedures that must be followed.

For this filing—where thousands of dollars (and even more) can be at stake for each station—meeting the deadline is serious business: A copyright owner once lost \$10 million in copyright fees because its claim for copyright royalties was filed late.

Copyright law generally defines "distant" carriage as follows:

**Cable Systems:** With respect to cable systems, a station's programming is considered "distant" if it is carried on a system that is (1) outside of the station's DMA, (2) at least 35 miles from the station's community of license, (3) outside the station's noise limited service contour, **and** (4) in a county where the station is not "significantly viewed."

**Satellite Carriers:** With respect to satellite carriers, a station is considered "distant" if it is provided by the satellite carrier to subscribers located outside of the station's DMA.

To claim copyright royalties, a station's locally produced programming must satisfy at least one of the above definitions. In order for television stations to receive their 2017 copyright royalties for distant carriage, stations must file a claim with the Copyright Royalty Board by the deadline referenced above. If a station can claim both cable and satellite royalties, the station must file a separate claim for each type of distant carriage.

Stations may wish to confer with their communications counsel for information about how to timely complete and file their claim(s).

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## FCC Extends Comment Dates on Its Proposal to Streamline the FM Translator Interference Complaint Process

The FCC is giving stations and other interested parties an extra month to comment on its [Notice of Proposed Rulemaking](#) ("Notice") that proposes to "streamline" and "expedite" the FM

translator complaint resolution process. **Comments on the Notice are now due August 6, and Reply Comments are due September 5, 2018.** Several broadcasters requested the additional time, arguing that the Notice raises complex technical matters and that they needed more time to gather and analyze market-derived data across the radio industry relating to locations used for listening to full service FM radio stations, based on Nielsen audience data.

The Notice responds to the sometimes protracted and contentious interference disputes between full-service FM station licensees and FM translator licensees by seeking to put in place new procedures to ensure prompt dispute resolution while also providing more flexibility and investment certainty for translator licensees. The Notice explains that the current FM translator interference complaint process is often delayed over questions of the validity of the interference and impartiality of complaining listeners.

As we have reported previously, the Notice seeks comment on several proposals, including: (1) allowing FM translators to resolve interference issues by changing channels to *any* available channel within the same band (e.g., reserved FM band to reserved FM band) and to treat this change as a minor change; (2) requiring a minimum of six (6) listener complaints to be submitted with a claim of FM translator interference; (3) requiring bona fide listeners to sign their interference complaints and to include more information in complaints than is currently required; (4) eliminating the requirement that complaining listeners cooperate with remediation efforts; and (5) proposing an outer full-service station contour limit beyond which interference complaints would not be considered actionable.

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## Comment Dates Set for FCC's Proposal to Eliminate Broadcast License Posting Requirements

Stations have until next month to ask for the FCC's help in freeing-up wall space. That's because the **comment and reply comment dates have now been set—August 1 and August 16, 2018, respectively**—for the FCC's [Notice of Proposed Rulemaking](#) (“Notice”) relating to station license posting requirements. More specifically, the Notice asks whether the Commission should streamline or eliminate the requirement that the station license and other instruments of authorization be posted in a conspicuous place at the principal control point of the transmitter, either by affixing them to the wall or putting them in a binder. The Commission originally adopted license posting rules way back when Herbert Hoover was President and, over the years, the Commission expanded the rules to additional transmission services. Because the vast majority of the information contained on posted licenses is now available in stations' online public inspection files, the Notice tentatively concludes that the regulations are outdated and unnecessary.

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If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

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