



January 27, 2019

Legal Alert—FCC Re-Opening

[OPIF Is Accessible! More to Come on Filing Deadlines When FCC Re-Opens Monday; What Are the Implications for FCC Deadlines?](#)

While we welcome the development that the partial federal government shutdown has come to an end, it immediately brings to mind questions about the FCC implications for broadcast stations. When are the routine quarterly filings from 4Q 2018 due? Can stations begin filing routine license/license modification applications again? Can stations access their online public files (OPIF) again?

Filing Deadlines: As we previously advised, the FCC issued a [Public Notice](#) on January 2 providing some information about filing deadlines that may have come and gone during the period of time the FCC was shuttered. More specifically, the FCC's January 2 Public Notice already extended normal filing deadlines so that FCC submissions that would have been due between January 3 and January 25 will instead be due on the second business day after the resumption of normal FCC operations. Assuming that normal FCC operations resume on Monday, January 28, all filings and submissions that had been due January 3 – January 25 will be due on Tuesday, January 29 (unless the FCC tells us differently!).

Thus, all broadcasters need to be prepared to upload to the OPIF their fourth quarter 2018 Issues/Programs Lists (and other public file records due during the 1/3 – 1/25 time period) by Tuesday, January 29. Commercial TV stations need to be prepared to file their fourth quarter 2018 Children's Television Programming Reports via LMS if they haven't already been filed. Class A TV stations need to be prepared to upload to the OPIF records covering 4th quarter 2018 sufficient to demonstrate continued eligibility for Class A status. Commercial TV stations need to be prepared to upload to the OPIF records demonstrating compliance with the commercial time limits in certain children's programming during 4th quarter 2018. And, certain noncommercial stations that conducted on-air fundraising for a third party non-profit during fourth quarter 2018 will need to be prepared to upload to the OPIF a report of such activities.

OPIF Is Open for Business as of Sunday, January 27: As of Sunday morning, January 27, it is once again possible to upload documents to your station's OPIF. To do so, use the following link: <https://publicfiles.fcc.gov/admin/>. The <https://publicfiles.fcc.gov> website is also once again accessible, but if you go to <https://publicfiles.fcc.gov> it is possible that your computer will draw on a "cached" version of the webpage causing it to still appear that the OPIF is inaccessible (in which case you may need to have your IT team assist you with clearing the cached version of that URL address).

Cover Sheet for OPIF Documents: In an effort to proactively address the fact that your 4Q 2018 quarterly filings may appear (by the OPIF's time/date stamp) to have been uploaded "late," you may wish to use an explanatory cover sheet with your 4Q 2018 Issues/Programs List, Children's Commercial Time Limits Certification, Class A Eligibility Certifications, and/or NCE third-party fundraising records (each as applicable) if you didn't have the opportunity to upload them before the FCC took down the OPIF on January 3.

New Public Notice with Further Information? Given the fact that at least one significant FCC rulemaking proceeding's (the 6 GHz proceeding) comment filing deadline passed during the closure, the fact that the fourth quarter 2018 quarterly filing deadline occurred during the closure, and given that stations in various states have EEO public file reports due on February 1, we anticipate that the FCC will release a new public notice on Monday, January 28, or Tuesday, January 29, with more details about how the closure and inaccessibility of certain FCC filing systems affects (or does not affect) various filing deadlines. We do have concerns that the OPIF system will be overloaded on January 28 & 29 which may cause the system to crash; hopefully the FCC shares our concern and will extend relevant deadlines further—BUT IT WOULD NOT BE PRUDENT FOR STATIONS TO COUNT ON IT.

Action Items: To maximize the likelihood of success, your station may wish to take a few steps: First, be sure that you have prepared any filings that were due between January 3 and 25 so that you will be ready to file/upload them in a timely fashion (especially, if the "second business day" filing deadline remains in place). Second, if you wish to begin uploading materials to the newly re-opened OPIF, you can already do so. Finally, be patient while awaiting further information from the FCC. To reiterate, we anticipate that the FCC will issue a new public notice on January 28 or 29, and we will circulate information about any additional extensions of time, new filing deadlines, etc. as soon as possible.

More to come in the next few days.

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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