



Virginia Association of Broadcasters Legal Review



Brooks, Pierce, McLendon, Humphrey &
Leonard, LLP
Counsel to VAB • (919) 839-0300

250 West Main Street, Suite 100
Charlottesville, VA 22902 • (434)
977-3716

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Legal Memorandum

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Media Bureau Waives Requirement that Virginia Television Stations Schedule and Air License Renewal Pre-filing Announcements

In a recent [Order](#), the Media Bureau waived the requirement that Virginia television stations schedule and air pre license-renewal-application filing announcements. The Order waives the pre-filing announcement requirement for all “broadcast licensees whose licenses expire on October 1, 2020, with renewal applications to be filed by June 1, 2020”—and that group includes Virginia TV stations.

By granting the waiver the Media Bureau hopes that the additional airtime and scheduling flexibility provided to impacted stations will allow for greater “focus on keeping the public informed of developments concerning the COVID-19 outbreak.” Accordingly, the Order suggests that stations that elect to take advantage of the waiver and not to schedule and air pre-filing announcements may wish to use the limited, newfound broadcast time to “increase . . . the broadcast of public service announcements and other coverage relating to the . . . pandemic.”

Additionally, although not expressly mentioned in the Order, we have received informal guidance from FCC staff that the Order necessarily also waives the separate requirement that stations upload to their online public inspection file a certification that the pre-filing announcements aired as and when required.

As a final caution, please note that the waiver applies only to pre-filing announcements. The Order does not apply to the required post-filing announcements. Thus, as of now, Virginia TV stations still must prepare to air the required, post-filing announcements on June 1, June 16, July 1, July 16, August 1, and August 16, 2020.

Please do not hesitate to reach out to the Association or call the Association's Hotline if you have any questions.

Chairman Pai Thanks Broadcasters for Their Response to COVID-19

Broadcasters' critical work as "first informers" during the COVID-19 pandemic has been nothing short of exceptional. You've run public service announcements on social distancing, launched special programming and expanded local news coverage, and partnered with local businesses to help bring financial relief to those who have suffered fallout from the economic impact caused by COVID-19, among other things. Television and radio stations' collective efforts to inform the public interest at this time of national emergency have reminded us all of the invaluable service you provide.

And the Chairman of the FCC is among those appropriately singing your praises.

In a recent [press release](#), FCC Chairman Ajit Pai personally thanked broadcasters for, in his words, "going above and beyond the call of public service" by "stepping up to serve their communities and help[ing] keep people informed, healthy, and safe." Chairman Pai made special mention of those reporters who "often put[] themselves in harm's way, to obtain vital information on COVID-19 to ensure their viewers and listeners have the most up-to-date and accurate information."

We encourage you to share and retweet Chairman Pai's Twitter [post](#) acknowledging the work being done across the county by broadcasters in their communities. We know there are more long days ahead. But your efforts, whether or not expressly mentioned in Chairman Pai's press release, deserve widespread acknowledgment.

Thank you for the work you are and will continue doing.

\$20,000 Fine Proposed for Station’s Unauthorized One-Second Use of EAS Tone

A [Notice of Apparent Liability](#) (the “Notice”) released last week serves as a reminder of the FCC’s emphasis on the proper use of Emergency Alert System (“EAS”) tones, even amidst the COVID-19 pandemic. In the Notice, the Commission proposes a \$20,000 fine for a station’s unauthorized use of the EAS tone—even though the tone aired for just one second, one time, and on one station. That the Commission nonetheless proposed a \$20,000 fine underscores its commitment to preserving “the unique alerting function of the EAS Tones” and, therefore, “to enforcing laws that prohibit the use of the Tones, or simulations of them, except for specific exceptions.”

As broadcasters are well aware, the EAS is a public warning system that requires broadcasters and others to supply their communications capability to the President of the United States to address the American public during a national emergency. Federal, state, and local authorities may also use the EAS to deliver important emergency information. Accordingly, and because notifications to the public of EAS activations are delivered aurally by tones specifically defined by Commission rules and which contain embedded data elements concerning the accompanying alert, unauthorized use of the EAS tones is prohibited in order to avoid potential triggering of downstream EAS alerts, listener fatigue (i.e., public desensitization to the alerts), and general undermining of EAS reliability.

The FCC in the Notice emphasizes all of those policy considerations in determining that the potential harm of the station’s unauthorized use of the EAS tones was significant, notwithstanding the one-second duration.

So, what did the station do? According to the Notice, the station apparently used the tone in a skit “lampooning” the “wireless emergency alerts” (“WEA”) component of the nationwide EAS test that was set to take place later that day—an impermissible use of the tone.

The Notice highlights the importance of exercising vigilance regarding all of the potential ways in which a station may “unwittingly” broadcast the EAS tones, particularly when airing advertisements and news stories. The EAS tones (and WEA tones) can only be used for authorized EAS tests, actual alerts, and permissible PSAs. They cannot be used in entertainment programming, in advertising, in news stories, or for any other purpose. And—just in case broadcasters need another reason to remain vigilant—in light of the Commission’s new rule requiring stations to self-report within 24 hours of discovering they have transmitted or otherwise sent a false EAS alert, stations may be required by law to turn themselves in to the FCC if they make unauthorized use of the EAS tones.

Tim Nelson, Editor

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

Mark J. Prak
Marcus W. Trathen
David Kushner
Coe W. Ramsey
Stephen Hartzell
Julia C. Ambrose
Elizabeth E. Spainhour
J. Benjamin Davis
Timothy G. Nelson
Patrick Cross

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