



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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Low Power TV and TV Translator Repack Reimbursement Filing Deadline Extended to **November 14, 2019**

We write with good news for low power TV and TV translator stations seeking to submit repack reimbursement requests: earlier this week, the FCC released a [Public Notice](#) (“Notice”) in which it extended the deadline by which [LPTV and TV translator stations](#) must submit their Form 399 reimbursement requests, from **October 15, 2019, to 11:59 p.m. on November 14, 2019.**

Note: the October 15, 2019, repack reimbursement filing deadline remains the same for FM broadcast stations.

Despite the extension, the FCC in the Notice urged LPTV and TV translator stations not to “wait until the end of the filing period” to file their Forms 399. And, the FCC noted that the Forms 399 “will be reviewed on a rolling basis upon receipt,” meaning that the sooner stations submit their requests, then sooner they may receive reimbursement.

We encourage FM stations as well as LPTV and TV translators station that are considering filing for reimbursement arising from the repack-related expenses they have incurred to reach out to their communications counsel for guidance in filing the Form 399.

PRO Global Music Rights Files Billion-Dollar Copyright Infringement Suit Against Media Company

We usually write about performance rights organization Global Music Rights, LLC (“GMR”) within the context of its pending antitrust litigation with the Radio Music License Committee (“RMLC”). This time, however, we write about a different GMR lawsuit that we’ll be watching closely: earlier this month, GMR filed a [Complaint](#) in a California federal court alleging that a media company with “scores” of radio-station holdings (the “Defendant”) has been violating the copyrights of GMR-affiliated songwriters for years.

Specifically, the Complaint alleges that stations owned by the Defendant media company have—in violation of United States copyright laws—“performed publicly more than 130 Global Media Rights Compositions, over 10,000 times, at a minimum.” GMR alleges that the Defendant media company acted “willfully” in purportedly infringing those copyrights; as such, GMR is seeking \$150,000 per infringement, which is the maximum amount of statutory damages permitted under the Copyright Act. If GMR were to prevail and to be awarded the damages it seeks, the total award could amount to over \$1.5 billion.

As broadcasters are likely aware, GMR and other performing rights organizations, or “PROs,” represent songwriters and publishers in licensing public performances of copyrighted music. Among the songwriters and associated publishers GMR represents are Bruce Springsteen, Bruno Mars, and John Lennon, by way of example. According to GMR’s Complaint, GMR contacted the Defendant media company at least six times regarding the licenses necessary to permissibly broadcast songs tied to GMR’s catalog. However, in what the Complaint calls “a willful, calculated, and strategic decision” based on the “hope that Global Music Rights would not find out or would choose not to enforce its rights,” the Defendant media company allegedly neither responded to GMR’s communications nor independently sought to obtain the necessary licenses.

Because the litigation has only just commenced, the Defendant media company has not filed any formal response to GMR’s Complaint. Rest assured that we will continue to monitor this litigation and let you know of important updates.

Media Bureau Proposes \$15,000 Fine for Radio Station’s Failure to Prepare and File Quarterly Issues/Programs Lists

We have further evidence (as if we needed it!) that the FCC is taking a close look at stations’ quarterly Issues/Programs lists: it appears another fine is on the way as a result of I/P list deficiencies that were spotted during the course of the license renewal application process. In a [Notice of Apparent Liability](#) (the “NAL”) released this week, the Media Bureau proposed a

\$15,000 fine for a radio station's (the "Licensee") apparent failure throughout the license term to place any issues and programs lists into its online public file ("OPIF").

In its license renewal application, the Licensee explained that it had failed to upload the required Issues/Programs lists to the station's OPIF because it "had some difficulties in navigating the new on-line public inspection file," and therefore missed "certain deadlines . . . with respect to the 'upload' of Issues-Programs Lists."

The Media Bureau rejected the Licensee's explanation, noting that "neither the negligent acts or omissions of station employees or agents, nor the subsequent remedial actions undertaken by the Licensee, excuse or nullify a Licensee's rule violation." In addition, because the Media Bureau found the Licensee's failures to be "serious" violations within the meaning of the Communications Act, the Media Bureau determined that a "short-term" license renewal of only two years (rather than the standard eight-year term) would be appropriate.

The Licensee now has until early November to either respond to the NAL or instead pay the \$15,000 proposed fine. It's not the first proposed fine we've seen like this in recent weeks arising out of alleged deficiencies when it comes to Issues/Programs lists. And, we expect, it won't be the last.

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