September 22, 2020

Legal Memorandum

*In this issue, please find information about*

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| *Deadlines:* | **[September 23, 2020:](#_Enforcement_Bureau_Issues)**[Deadline for Commercial Radio Stations to Opt-in to RMLC and SESAC License Agreement for Period Covering January 1, 2019, through December 31, 2022](#_Enforcement_Bureau_Issues)  **[September 25, 2020:](#_FCC_Finalizes_Regulatory)** [FY 2020 Regulatory Fees Due](#_FCC_Finalizes_Regulatory)  **[September 25, 2020:](#_C-band_Lump_Sum_2)** [Deadline to Request Interference Protection for Limited Number and Types of Unregistered C-Band Earth Stations](#_C-band_Lump_Sum_2) |

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# Regulatory Fee Payments for Fiscal Year 2020 Due by Friday, **September 25, 2020**!

We wish to remind you that the deadline by which you must pay your regulatory fees for fiscal year 2020 is fast approaching—all payments are due by **11:59 PM, ET, this Friday, September 25, 2020**. As you prepare your 2020 regulatory fee payments, please keep the following information in mind:

* Broadcasters must pay the FY 2020 regulatory fees using the Commission’s automated filing and payment system, called Fee Filer, which is available at the following link: <https://www.fcc.gov/licensing-databases/fees/fee-filer>.
* The FCC will impose a late payment penalty of 25% of any unpaid amount of regulatory fees owed—and that penalty will be assessed on the first day following the deadline for paying the FY 2020 fees. Timely payment is critical!
* All payments must be made by wire transfer or online via ACH (Automated Clearing House) payment, or credit card. Other forms of payment, including checks, will be rejected.
* The maximum amount that can be charged on a credit card for transactions with federal agencies—including the FCC—is $24,999.99. Attempted transactions for amounts greater than $24,999.99 will be rejected. This limit applies to single payments, divided payments, and to combined payments of more than one bill. Thus, broadcasters who need to pay an amount greater than $24,999.99 will need to use debit cards (Visa or MasterCard) or make payment by ACH or wire transfer.
* The FCC exempts regulated entities from paying regulatory fees when their total fee obligation is considered “*de minimis*.” The *de minimis* threshold is currently $1,000.

*Payment Flexibility in Light of the COVID-19 Pandemic*. The Commission has announced the availability of several forms of potential relief intended to assist regulatees (including broadcasters) who have been financially harmed by the COVID-19 pandemic. Any request for such relief must be filed on or before the payment deadline of September 25, 2020. The forms of potential relief include the following:

* The FCC will not require separate filings for requests for fee waivers, reductions, deferrals, or extended payment terms (i.e., installment payment requests) for financial hardship, and instead will accept single submissions requesting any combination (or all) of the foregoing forms of relief. Such requests may be submitted electronically to [2020regfeerelief@fcc.gov](mailto:2020regfeerelief@fcc.gov).
* If the Commission grants an installment payment request, the Commission will also lower the interest rate the Commission charges on installment payments to an unspecified “nominal rate” and the Commission will waive the typical requirement to provide a down payment in order to be eligible for installment payments.
* The Commission has partially waived its “red light” rule by permitting regulatees with outstanding debts owed to the Commission to nonetheless request waivers, reductions, deferrals, and installment payment terms for FY 2020 fees. (Please note, however, that regulatees for whom the red light rule is waived will be required to resolve all delinquent debt currently owed prior to obtaining FY 2020 regulatory fee relief.)

Further information regarding how to apply for the forms of relief set forth above (and the documentation applicants are recommended to submit) are described in the Commission’s September 4, 2020, [Public Notice](https://docs.fcc.gov/public/attachments/DA-20-1033A1.pdf).

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# FCC Announces Brief Window to Request Interference Protection for Limited Number and Types of Unregistered C-Band Earth Stations

The FCC has set a deadline of **Friday, September 25**, for earth station operators (including broadcasters) who have already qualified for “incumbent” status to request a unique waiver to permit them to add currently unregistered antennas to a preexisting earth station registration, according to a recent [Public Notice](https://docs.fcc.gov/public/attachments/DA-20-1094A1.pdf) (the “Notice”). The ability to request this unique waiver comes with important qualifications, including that:

(1) any such waiver request—if granted—would only entitle the earth station operator to interference protection in the 4.0-4.2 GHz portion of the band, and would not entitle the earth station operator to any reimbursement for relocation expenses associated with the unregistered antennas that are the subject of the waiver request; and

(2) any such waiver request must state on the first page of the request that it is limited to:

(a) unregistered antennas co-located within 150 meters of an incumbent earth station;

(b) seeking the addition of no more than 25 additional antennas to the operator’s preexisting registration; and

(c) seeking waiver for interference protection only, such that the operator disavows any claim to reimbursement for the currently unregistered antennas for which the waiver is sought.

Additionally, it is important to understand that waiver requests falling within the scope of the Notice will not simply be granted as a matter of course. Instead, the Notice explains that each such waiver request “will be evaluated in light of the particular facts and circumstances set forth in the waiver request.” This means that such waiver requests must: (1) be pleaded with specificity; (2) provide detailed information regarding the individual circumstances of the applicant and the registration information for each new antenna; and (3) otherwise comport with the Commission’s rules governing waiver requests.

Accordingly, if you believe the Notice’s waiver procedures might apply to your specific factual circumstance, we strongly urge you to contact your Communications counsel to discuss not only the particulars of seeking such a waiver for your unregistered antennas, but whether this unique waiver request makes sense for your unregistered antennas.

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# Deadline for Eligible Commercial Radio Stations to Opt-in to New

# RMLC and SESAC Performance License Agreement is

# TOMORROW, **September 23, 2020**

As we recently wrote, the Radio Music License Committee (“RMLC”) and the performing rights organization SESAC have reached an agreement regarding commercial radio station licensing and royalty rates for the musical works contained in SESAC’s repertoire for the four-year period covering January 1, 2019, to December 31, 2022. Eligible commercial radio stations may opt-in to the agreement by Wednesday, **September 23, 2020**, by visiting [www.sesac.com/#!/rmlc](https://www.sesac.com/#!/rmlc) and (1) submitting a 2019 Annual Report and (2) reviewing and signing the agreement.

The new agreement maintains the terms and royalty rates from the prior agreement (which covered January 1, 2016, through December 31, 2018), including a blanket license fee of 0.2557% of net revenue and an “All-Talk” rate of 0.0575% of revenue. The agreement applies to commercial radio stations’ over-the-air broadcasts, simulcast streams, and HD signals. A copy of the agreement is available both at the SESAC opt-in link set forth above, as well as [on RMLC’s website](https://dehayf5mhw1h7.cloudfront.net/wp-content/uploads/sites/893/2020/08/24160819/SESAC-2019-Blanket-License.pdf).

If your station is eligible to participate (any questions you have about eligibility can most directly be answered by the [RMLC](http://www.radiomlc.org/contact-us/)) and you wish to participate, complete and submit the agreement forms, applicable exhibits, and 2019 annual report online via the [reporting portal](https://licensees.sesac.com/login?returnUrl=%2Fhome) on [SESAC’s website](https://www.sesac.com/#!/rmlc) no later than **September 23, 2020**. (Please note that owners of multiple stations wishing to opt-in should complete the Group Amendment and Annex 1, and that stations using an “All-Talk” format as of January 1, 2019, that changed to an All-Talk format during 2019, or that were purchased with an All-Talk format in place during 2019, must complete an “All-Talk Amendment.”)

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*Tim Nelson, Editor*

[BROOKS, PIERCE, McLENDON,](http://www.brookspierce.com/)

[HUMPHREY & LEONARD, L.L.P.](http://www.brookspierce.com/)

[Mark J. Prak](mailto:mprak@brookspierce.com)   
[Marcus W. Trathen](mailto:mtrathen@brookspierce.com)  
[David Kushner](mailto:dkushner@brookspierce.com)  
[Coe W. Ramsey](mailto:cramsey@brookspierce.com)  
[Stephen Hartzell](mailto:shartzell@brookspierce.com)

[Julia C. Ambrose](mailto:jambrose@brookspierce.com)

[Elizabeth E. Spainhour](mailto:espainhour@brookspierce.com)

[J. Benjamin Davis](mailto:bdavis@brookspierce.com)

[Timothy G. Nelson](mailto:tnelson@brookspierce.com)

[Patrick Cross](mailto:pcross@brookspierce.com)

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This Legal Review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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