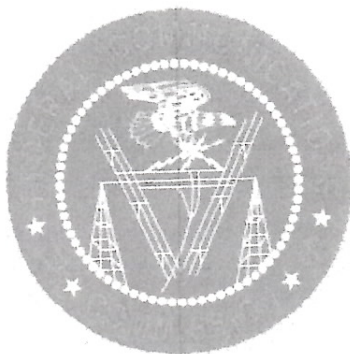


THE
PUBLIC
& BROADCASTING

THE PUBLIC AND BROADCASTING:

How to Get the Most Service from Your Local Station

Revised July 2008



Prepared by: The Media Bureau
Federal Communications Commission
Washington, D.C.

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) (Voice) or 1-(888)-835-5322 (1-(888)-TELL FCC) (TTY). This document can also be found on the Commission's website at: http://www.fcc.gov/mb/audio/decdoc/public_and_broadcasting.html. That version will be updated periodically and will contain the most recent revisions.

TABLE OF CONTENTS

Page (PDF Version)

INTRODUCTION	6
 THE FCC AND ITS REGULATORY AUTHORITY	7
The Communications Act.....	7
How the FCC Adopts Rules.....	7
The FCC and the Media Bureau.....	7
FCC Regulation of Broadcast Radio and Television.....	8
 THE LICENSING OF TV AND RADIO STATIONS	8
Commercial and Noncommercial Educational Stations.....	8
Applications to Build New Stations; Length of the License Period.....	8
Applications for License Renewal.....	9
Digital Television.....	9
Digital Radio.....	10
Public Participation in the Licensing Process.....	11
Renewal Applications.....	11
Other Types of Applications.....	11
 BROADCAST PROGRAMMING: BASIC LAW AND POLICY	12
The FCC and Freedom of Speech.....	12
Licensee Discretion.....	12
Criticism, Ridicule, and Humor Concerning Individuals, Groups, and Institutions.....	12
Programming Access.....	13
 BROADCAST PROGRAMMING: LAW AND POLICY ON SPECIFIC KINDS OF PROGRAMMING	13
Broadcast Journalism.....	13
Introduction.....	13
Hoaxes.....	13
News Distortion.....	14
Political Broadcasting: Candidates for Public Office.....	14
Objectionable Programming.....	15
Programming Inciting “Imminent Lawless Action.”.....	15
Obscene, Indecent, or Profane Programming.....	15
How to File an Obscenity, Indecency, or Profanity Complaint.....	16
Violent Programming.....	16
The V-Chip and TV Program Ratings.....	17
Other Broadcast Content Regulation.....	17
Station Identification.....	17
Children’s Television Programming.....	17
Station-Conducted Contests.....	19

Lotteries.....	19
Soliciting Funds.....	19
Broadcast of Telephone Conversations.....	20
ACCESS TO BROADCAST MATERIAL BY PEOPLE WITH DISABILITIES.....	20
Closed Captioning.....	20
Access to Emergency Information.....	20
BUSINESS PRACTICES AND ADVERTISING.....	21
Business Practices, Advertising Rates, and Profits.....	21
Employment Discrimination and Equal Employment Opportunity (“EEO”).....	21
Sponsorship Identification.....	22
Underwriting Announcements on Noncommercial Educational Stations.....	22
Loud Commercials.....	22
False or Misleading Advertising.....	23
Offensive Advertising.....	23
Tobacco and Alcohol Advertising.....	23
Subliminal Programming.....	23
BLANKETING INTERFERENCE.....	23
Rules.....	23
How to Resolve Blanketing Interference Problems.....	24
OTHER INTERFERENCE ISSUES.....	25
THE LOCAL PUBLIC INSPECTION FILE.....	25
Requirement to Maintain a Public Inspection File.....	25
Purpose of the File.....	26
Viewing the Public Inspection File.....	26
Contents of the File.....	27
The License.....	27
Applications and Related Materials.....	27
Citizen Agreements.....	27
Contour Maps.....	27
Material Relating to an FCC Investigation or Complaint.....	28
Ownership Reports and Related Material.....	28
List of Contracts Required to be Filed with the FCC.....	28
Political File.....	28
EEO Materials.....	29
“The Public and Broadcasting.”.....	29
Letters and E-Mails from the Public.....	29
Quarterly Programming Reports.....	29
Children's Television Programming Reports.....	30
Records Regarding Children's Programming Commercial Limits.....	30
Time Brokerage Agreements.....	30
Lists of Donors.....	30
Local Public Notice Announcements.....	31

Must-Carry or Retransmission Consent Election	31
DTV Transition Consumer Education Activity Reports	31

COMMENTS OR COMPLAINTS ABOUT A STATION 32
 Comments to Stations and Networks..... 32
 Comments/Complaints to the FCC. 32

BROADCAST INFORMATION SPECIALISTS..... 33

INTRODUCTION

This Manual is published by the Federal Communications Commission (the “FCC” or the “Commission”), the federal agency directed by Congress to regulate broadcasting. It provides a brief overview of the FCC’s regulation of broadcast radio and television licensees, describing how the FCC authorizes broadcast stations, the various rules relating to broadcast programming and operations with which stations must comply, and the essential obligation of licensees that their stations serve their local communities. The Manual also outlines how you can become involved in assessing whether your local stations are complying with the FCC’s rules and meeting these service obligations, and what you can do if you believe that they are not.

In exchange for obtaining a valuable license to operate a broadcast station using the public airwaves, each radio and television licensee is required by law to operate its station in the “public interest, convenience and necessity.” This means that it must air programming that is responsive to the needs and problems of its local community of license.

To do so, each station licensee must affirmatively identify those needs and problems and then specifically treat those local matters that it deems to be significant in the news, public affairs, political and other programming that it airs. As discussed at page 29 of this Manual, each station must provide the public with information about how it has met this obligation by means of quarterly reports, which contain a listing of the programming that it has aired that the licensee believes provided significant treatment of issues facing the community. As discussed in detail at pages 25-31 of this Manual, each station also must maintain and make available to any member of the public for inspection, generally at its studio, a local public inspection file which contains these reports, as well as other materials that pertain to the station’s operations and dealings with the FCC and with the community that it is licensed to serve. The public file is an excellent resource to gauge a station’s performance of its obligations as a Commission licensee. In the future, television stations with websites will be required to post most of the content of their public files on their websites, or on the website of their state local broadcasters association, if permitted.

The purpose of this Manual is to provide you with the basic tools necessary to ensure that the stations that are licensed to serve you meet their obligations and provide high quality broadcast service. Station licensees, as the trustees of the public’s airwaves, must use the broadcast medium to serve the public interest. We at the FCC want you to become involved, if you have any concerns about a local station – including its general operation, programming or other matters – by making your opinion known to the licensee and, if necessary, by advising us of those concerns so that we can take appropriate action. An informed and actively engaged public plays a vital role in helping each station to operate appropriately and serve the needs of its local community.

This Manual provides only a general overview of our broadcast regulation. It is not intended to be a comprehensive or controlling statement of the broadcast rules and policies. Our Internet home page (www.fcc.gov) contains additional information about the Commission, our rules, current FCC proceedings, and other issues. At the close of each section of this Manual, we provide links to those places on the FCC website that provide additional information about the subject matter discussed in the section. Although we will periodically update this Manual and

maintain the current version on the FCC website at www.fcc.gov/mb/audio/decdoc/public_and_broadcasting.html, we urge you to also make use of the resources contained in these links, which may outline any more recent developments in the law not discussed in the current version of the Manual. If you have any specific questions, you may also contact our Broadcast Information Specialist for radio or television, depending on the nature of your inquiry, by calling toll-free, by facsimile, or by sending an e-mail in the manner noted at pages 32-33 of this Manual.

THE FCC AND ITS REGULATORY AUTHORITY

The Communications Act. The FCC was created by Congress in the Communications Act for the purpose of “regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communications service” (In this context, the word “radio” covers both broadcast radio and television.) The Communications Act authorizes the FCC to “make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of [the] Act.” It directs us to base our broadcast licensing decisions on the determination of whether those actions will serve the public interest, convenience, and necessity.

How the FCC Adopts Rules. As is the case with most other federal agencies, the FCC generally cannot adopt or change rules without first describing or publishing the proposed rules and seeking comment on them from the public. We release a document called a Notice of Proposed Rule Making, in which we explain the new rules or rule changes that we are proposing and establish a filing deadline for public comment on them. (All such FCC Notices are included in the Commission’s Daily Digest and are posted on our website at http://www.fcc.gov/Daily_Releases/Daily_Digest). After we have had a chance to hear from the public and have considered all comments received, we generally have several options. We can: (1) adopt some or all of the proposed rules, (2) adopt a modified version of some or all of the proposed rules, (3) ask for public comment on additional issues relating to the proposals, or (4) end the rulemaking proceeding without adopting any rules at all. You can find information about how to file comments in our rulemaking proceedings on our Internet website at www.fcc.gov/egb/consumerfacts/howtocomment.html. The site also provides instructions on how you can file comments electronically. In addition to adopting rules, we also establish broadcast regulatory policies through the individual cases that we decide, such as those involving license renewals, station sales, and complaints about violations of FCC rules.

The FCC and the Media Bureau. The FCC has five Commissioners, each of whom is appointed by the President and confirmed by the Senate. Serving under the Commissioners are a number of Offices and operating Bureaus. One of those is the Media Bureau, which has day-to-day responsibility for developing, recommending, and administering the rules governing the media, including radio and television stations. The FCC’s broadcast rules are contained in Title 47 of the Code of Federal Regulations (“CFR”), Parts 73 (broadcast) and 74 (auxiliary broadcast,

including low power TV, and translator stations). Our rules of practice and procedure can be found in Title 47 CFR, Part 1. A link to those rules can be found on our website at http://wireless.fcc.gov/index.htm?job=rules_and_regulations. Additional information about the Commission's Offices and Bureaus, including their respective functions, can be found at <http://www.fcc.gov/aboutus.html>.

FCC Regulation of Broadcast Radio and Television. The FCC allocates (that is, designates a portion of the broadcast spectrum to) new broadcast stations based upon both the relative needs of various communities for additional broadcast outlets and specified engineering standards designed to prevent interference among stations and to other communications users. As noted above, whenever we review an application – whether to build a new station, modify or renew a license or sell a station – we must determine if its grant would serve the public interest. As discussed earlier, we expect station licensees to be aware of the important problems and issues facing their local communities and to foster public understanding by presenting programming that relates to those local issues. As discussed in this Manual, however, broadcasters – not the FCC or any other government agency – are responsible for selecting the material that they air. By operation of the First Amendment to the U.S. Constitution, and because the Communications Act expressly prohibits the Commission from censoring broadcast matter, our role in overseeing program content is very limited.

We license only individual broadcast stations. We do not license TV or radio networks (such as CBS, NBC, ABC or Fox) or other organizations with which stations have relationships (such as PBS or NPR), except to the extent that those entities may also be station licensees. We also do not regulate information provided over the Internet, nor do we intervene in private disputes involving broadcast stations or their licensees. Instead, we usually defer to the parties, courts, or other agencies to resolve such disputes.

THE LICENSING OF TV AND RADIO STATIONS

Commercial and Noncommercial Educational Stations. The FCC licenses FM radio and TV stations as either commercial or noncommercial educational (“NCE”). (All AM radio stations are licensed as commercial facilities.) Commercial stations generally support themselves through the sale of advertising. In contrast, NCE stations generally meet their operating expenses with contributions received from listeners and viewers, and also may receive government funding. In addition, NCE stations may receive contributions from for-profit entities, and are permitted to acknowledge such contributions or underwriting donations with announcements naming and generally describing the contributing party or donor. However, NCE stations may not broadcast commercials or other promotional announcements on behalf of for-profit entities. These limitations on NCE stations are discussed further at page 21 of this Manual.

Applications to Build New Stations; Length of the License Period. Before a party can build a new TV or radio station, it first must apply to the FCC for a construction permit. The applicant must demonstrate in its application that it is qualified to construct and operate the station as specified in its application and that its proposed facility will not cause objectionable interference

to any other station. Once its application has been granted, the applicant is issued a construction permit, which authorizes it to build the station within a specified period of time, usually three years. After the applicant (now considered a "permittee") builds the station, it must file a license application, in which it certifies that it has constructed the station consistent with the technical and other terms specified in its construction permit. Upon grant of that license application, the FCC issues the new license to operate to the permittee (now considered a "licensee"), which authorizes the new licensee to operate for a stated period of time, up to eight years. At the close of this period, the licensee must seek renewal of its station license.

Applications for License Renewal. Licenses expire and renewal applications are due on a staggered basis, based upon the state in which the station is licensed. Before we can renew a station's license, we must first determine whether, during the preceding license term, the licensee has served the public interest; has not committed any serious violations of the Communications Act or the FCC's rules; and has not committed other violations which, taken together, would constitute a pattern of abuse. To assist us in this evaluative process, a station licensee must file a renewal application (FCC Form 303-S), in which it must respond concerning whether:

- it has sent us certain required reports;
- neither it nor its owners have or have had any interest in a broadcast application involved in an FCC proceeding in which character issues were resolved adversely to the applicant or were left unresolved, or were raised in connection with a pending application;
- its ownership is consistent with the Communications Act's restrictions on licensee interests held by foreign governments, foreign corporations, and non-U.S. citizens;
- there has not been an adverse finding or adverse final action against it or its owners by a court or administrative body in a civil or criminal proceeding involving a felony, mass media-related antitrust or unfair competition law, the making of fraudulent statements to a governmental unit, or discrimination;
- there were no adjudicated violations of the Communications Act or the Commission's rules during the current license term;
- neither the licensee nor its owners have been denied federal benefits due to drug law violations;
- its station operation complies with the Commission's radiofrequency ("RF") radiation exposure standards;
- it has, in a timely manner, placed and maintained certain specified materials in its public inspection file (as discussed at pages 25-31 of this Manual);
- it has not discontinued station operations for more than 12 consecutive months during the preceding license term and is currently broadcasting programming;
- it has filed FCC Form 396, the Broadcast Equal Employment Opportunity Program Report; and
- if the application is for renewal of a television license, it has complied with the limitations on commercial matter aired during children's programming and filed the necessary Children's Television Programming Reports (FCC Form 398) (as discussed at page 17 of this Manual).

Digital Television. After February 17, 2009, all full-power TV stations are required to stop

broadcasting in analog and continue broadcasting only in digital. This is known as the “DTV transition.” Because digital is much more efficient than analog, part of the scarce and valuable spectrum that is currently used for analog broadcasting will be used for important new services such as enhanced public safety communications for police, fire departments, and emergency rescue workers. Part of the spectrum will also be made available for advanced wireless services such as wireless broadband.

Digital broadcasting also enables television stations to offer viewers several benefits. For example, stations broadcasting in digital can offer viewers improved picture and sound quality as well as more programming options (referred to as “multicasting”) because digital technology gives each television station the ability to broadcast multiple channels at the same time.

Consumers who receive television signals via over-the-air antennas (as opposed to subscribers to pay services like cable and satellite TV) will be able to receive digital signals on their analog sets if they purchase a digital-to-analog converter box that converts the digital signals to analog. Alternatively, if consumers purchase a digital television (a TV with built in digital tuner), they will be able to receive digital broadcast programming. If your TV set receives local broadcast stations through a paid provider such as cable or satellite TV, it is already prepared for the DTV transition.

Regarding consumers who are shopping for new televisions, the Commission's digital tuner rule prohibits the importation or interstate shipment of any device containing an analog tuner unless it also contains a digital tuner. Retailers may continue to sell analog-only devices from existing inventory. However, at the point of sale, retailers must post notices advising consumers that TV sets and equipment such as VCRs that contain only an analog tuner will not be able to receive over-the-air-television signals from full-power broadcast stations after February 17, 2009, without the use of a digital-to-analog converter box.

Television broadcasters must promote public awareness of the DTV transition with an on-air education campaign, providing consumers with information about the transition. They must report their efforts on a quarterly basis by filing FCC Form 388 with the Commission, posting each such Form on their website and placing them in their station public inspection files.

While the February 17, 2009, deadline for ending analog broadcasts does not apply to low-power, Class A, and TV translator stations, these stations will eventually transition to all-digital service. In the meantime, some consumers may continue to receive programming from these stations in analog format after the transition date.

Additional information concerning the DTV transition can be found on the FCC's website, at <http://www.dtv.gov>, or by calling toll free 1-888-CALL-FCC (Voice) or 1-888-TELL-FCC (TTY).

Digital Radio. The FCC has also approved digital operation for AM and FM radio broadcast stations (often referred to as “HD Radio”). As with DTV, digital radio substantially improves the

quality of the radio signal and allows a station to offer multicasting over several programming streams, as well as certain enhanced services. Unlike the mandatory digital transition deadline for television stations however, radio stations will be able to continue to operate in analog and will have discretion whether also to transmit in digital and, if so, when to begin such operation. In order to receive the digital signals of those stations that choose to so operate, consumers will have to purchase new receivers.

Because digital radio technology allows a radio station to transmit simultaneously in both analog and digital, however, listeners will be able to continue to use their current radios to receive the analog signals of radio stations that transmit both analog and digital signals. Receivers are being marketed that incorporate both modes of reception, with the ability to automatically switch to the analog signal if the digital signal cannot be detected or is lost by the receiver. For additional information about digital radio, see <http://www.fcc.gov/mb/audio/digital/index.html>.

Public Participation in the Licensing Process

Renewal Applications. You can submit a protest against a station's license renewal application by filing a formal petition to deny its application, or by sending us an informal objection to the application. Before its license expires, each station licensee must broadcast a series of announcements providing the date its license will expire, the filing date for the renewal application, the date by which formal petitions against it must be filed, and the location of the station's public inspection file that contains the application. Petitions to deny the application must be filed by the end of the first day of the last full calendar month of the expiring license term. (For example, if the license expires on December 31, we must receive any petition at our Washington, D.C. headquarters by the end of the day on December 1.)

Broadcast licenses generally expire on a staggered basis, by state, with most radio licenses next expiring between October 1, 2011 and August 1, 2014, and most television licenses expiring between October 1, 2012 and August 1, 2015, one year after the radio licenses in the same state. A listing of the next expiration dates for radio and television licenses, by state, can be found on the Commission's website at <http://www.fcc.gov/localism/renewals.html>. Before you file a petition to deny an application, you should check our rules and policies to make sure that your petition complies with our procedural requirements. A more complete description of these procedures and requirements can be found on the Commission's website at http://www.fcc.gov/localism/renew_process_handout.pdf. You can also file an informal objection at any time before we either grant or deny the application. Instructions for filing informal objections can be found on the Commission's website at http://www.fcc.gov/localism/renew_process_handout.pdf. If you have any specific questions, you may also contact our Broadcast Information Specialist for radio or television, depending on the nature of your inquiry, by calling toll-free, by facsimile, or by sending an e-mail in the manner noted at pages 32-33 of this Manual.

Other Types of Applications. You can also participate in the application process by filing a petition to deny when someone applies for a new station, and when a station is to be sold (technically called an "assignment" of the license), its licensee is to undergo a major transfer of

stock or other ownership, or control (technically called a “transfer of control”), or the station proposes major facility changes. The applicant is required to publish a series of notices in the closest local newspaper, containing information similar to that noted above regarding renewal applications, when it files these types of applications. Upon receipt of the application, the FCC will issue a Public Notice and begin a 30-day period during which petitions to deny these applications may be filed. (All FCC Public Notices are included in the Commission’s Daily Digest and are posted on our website at http://www.fcc.gov/Daily_Releases/Daily_Digest). As with renewal applications, you can also file an informal objection to these types of applications, or any other applications, at any time before we either grant or deny the application. Again, if you have any specific questions about our processes or the status of a particular application involving a station, you may contact our Broadcast Information Specialist for radio or television, depending on the nature of your inquiry, by calling toll-free, by facsimile, or by sending an e-mail in the manner noted at pages 32-33 of this Manual.

BROADCAST PROGRAMMING: BASIC LAW AND POLICY

The FCC and Freedom of Speech. The First Amendment, as well as Section 326 of the Communications Act, prohibits the Commission from censoring broadcast material and from interfering with freedom of expression in broadcasting. The Constitution’s protection of free speech includes that of programming that may be objectionable to many viewer or listeners. Thus, the FCC cannot prevent the broadcast of any particular point of view. In this regard, the Commission has observed that “the public interest is best served by permitting free expression of views.” However, the right to broadcast material is not absolute. There are some restrictions on the material that a licensee can broadcast. We discuss these restrictions below.

Licensee Discretion. Because the Commission cannot dictate to licensees what programming they may air, each individual radio and TV station licensee generally has discretion to select what its station broadcasts and to otherwise determine how it can best serve its community of license. Licensees are responsible for selecting their entertainment programming, as well as programs concerning local issues, news, public affairs, religion, sports events, and other subjects. As discussed at page 29 of this Manual, broadcast licensees must periodically make available detailed information about the programming that they air to meet the needs and problems of their communities, which can be found in each station public file. They also decide how their programs will be structured and whether to edit or reschedule material for broadcasting. In light of the First Amendment and Section 326 of the Communications Act, we do not substitute our judgment for that of the licensee, nor do we advise stations on artistic standards, format, grammar, or the quality of their programming. Licensees also have broad discretion regarding commercials, with the exception of those for political candidates during an election and the limitations on advertisements aired during children’s programming (we discuss these respective requirements at pages 13-14, and 17 of this Manual).

Criticism, Ridicule, and Humor Concerning Individuals, Groups, and Institutions. The First Amendment’s guarantee of freedom of speech similarly protects programming that stereotypes or may otherwise offend people with regard to their religion, race, national

background, gender, or other characteristics. It also protects broadcasts that criticize or ridicule established customs and institutions, including the government and its officials. The Commission recognizes that, under our Constitution, people must be free to say things that the majority may abhor, not only what most people may find tolerable or congenial. However, if you are offended by a station's programming, we urge you to make your concerns known to the station licensee, in writing.

Programming Access. In light of their discretion to formulate their programming, station licensees are not required to broadcast everything that is offered or otherwise suggested to them. Except as required by the Communications Act, including the use of stations by candidates for public office (discussed at pages 13-14 of this Manual), licensees have no obligation to allow any particular person or group to participate in a broadcast or to present that person or group's remarks.

BROADCAST PROGRAMMING: LAW AND POLICY ON SPECIFIC KINDS OF PROGRAMMING

Broadcast Journalism

Introduction. As noted above, in light of the fundamental importance of the free flow of information to our democracy, the First Amendment and the Communications Act bar the FCC from telling station licensees how to select material for news programs, or prohibiting the broadcast of an opinion on any subject. We also do not review anyone's qualifications to gather, edit, announce, or comment on the news; these decisions are the station licensee's responsibility. Nevertheless, there are two issues related to broadcast journalism that are subject to Commission regulation: hoaxes and news distortion.

Hoaxes. The broadcast by a station of false information concerning a crime or catastrophe violates the FCC's rules if:

- the station licensee knew that the information was false,
- broadcasting the false information directly causes substantial public harm, and
- it was foreseeable that broadcasting the false information would cause such harm.

In this context, a "crime" is an act or omission that makes the offender subject to criminal punishment by law, and a "catastrophe" is a disaster or an imminent disaster involving violent or sudden events affecting the public. The broadcast must cause direct and actual damage to property or to the health or safety of the general public, or diversion of law enforcement or other public health and safety authorities from their duties, and the public harm must begin immediately. If a station airs a disclaimer before the broadcast that clearly characterizes the program as fiction and the disclaimer is presented in a reasonable manner under the circumstances, the program is presumed not to pose foreseeable public harm. Additional information about the hoax rule can be

found on the FCC's website at <http://www.fcc.gov/egb/consumerfacts/falsebroadcast.html>.

News Distortion. The Commission often receives complaints concerning broadcast journalism, such as allegations that stations have aired inaccurate or one-sided news reports or comments, covered stories inadequately, or overly dramatized the events that they cover. For the reasons noted above, the Commission generally will not intervene in such cases because it would be inconsistent with the First Amendment to replace the journalistic judgment of licensees with our own. However, as public trustees, broadcast licensees may not intentionally distort the news: the FCC has stated that "rigging or slanting the news is a most heinous act against the public interest." The Commission will investigate a station for news distortion if it receives documented evidence of such rigging or slanting, such as testimony or other documentation, from individuals with direct personal knowledge that a licensee or its management engaged in the intentional falsification of the news. Of particular concern would be evidence of the direction to employees from station management to falsify the news. However, absent such a compelling showing, the Commission will not intervene. For additional information about news distortion, see <http://www.fcc.gov/egb/consumerfacts/journalism.html>.

Political Broadcasting: Candidates for Public Office. In recognition of the particular importance of the free flow of information to the public during the electoral process, the Communications Act and the Commission's rules impose specific obligations on broadcasters regarding political speech.

- **Reasonable Access.** The Communications Act requires that broadcast stations provide "reasonable access" to candidates for federal elective office. Such access must be made available during all of a station's normal broadcast schedule, including television prime time and radio drive time. In addition, federal candidates are entitled to purchase all classes of time offered by stations to commercial advertisers, such as preemptible and non-preemptible time. The only exception to the access requirement is for *bona fide* news programming (as defined below), during which broadcasters may choose not to sell airtime to federal candidates. Broadcast stations have discretion as to whether to sell time to candidates in state and local elections.
- **Equal Opportunities.** The Communications Act requires that, when a station provides airtime to a legally qualified candidate for any public office (federal, state, or local), the station must "afford equal opportunities to all other such candidates for that office." The equal opportunities provision of the Communications Act also provides that the station "shall have no power of censorship over the material broadcast" by the candidate. The law exempts from the equal opportunities requirement appearances by candidates during *bona fide* news programming, defined as an appearance by a legally qualified candidate on a *bona fide* newscast, interview, or documentary (if the appearance of the candidate is incidental to the presentation of the subject covered by the documentary) or on-the-spot coverage of a *bona fide* news event (including debates, political conventions and related incidental activities).

In addition, a station must sell political advertising time to certain candidates during specified periods before a primary or general election at the lowest rate charged for the station's most favored commercial advertiser. Stations must maintain and make available for public inspection, in their public inspection files, a political file containing certain documents and information, discussed at page 28 of this Manual. For additional information about the political rules, see <http://www.fcc.gov/mb/policy/political>.

Objectionable Programming

Programming Inciting "Imminent Lawless Action." The Supreme Court has held that the government may curtail speech if it is both: (1) intended to incite or produce "imminent lawless action;" and (2) likely to "incite or produce such action." Even when this legal test is met, any review that might lead to a curtailment of speech is generally performed by the appropriate criminal law enforcement authorities, not by the FCC.

Obscene, Indecent, or Profane Programming. Although, for the reasons discussed earlier, the Commission is generally prohibited from regulating broadcast content, the courts have held that the FCC's regulation of obscene and indecent programming is constitutional, because of the compelling societal interests in protecting children from potentially harmful programming and supporting parents' ability to determine the programming to which their children will be exposed at home.

Obscene material is not protected by the First Amendment and cannot be broadcast at any time. To be obscene, the material must have all of the following three characteristics:

- an average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest;
- the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
- the material, taken as a whole, must lack serious literary, artistic, political, or scientific value.

Indecent material is protected by the First Amendment, so its broadcast cannot constitutionally be prohibited at all times. However, the courts have upheld Congress' prohibition of the broadcast of indecent material during times of the day in which there is a reasonable risk that children may be in the audience, which the Commission has determined to be between the hours of 6 a.m. and 10 p.m. Indecent programming is defined as "language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities." Broadcasts that fall within this definition and are aired between 6 a.m. and 10 p.m. may be subject to enforcement action by the FCC.

Profane material also is protected by the First Amendment, so its broadcast cannot be outlawed entirely. The Commission has defined such program matter to include language that is both "so grossly offensive to members of the public who actually hear it as to amount to a nuisance" and is sexual or excretory in nature or derived from such terms. Such material may be the subject of

possible Commission enforcement action if it is broadcast within the same time period applicable to indecent programming: between 6 a.m. and 10 p.m.

How to File an Obscenity, Indecency, or Profanity Complaint: In order to allow its staff to make a determination of whether complained-of material is actionable, the Commission requires that complainants provide certain information: (1) the date and time of the alleged broadcast; (2) the call sign, channel or frequency of the station involved; and (3) the details of what was actually said (or depicted) during the alleged indecent, profane, or obscene broadcast. Submission of an audio or video tape, CD, DVD or other recording or transcript of the complained-of material is not required but is helpful, as is specification of the name of the program, the on-air personality, song, or film, and the city and state in which the complainant saw or heard the broadcast.

The fastest and easiest way to file a complaint containing this information is to use the FCC's electronic complaint form, Form 475B, which is available on the FCC's website at <http://fjallfoss.fcc.gov/cgb/fcc475B.cfm>.

You also may file a complaint about objectionable programming by mailing it to:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, S.W.
Washington, D.C. 20554.

If you are submitting an audio or video tape, DVD, CD or other type of media with your complaint, you should send it to the following address to avoid mail processing damage:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
9300 East Hampton Drive
Capitol Heights, Maryland 20743.

You can also electronically file your complaint at fccinfo@fcc.gov

You may also complain by calling the Commission, toll-free, at:

1-(888)-CALL-FCC (1-(888)-225-5322) (Voice)
1-(888)-TELL-FCC (1-(888)-835-5322) (TTY)

For additional information on the complaint process for obscene, indecent or profane material, visit <http://www.fcc.gov/eb.oip>.

Violent Programming. Many members of the public have expressed concern about violent television programming and the negative impact such broadcast material may have upon children. In response to these concerns, and at the request of 39 members of the U.S. House of Representatives, the FCC conducted a proceeding seeking public comment on violent programming. In April 2007, the Commission delivered to Congress a Report recommending that

the industry voluntarily commit to reducing the amount of such programming viewed by children.

The Commission also suggested that Congress consider enacting legislation that would better support parents' efforts to safeguard their children from such objectionable programming. The Commission's Report can be accessed at http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-07-50A1.pdf.

The V-Chip and TV Program Ratings. In light of the widespread concern about obscene, indecent, profane, violent, or otherwise objectionable programming, in 1996, Congress passed a law to require TV sets with screens 13 inches or larger to be equipped with a "V-Chip" – a device that allows parents to program their sets to block TV programming that carries a certain rating. Since 2000, all such sets manufactured with screens 13 inches or larger must contain the V-Chip technology. This technology, which must be activated by parents, works in conjunction with a voluntary television rating system created and administered by the television industry and others, which enables parents to identify programming containing sexual, violent, or other content that they believe may be harmful to their children. All of the major broadcast networks and most of the major cable networks are encoding their programming with this ratings information to work with the V-Chip. However, some programming, such as news and sporting events, and unedited movies aired on premium cable channels, are not rated. In 2004, the FCC expanded the V-Chip requirement to apply also to devices that do not have a display screen but are used with a TV set, such as a VCR or a digital-to-analog converter box.

For more information about this ratings program, including a description of each ratings category, please see the FCC's V-Chip website at <http://www.fcc.gov/cgb/consumerfacts/vchip.html>.

Other Broadcast Content Regulation

Station Identification. Stations must air identification announcements when they sign on and off for the day. They also must broadcast these announcements every hour, as close to the start of the hour as possible, at a natural programming break. TV stations may make these announcements on-screen or by voice only. Official station identification includes the station's call letters, followed by the community specified in its license as the station's location. Between the call letters and its community, the station may insert the name of the licensee, the station's channel number, and/or its frequency. It may also include any additional community or communities, as long as it first names the community to which it is licensed by the FCC. DTV stations also may identify their digital multicast programming streams separately if they wish, and, if so, must follow the format described in the FCC's rules.

Commencing as of a date to be determined, for television stations, twice daily, the station identification will also have to include a notice of the existence, location and accessibility of the station's public file. The notice will have to state that the station's public file is available for inspection and that members of the public can view it at the station's main studio and on its station website. Broadcast of at least one of these announcements will be required between the hours of 6 p.m. and midnight.

Children's Television Programming. Throughout its license term, every TV station must serve