



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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Deadlines: [December 3: DTV Ancillary/Supplementary Services Report Due \(But Only for Stations Providing Such Services\)](#)
[January 22, 2019: Comments Due on FCC Proposals to Reduce Class A AM Station Interference Protections](#)

DTV Ancillary/Supplementary Services Report: A December “Tradition” Now a Thing of the Past – For Most TV Stations

At this time of the year, television broadcasters used to get a reminder (or several!) from us regarding the requirement to file the “ancillary/supplementary” services report (formerly known as “Form 317” and currently known as Form 2100, Schedule G). Stations will recall all too well that under FCC rules all full power and low power digital television licensees had to file annual reports (by December 1) about whether they had offered any “ancillary” or “supplementary” services during the 12-month period ending on the preceding September 30—even if they did not provide any ancillary or supplementary services or receive revenue from those services during the relevant reporting period.

Thankfully, as you may recall, the FCC adopted a [Report and Order](#) in April revising its rules so that only those digital television broadcasters that actually provided *feeable* ancillary or supplementary services are required to submit the annual report. The FCC reasoned that changing the requirement was appropriate because only a small fraction of television stations actually offer such ancillary or supplementary services, meaning the overwhelming majority of stations faced a relatively pointless filing burden every December.

All that said, those stations that did provide qualifying, feeable ancillary or supplementary services in the 12-month period ending on September 30th must still file the form. Because December 1 falls on a Saturday this year, the report (again, Form 2100, Schedule G) is due by December 3.

“Ancillary” and “supplementary” services are services provided on that portion of the station’s digital spectrum capacity or bit stream that is not needed to provide the required one free, over-the-air video broadcast signal, *and for which the station receives compensation in return for the broadcast*. Such services include, but are not limited to, computer software distribution, data transmission, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and other similar services. Ancillary and supplementary services do not include “any video broadcast signal provided at no direct charge to viewers”—in other words, a free, over-the-air multicast stream is not an ancillary and supplementary service.

Note that if a station has received compensation, either directly or indirectly, in exchange for ancillary or supplementary services, then it must **also** file FCC Form 159 and remit to the Commission 5% of the gross revenue received for the ancillary or supplementary services.

AM Revitalization: Comment Dates Set on Proposals to Reduce Interference Protection to Class A AM Radio Stations

Comment dates are set on the FCC’s [Second Further Notice of Proposed Rulemaking](#) (“Second Further Notice”) that seeks, among other things, input on several proposals for reducing the extensive interference protections currently afforded to Class A radio stations, in order to enable improvements to local radio service by other classes of stations. The Second Further Notice is part of the FCC’s ongoing efforts to revitalize AM service. Comments on the Second Further Notice are due January 22, 2019, and reply comments are due February 19, 2019.

We provided a detailed summary of the Second Further Notice in a legal memorandum last month. (Please let us know if you would like us to resend that memo.) The Second Further Notice recognizes that some geographic areas that historically only received Class A secondary service are now served by FM stations and smaller, more local AM stations. According to the Second Further Notice, the FCC’s proposals are designed to allow local stations to provide greater and improved local service to their communities, especially at night, while preserving some of Class A stations’ wide area coverage.

The Second Further Notice seeks comment on the following proposals for amending protections to Class A AM stations, all of which would provide such stations with less protection than they currently enjoy. (Note that the Commission seeks comment on two alternative proposals for critical hours and nighttime hours protection, respectively.)

- *Daytime Hours Proposal*. Class A AM stations would be protected to their 0.5 mV/m daytime groundwave contour, from both co-channel and first-adjacent channel stations during daytime hours.

- *Critical Hours Proposals (Two Alternatives)*. During critical hours (the two hours after sunrise and the two hours before sunset):
 - Alternative 1: Class A AM stations would be afforded no protection from other AM stations, or
 - Alternative 2: Class A AM stations would be protected to their 0.5 mV/m groundwave contour.
- *Nighttime Hours Proposals (Two Alternatives)*. During nighttime hours:
 - Alternative 1: No overlap would be allowed between a Class A AM station's 0.5 mV/m nighttime groundwave contour and any interfering AM station's 0.025 mV/m 10 percent skywave contour (calculated using the single station method), or
 - Alternative 2: Class A AM stations would be protected from other AM stations in the same manner as Class B AM stations are protected; that is, interference could not be increased above the greater of the 0.5 mV/m nighttime groundwave contour or the 50 percent exclusion RSS NIF level (calculated using the multiple station method).

We expect that the proceeding will generate significant comment from AM station licensees.

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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