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I. The Federal Communications Commission 101: FCC Licensing and Administrative Basics for the Technically Minded

A. Introduction

Perhaps you remember the old riddle: “How do you eat an elephant?” The answer of course was “One bite at a time.” Maybe surprisingly, the same answer applies to starting to understand, and find your way through, around and under the FCC. You simply cannot let yourself be intimidated by this almost eighty year old federal agency. It has more than 1,700 employees, a budget in excess of \$350 million dollars and amazingly complex regulatory responsibilities that encompass a vast range of old and modern communication technologies. If you try to absorb the totality of the FCC, at once, you can expect to be confused, intimated and overwhelmed. So don’t do that. Instead, learn about the FCC and its operations, a bit at time, as you need to learn a specific piece of knowledge.

Most of the FCC’s broadcast related activities, however, occur in the Mass Media Bureau which has fewer than 200 employees. According to the FCC, the Media Bureau’s main activities are as follows:

The Media Bureau develops, recommends, and administers the policy and licensing programs for the regulation of media, including cable television, broadcast television and radio, and satellite services in the United States and its territories. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in matters pertaining to multichannel video programming distribution, broadcast radio and television, direct broadcast satellite service policy, and associated matters. The Bureau will, among other things:

Conduct rulemaking proceedings concerning the legal, engineering, and economic aspects of electronic media services.

Conduct comprehensive studies and analyses concerning the legal, engineering, and economic aspects of electronic media services.

Resolve waiver petitions, declaratory rulings, and adjudications related to electronic media services.

Process applications for authorization, assignment, transfer, and renewal of media services, including AM, FM, TV, the cable TV relay service, and related matters.

Some of you may be primarily interested in how some of the main FCC activities function. Your attitude may be, just tell me the basic rules and keep it simple. Others of you may want the basic information but also some help in starting to understand why the FCC initiates some of the seemingly obscure, odd and unexpected things it sometimes does.

For both categories of students, please consider this as only is a starting map for some of the key things a broadcast engineer should know about dealing with (and working with) the FCC. We will start with the basics and then as we work our way through the subject offer suggestions and more detailed references for those of you who want to dig deeper into the history and policy of how and why the FCC functions.

Happily there are some wonderful tools available for you to learn about the FCC. Best of all, it is not considered cheating if you use these tools. In fact, to not use them, may be considered wasteful and foolish.

B. Licensing Basics

1) Existing Broadcast Facilities Expiration: All FCC broadcast related licenses are granted for set periods of time. Broadcast stations licenses are currently granted for eight year periods, with renewals due on a rolling basis depending on the state where the broadcast facility is located. All radio and television facilities in the same state will share the same renewal dates. The FCC periodically publishes radio and tv renewal calendars, with the full range of applicable dates, which should be studied carefully and kept for reference.

2) New Broadcast Facilities Expiration: When new broadcast facilities are authorized by the FCC, they are assigned expiration dates which conform to the expiration dates of the radio or television stations in the same state.

3) Windows for Applying for new Facilities: Any new broadcast facility requires a specific advance authorization from the FCC. In general, new facilities can only be submitted to the FCC when a specific window has been opened that permits applying for a specific category of new facility. While these windows are announced periodically, they do not generally follow a specific pattern or timetable and in some instances many years can pass between the opening of windows for specific facilities. If you are interested in applying for a specific category of new broadcast facility, it is essential that you pay very close attention to the opening of such windows. In general, the FCC takes a very inflexible attitude toward application due dates. Failure to meet window requirements is almost always fatal for the non complying application.

4) Procedures for Applying for New Facilities: The process has two steps. First, one submits an application for a construction permit which spells out the proposed legal and engineering parameters of the proposed facility. Once granted that construction permit grants three years for the construction of the requested facility. Next a license application is requested from the FCC to “cover” the construction permit originally granted. The second step of the process is designed to insure that the facility has been constructed in accordance with the approvals granted by the FCC. When a construction permit is granted by the FCC, there are sometimes “special operating conditions” specified that must be met the applicant when the facility is being constructed and before the new station can be tested. These conditions are considered very important to honor and must be carefully followed to avoid potentially severe FCC legal sanctions.

5) Modification of existing Broadcast Facilities: Most modifications of broadcast facilities require advance authorization from the FCC. Depending the nature of the proposed modification, the change may be considered to be “minor” or “major.” Minor modifications are typically processed by the FCC staff in a matter of a few months with a minimum of bureaucracy, usually on a rolling basis. Major modifications are typically subject to much more complicated legal and engineering requirements and sometimes drawn out examination by the FCC staff. It is not unusual for “major” modifications to sometimes take years to receive approval. In general such modifications should be carefully reviewed by experienced engineering and legal counsel to try and minimize processing problems and delays at the FCC. Some categories of “major amendments” can only be submitted when the FCC opens a specific window that allows such major amendments.

6) Waiver Requests: The FCC is legally required to give a “hard look” at any requests for the waiver of the normal commission rules where the underlying purpose of the original rule would be better served by grant of the waiver. The FCC not refuse to grant to consider a waiver just because the requested waiver would grant the original Commission rule.

7) Length of Construction Permits: Construction permits are generally for three years from the date of issuance. In general, it is against FCC policy to grant extensions of time beyond the initial three year period. In certain narrow instances, however, it may be possible to convince the FCC to “toll” an existing construction permit which means to stop the clock on the running of the construction deadline, while certain unforeseeable issues are resolved. The FCC requirements to “toll” a construction permit are very difficult to meet and should not be attempted without experienced professional help.

8) Special Temporary Authority (STA): Every licensed broadcast facility is required to operate within the technical and legal requirements of its license. If for some reason, the facility cannot be operated in accordance with the license, the FCC must be notified promptly and permission be sought in the form of a “Special Temporary Authority” to operate at variance from the existing license.

9) Due Process: The administrative process of the FCC and its decision making is subject to a Federal Statute called “The Administrative Procedure Act.” That statute requires that all FCC actions and procedures are subject to advance public notice and participation by the public in creation of the rules based on evidence based standards. Further all FCC actions and determinations are subject to reconsideration and appeal whenever a final action has been taken. Essentially this means that FCC actions provide for an extraordinary amount of due process and appeals at every level of internal FCC decision making. In addition, any ultimate FCC decision is subject to potential review by the U.S. Court of Appeals and the U.S. Supreme Court. While not common, hotly contested cases can result in multiple reviews at different internal levels of the FCC and the Federal Court System. In some instances, contested FCC actions can take years—and sometimes decades—to resolve. Critics of the system say that the FCC appeals process heavily favors parties that have the substantial financial resources to pursue extended—and sometimes multiple—legal appeals.

III. Description of FCC Reference Resources

While the FCC is a large complex bureaucracy, there are a number extremely useful concise references available to guide you through the key issues important to broadcasters and their engineers. Here is a selection of those resources:

A. The Public and Broadcasting is a very concise, clear and helpful summary of FCC broadcasting rules and regulations. While most of this content is not very technical, it still represents a good starting point for research on topics which might be unfamiliar to you.

A hard copy can be secured by calling the FCC toll-free at 1-888-225-5322 (1-888-CALL FCC). This document can also be found on the Commission's website at [Http://www.fcc.gov/guides/public-and-broadcasting-july-2008](http://www.fcc.gov/guides/public-and-broadcasting-july-2008). The current edition was published in July 2008.

You can obtain a hard copy of The Public and Broadcasting from your local broadcast station, or by calling the FCC toll-free at 1-888-225-5322 (1-888-CALL FCC). This document can also be found on the Commission's website at <http://www.fcc.gov/guides/public-and-broadcasting-july-2008>. [Alternate HTML]. That version will be updated from time to time and will contain the most recent revisions. Presently, July 2008 is the current edition.B

The Condensed Table of Contents of the Current Edition is as follows:

Introduction

The FCC And Its Regulatory Authority

The Communications Act

How the FCC Adopts Rules

The FCC and the Media Bureau

FCC Regulation of Broadcast Radio and Television

The Licensing of TV and Radio Stations

Commercial and Noncommercial Educational Stations

Applications to Build New Stations, Length of License Period

Applications for License Renewal

Digital Television

Digital Radio

Public Participation in the Licensing Process

Renewal Applications

Other Types of Applications

Broadcast Programming: Basic Law and Policy

The FCC and Freedom of Speech

Licensee Discretion

Criticism, Ridicule, and Humor Concerning Individuals, Groups, and Institutions

Programming Access

Broadcast Programming: Law and Policy on Specific Kinds of Programming

- Broadcast Journalism
 - Introduction
 - Hoaxes
 - News Distortion
 - Political Broadcasting: Candidates for Public Office
 - Objectionable Programming
 - Programming Inciting "Imminent Lawless Action"
 - Obscene, Indecent, or Profane Programming
 - How to File an Obscenity, Indecency, or Profanity Complaint
 - Violent Programming
 - The V-Chip and TV Program Ratings
 - Other Broadcast Content Regulation
 - Station Identification
 - Children's Television Programming
 - Station Conducted Contests
 - Lotteries
 - Soliciting Funds
 - Broadcast of Telephone Conversations
- Access to Broadcast Material by People with Disabilities
 - Closed Captioning
 - Access to Emergency Information
- Business Practices and Advertising
 - Business Practices, Advertising Rates, and Profits
 - Employment Discrimination and Equal Employment Opportunity ("EEO")
 - Sponsorship Identification
 - Underwriting Announcements on Noncommercial Educational Stations
 - Loud Commercials
 - False or Misleading Advertising
 - Offensive Advertising
 - Tobacco and Alcohol Advertising
 - Subliminal Programming
- Blanketing Interference
 - Rules
 - How to Resolve Blanketing Interference Problems
- Other Interference Issues
- The Local Public Inspection File and Its
 - Requirement to Maintain a Public Inspection File
 - Purpose of the File
 - Viewing the Public Inspection File
 - Contents of the File
 - The License
 - Applications and Related Materials

Citizen Agreements
Contour Maps
Rules
Material Relating to an FCC Investigation or Complaint
Ownership Reports and Related Material
List of Contracts Required to be Filed with the FCC
Political File
EEO Materials
"The Public and Broadcasting"
Letters and E-Mails from the Public
Quarterly Programming Reports
Children's Television Programming Reports
Records Regarding Children's Programming Commercial Limits
Time Brokerage Agreements
Lists of Donors
Local Public Notice Announcements
Must-Carry or Retransmission Consent Election
DTV Transition Consumer Education Activity Reports
Comments or Complaints About a Station

The Broadcaster's BIGBOOK Project
<http://www.windriverbroadcast.com/>

A very practical, hands on, two volume loose leaf, updated periodically and designed for broadcast station management and technical personnel. These volumes contain basic tutorial information in workbook form with emphasis the ultra practical with special attention to helping identify and organize FCC related documentation related to regulatory compliance. Volume One covers Control Room Operational Issues and Volume Two to Public File requirements and compliance. These volumes are not strong on history or policy explanations but they are very helpful for the person who needs a quick, basic explanation on the FCC rules and how to comply with them.

Volume One deals with the following topics:

Introduction. Instructional pages, regulatory concerns, current trendline information

Announcements/Calendar. Important station announcements, calendar of important dates with respect to compliance matters.

Antenna and Tower: Tech info, locations, procedures, FCC information, tower lighting, registration.

Emergency Alert System (EAS). General tutorial.

Equipment Performance Measurement (EPM). Annual Report's for AM stations; new transmitting equipment installation, FCC-ordered EPMs as required.

FCC information, General. Compliance warnings for operators. How to handle an FCC visit. Self-Inspection checklists for your facility.

Licenses and Postings. Station license, auxiliary licenses, (translators, boosters, STL, RPU equipment). Chief Operator appointment, Public File location.

Logs, Operating. Info on transmitter readings as required by station policy, local tech inspection notes and logs of EAS tests and tower light inspections required by FCC. Also logs of equipment problems, maintenance and repairs.

Power and pattern adjustments, AM stations: Nighttime power changes, antenna pattern change instructions and any presunrise/postsunset or critical hours information if applicable. Info on Directional AM antenna readings, proofs and instructions.

Preventive Maintenance. General purpose PM information is provided.

Remote Control/ATS: Brief instructions for operations - signon, signoff if used, power changes, transmitter reading steps, adjustments, troubleshooting techniques.

Transmitter Data, AM, FM, TV. Brief technical information, operating parameters, nominal meter readings. System efficiency calculations to derive radiated power from input power and system losses. Power tables for indirect AM reading conversions.

Forms and Copy Masters. Log forms, Chief Operator forms, technical consultant/engineer's reports, EAS/tower lamp log forms, discrepancy/failure report.

FM Translators, Auxiliary licenses and records. Information regarding FM translators for FM stations and for AM stations, Studio Transmitter Links, (STLs), Remote Pickup Unit (RPU) licenses.

On-air programming hazards. Obscenity, profanity, indecency. Broadcast hoaxes. Pranks and jokes. Improper EAS messages. Slanderous material. Political broadcasting references.

Station Website(s). For Radio Stations, general information. For TV stations, include references to the Public File requirements online as prescribed by the FCC on FCC-hosted website.

Class A TV Cross Reference. Relates Class A Part 74 Rules to Part 73 Rules.

LPTV, TV Translator Cross Reference. References to Part 74 Rules.

LPFM Cross Reference. 73.800 Series Rules; references to other rule parts.

B. The FCC Web Site: WWW.FCC.GOV

Possibly more than you ever wanted to know about the minute inner workings of the FCC.

C) The National Association of Broadcasters Legal Guide to Broadcast Law and Regulation (6th Edition) <http://www.nabstore.com/ProductDetails.asp?ProductCode=9780240811178>

This is well respected, 990 page reference work, used by lawyers and broadcasters to get a basic overview of broadcast legal topics. Geared to provide practical, useable information in a clear manner without heavy academic or scholarly emphasis.

Resources for Deep FCC Research

D) The Georgetown University Law Center has compiled the following guide to FCC legal research. <http://www.law.georgetown.edu/library/research/guides/communications.cfm>

This is extremely useful to anyone who want to explore in detail the history of FCC legal decision making in their areas of jurisdiction and related court decisions.