Hardy, Carey, Chautin & Balkin, LLP
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Broadcast Newsletter

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FCC CHAIRMAN ANNOUNCES NEW DEREGULATION DOCKET

On March 12, 2025, FCC Chairman Carr announced a broad deregulatory initiative dubbed "In re: Delete, Delete, Delete." The docket seeks comment on any FCC rule, regulation or guidance document that should be eliminated to alleviate unnecessary regulatory burdens. For broadcasters, the docket presents a unique opportunity to further reduce regulatory burdens.

The public notice announcing the docket posed numerous questions that apply to any regulation on the books. Does experience gained in the implementation of a given rule provide reason to believe that the rule is unnecessary or inappropriate, whether in its current form or otherwise? Has the rule proven not to advance FCC policy objectives in the manner, or to the degree, originally anticipated? Has the rule's complexity or other compliance difficulties demonstrated that the rule is of limited usefulness and/or results in disproportionate burdens on regulated entities and the Commission's own resources? Does experience demonstrate that a given rule has fully achieved its objective such that it no longer is needed going forward?

This is a different approach to deregulating rule by rule, which was the FCC's approach in the last Trump administration. So far, it's unclear whether suggestions filed in this docket will end up getting dockets of their own.

Anyone can file comments at this link. The deadline for doing so is Friday, April 11, 2025.

COMMISSIONER STARKS TO STEP DOWN

On March 18, 2025, FCC Commissioner Geoffrey Starks announced that he intended to resign his seat in the spring of 2025, before his term officially ends in July 2027. Starks' resignation announcement prompted applause for his service to the nation by Chairman Carr and Commissioner Gomez.

While a specific date for Starks' resignation has not been announced, it appears clear that we are only a few weeks away from a 2-1 Republican majority, which might result in speedy decisions on matters that are unable to move now because of the 2-2 Commissioner deadlock.

Olivia Trusty's nomination to serve as a Commissioner has not moved forward in the Senate, and it could be that Stark's resignation announcement will prompt the pairing of a Democratic replacement nominee with Trusty's nomination. For unknown reasons, Trusty's nomination has not been set for hearing though it was received in the Senate on February 11th. Among the many possible scenarios for getting Trusty's nomination approved, it could be that President Trump does not intend to advance a Democratic nominee at this time.

Outcome of FCC's Payola Inquiries Remains Unknown

So far, we have not seen public information about iHeart's response to the FCC Chairman's letter expressing concerns over payola compliance actions related to their upcoming country festival station event in Austin, Texas. An Enforcement Bureau Advisory issued before the letter raised concerns that if stations were determining airplay based on artist participation in station promotions or events for reduced or no pay, and not disclosing those arrangements on air, a payola violation might result.

Until the industry can understand those responses, or the FCC takes some action, stations should take prudent steps to review and ensure their payola policies are in place and being followed.

As a reminder, payola is the unreported payment to—or acceptance by—employees of broadcast stations, program producers, or program suppliers of any money, service, or valuable consideration to achieve airplay for any programming. Section 507 of the Communications Act requires those persons who have paid, accepted, or agreed to pay or accept such payments to report that fact to the station licensee *before* the involved matter is broadcast. In turn, Section 317 of the Act (and the FCC's Sponsorship Identification rule 73.1212) requires the licensee to announce that the matter contained in the program is paid for, and to disclose the identity of the person furnishing the money or other valuable consideration.

FCC to Investigate Disney/ABC for Employment Discrimination

On March 27, 2025, FCC Chairman Brendan Carr published a letter he sent to Disney/ABC announcing an investigation into their compliance with FCC EEO regulations by promoting "invidious forms of DEI discrimination." This marks the latest in a series of letters sent by the Chairman as he announces investigations of several major media ownership entities.

Through the investigation, the Chairman wants "to determine whether Disney's actions—whether ongoing or recently ended—complied at all times with applicable FCC regulations" making it clear that recent changes in DEI policies will not absolve them from scrutiny.

As with other announced investigations, the Enforcement Bureau has not made their investigatory documents available publicly. While "material relating to FCC investigations or complaints" are required to be uploaded to the public file, it is possible that the Bureau is instructing recipients not to post investigatory letters or responses to the public file during the course of the investigation.

While Chairman Carr's letter-announced investigations have so far targeted larger broadcasters, it appears clear that potential rule violations are a sufficient basis for launching investigations, even if there is no pending complaint. As always, stations should be vigilant with FCC compliance matters.

DATES TO REMEMBER

For more info, contact Joe Chautin or Mark Balkin.

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April 1, 2025

Radio and TV Stations located in Indiana, Kentucky, Tennessee, Texas, Delaware, and Pennsylvania: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from April 1, 2024 to March 31, 2025, upload it to the station online public inspection file and post it on the station website

Mid-Term EEO Review for Radio stations located in Texas: if station employment unit has **eleven (11) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with the 2024-25 EEO public file report due April 1, and when uploading the report, each station in the SEU must indicate that the SEU has 11 or more full-timers using the "Mid-Term Review" tab is the OPIF settings section. If the SEU has **between five and ten full-time employees**, when uploading the 2024-25 report, each station in the SEU should indicate that the SEU has fewer than 11 full-time employees using the "Mid-Term Review" tab in the OPIF settings section (by doing so, no mid-term review of the SEU will take place)

Mid-Term EEO Review for Television stations located in Indiana, Kentucky and Tennessee: if station employment unit has **five (5) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with your upload of the 2024-25 EEO public file report due April 1. By uploading an EEO public file report, the FCC automatically knows that your television station meets the 5 or more full-time employee threshold for a mid-term review. So unlike for radio, there is no OPIF mechanism available or needed for TV stations to specify the number of SEU employees

April 10, 2025

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete and upload to online public file the 1st Quarter 2025 issues/program lists and any foreign sponsorship identification reports

Class A TV Stations Only: deadline to complete and post to your online public file the 1st Quarter 2025 certification of ongoing Class A eligibility

Noncommercial Broadcast Stations: deadline to complete and post to your online public file the 1st Quarter 2025 report for any 3rd Party Fundraising conducted during the quarter

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