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RADIO DIFUSORES DE PUERTO RICO

MEMORANDUM TO MEMBERS

May 2020 No. 20-04

NEWS AND ANALYSIS OF RECENT DEVELOPMENTS IN COMMUNICATIONS LAW

FCC Waives Sponsorship Identification for Sponsored COVID-19 PSA's

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The Federal Communications Commission ("FCC" or the "Commission") has announced a waiver of broadcast sponsorship identification requirements concerning air time donated by commercial advertisers for public service announcements ("PSAs") provided by the Centers for Disease Control and Prevention ("CDC") and other government agencies addressing the COVID-19 emergency.

Sections 317(a) of the Communications Act and 73.1212(a) of FCC's Rules require disclosure on the air of the identity of anyone who pays for broadcast content. Typically, the naming of a sponsor's product or service is sufficient to identify who paid for a traditional commercial spot. During the COVID-19 emergency, however, some businesses that signed contracts for advertising do not want to run their spots, because their operations have been suspended or modified during the emergency, or because the content of the spots is inappropriate under current circumstances. Rather than cancelling their contracts, some advertisers have offered to donate their paid time for the broadcaster to use for CDC/government PSAs.

Normally, when a commercial entity pays for a PSA, including a PSA for an unrelated entity, the identity of the paying party must be disclosed when the PSA is aired. For example, if a local car dealership pays for time used by the county public health commission, the county public health commission PSA would need to identify that the time was paid for by the car dealership. In reaction to the current crisis, the FCC has waived the requirement to identify the commercial payer; instead, the PSA may be identified as provided by the CDC or other agency. In our example, the car dealership now does not need to be named. The FCC reasons that some commercial entities do not want to be identified as paying for these PSAs, and tying a government agency's announcement to a commercial sponsor might be confusing to the public and/or erode the credibility of the PSA.

The waiver is optional. If an entity that pays for a PSA wishes to be identified on the air, and a broadcaster is willing to identify the payer, such identification is permissible.

The waiver applies only to true PSAs addressing the COVID-19 emergency. If some promotion of the payer's commercial product or activity is included in the spot, the commercial payer must be identified on the air.

The waiver expires on June 30, 2020. The FCC will decide later whether or not to extend the waiver, depending on where the COVID-19 emergency stands at that time.

You May Get Some More Robocalls, Thanks to COVID-19 – But Maybe Not So Much

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On March 25, 2020, we blogged that the FCC had issued a Declaratory Ruling under the Consumer Protection Act ("TCPA"), that the coronavirus pandemic constitutes an "emergency" which invokes a statutory exception permitting certain kinds of robocalls to be made and texts sent without the consent of the recipient. Since that date, the FCC has taken two sharp actions to curtail robocalls; but then it has also invited comments on whether it should grant another exception allowing more COVID-19 related calls. How many calls will ultimately be allowed, how many will be blocked, and how many will escape blocking all remain to be seen.

COVID-19 Robocalls. To come within the initially approved exception to the requirement for consent from the recipient, a call must be made directly by, or by a person acting under the specific direction of, a hospital, health-care provider, state or local health official, or some other governmental official. The content of the message must consist solely of information made necessary because of the COVID-19 outbreak and directly related to the imminent health or safety risk arising from the outbreak.

SHAKEN/STIR. The next thing the FCC did was to order all originating and terminating telephone companies to implement the new "SHAKEN/STIR" technology, designed to identify, and to facilitate blocking of, likely spam robocalls on the Internet Protocol ("IP") portions of their networks. For details, check out a blog post written by our colleague, Seth Williams

Warning to Gateways Transporting Robocalls: Many robocalls originate from outside the United States and enter our domestic telephone network through international gateways that are not operated by the major carriers. The FCC and Federal Trade Commission ("FTC") recently warned these gateways that if they did not stop delivering coronavirus-related spam calls, the agencies would take strong action. Apparently nothing happened, because on April 3, the FCC ordered three named gateway providers to cut off spam calls within 48 hours, or else all domestic carriers would be authorized to block *all* calls passing through these gateways. The USTelecom trade association was asked to ask its members to implement blocking after 48 hours. Among the calls entering through the gateways were calls originating in the Philippines offering a non-existent "free test kit" and calls originating in Pakistan offering cleaning services falsely claiming to help fight COVID-19. Although forty-eight hours have passed, we don't know yet whether traffic through the gateways is being blocked.

Banking Calls: Lest you are tempted to give a sigh of relief that all robocalls might soon substantially abate, the FCC has invited comments by May 6 on a petition by the American Bankers Association and other financial associations asking that calls or texts placed by banks, credit unions, and other financial service providers using automated dialing systems or prerecorded or artificial voices, on matters relating to the COVID-19 pandemic, should be deemed "emergency calls" under the TCPA and so not require the express consent of the called party.

So the FCC keeps fighting robocalls, but governmental and private organizations dealing with COVID-19 want to make more robocalls. Will the overall volume subside, will only the call content change, or will technology fail to foil the evil-doers? Check with your local casino to find out whether bets are being taken on the outcome.

Free Press vs. Broadcast Journalism: Truth in the Time of the Coronavirus

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The FCC's recent rejection (FCC statement here) of a petition submitted by Free Press to demand FCC action with regard to broadcasters' coverage of governmental statements about the COVID-19 epidemic has received a great deal of coverage. What may have escaped attention, however, is that, aside from some sharp wording, the decision really was just an ordinary expression of the Commission's longstanding aversion to interfering in broadcasters' content decisions. Perhaps more surprising is that an organization with the name Free Press is attempting to convince a government agency, the FCC, to force broadcasters to cover the news in a particular way. Regardless of whether Free Press is on the side of the angels in promoting Truth, its petition raises First Amendment issues of supplanting broadcasters' editorial judgment and compelled speech.

The basic thrust of Free Press's petition is that by broadcasting the President's press conferences and other statements about the COVID-19 pandemic without adding certain contradictory content, broadcasters are, in effect, transmitting a hoax. Free Press argues that since the information presented is false, requiring broadcasters to add clarifying comments is essential to prevent danger to the public. As an example, it points to how the President's positive mention of a drug may have led to a man's death after he ingested a cleaning product which contained a similarly named chemical. Further, Free Press points to other broadcasts of talk radio commentary which might lead listeners to what Free Press views as inaccurate conclusions about the pandemic. Thus, in light of the danger to the public, Free Press states that the Commission's anti-hoax rule requires that broadcasters must air disclaimers to avoid misleading the public and to protect the public health.

The FCC rejected Free Press's arguments, stating that the petitioner fundamentally misunderstood the Commission's limited role in regulating broadcast journalism. With regard to the anti-hoax rule, the Commission noted that for a broadcast to constitute a violation, the broadcaster would have to know that the information it broadcast was false. Further, the FCC rejected in no uncertain terms the idea that it would or even could be a self-appointed arbiter of truth in broadcast journalism. Moreover, even assuming that Free Press's opinion regarding the veracity of the information presented is correct, false information enjoys some First Amendment protection, and Section 326 of the Communications Act prohibits the Commission from interfering with freedom of the press or censoring broadcast communications. Further, the decision noted that most of the information in question is presented at press conferences, where critical reporters are free to ask questions to probe its accuracy.

The Commission also rejected Free Press's argument that broadcast commentators' expressions of their opinions about the COVID-19 response need to be balanced by broadcasts of a contrary opinion. In the FCC's view, this argument was essentially an effort to revive the long-gone Fairness Doctrine, which was eliminated well over 30 years ago as a violation of the First Amendment.

This dispute provides yet another illustration of the old truism that difficult cases make bad law. One might normally expect a group with the name Free Press to support just what its name implies: freedom of the press. Here, however, in light of the high stakes of the current crisis, it is advocating that the press be compelled to ensure its view of the truth is always conveyed, even if only to provide "context" to the statements of government officials. Clearly, the public has a substantial interest in obtaining factual information about such an important situation. Nonetheless, it is unclear how requiring the press to question commentary or fact-check live news events advances press freedom.

In contrast, the FCC's decision is simply one more in a long line of Commission statements recognizing that Section 326 of the Communications Act and the First Amendment to the Constitution prohibit the FCC from interfering with the programming decisions of licensees. And in fact, this principle is not partisan; Democratic Senators recently invoked it in seeking Commission intervention in a dispute about threats to broadcasters of the consequences of supposedly false political advertising. In so doing, they sought to remind the Republican-appointed FCC Chairman of his prior statements affirming the FCC's commitment to upholding the First Amendment and avoiding interference with broadcasters' editorial judgment, even when false news coverage was alleged.

The ultimate question here appears to be, in a time of crisis, who may decide what truth must be broadcast to serve the public interest. The FCC rightly has come down on the side of the broadcaster.

FCC Continues Fines for Improper Use of EAS Signals

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The FCC remains consistent in its enforcement of fines for the improper use of Emergency Alert System ("EAS") tones. On April 7, 2020, the Commission released a *Notice of Apparent Liability for Forfeiture* (the "Notice") proposing to levy a $20,000 fine against Entercom License, LLC (Entercom) station WNEW-FM for the unauthorized use of EAS tones.
A complaint notified the Commission that WNEW-FM, in New York, New York used the EAS tone as part of a skit aired on the "Karen & Jeffrey" program on October 3, 2019. The skit took place on the same day that Federal Emergency Management Association (FEMA) sent a Wireless Emergency Alert (WEA) message to WEA-capable wireless devices, followed by a live test of the Emergency Alert System. In response to the complaint, the FCC issued a Letter of Inquiry to Entercom. Entercom responded, admitting that WNEW-FM had used the signal in the skit.

The FCC's Notice stresses that stations should not air EAS tones "in the absence of an actual national, state or local area emergency, authorized test of the EAS, or a qualified PSA". The use of the EAS tones outside of these contexts can undermine the EAS and could present a threat to public safety. For example, the FCC is concerned that improper use of the tones could confuse people or lead to "alert fatigue," where listeners begin ignoring the alert tones, causing them to disregard an actual emergency.

The Notice also serves to remind us that the length of time the alert is aired is not the controlling factor when the FCC determines liability. In this case, WNEW-FM only aired the EAS tone for one second, yet the Commission decided to forego the possible base-fine of $8,000 and issue a more severe penalty of $20,000. The FCC specified that while no single factor controls its decision to issue a fine or the amount of the fine, it takes into account several factors, including the number of repetitions/individual transmissions; whether the violation occurred for a day or over several days or months; the number of people reached, be it national, regional, or local; and "the extent of the public safety impact." In our view, the FCC is tired of this happening and is no longer going to be lenient when it comes to using EAS tones in non-emergency situations.

WNEW-FM is just the most recent of numerous stations fined by the Commission for airing EAS tones improperly. Just last year, the FCC fined Meruelo Media $67,000 for airing the EAS tones on two if its radio stations and fined ABC $395,000 for the Jimmy Kimmel show's use of the tones.

Considering the Commission has demonstrated that it takes these events very seriously, we urge all stations to reiterate to on-air personalities and program producers that airing EAS tones outside of an actual, bona fide alert or test is dangerous and likely to result in a significant fine to the station. For additional reading about the Emergency Alert System and EAS tones, check out our previous CommLawBlog posts located here, here, and here.

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Effective Date of Truth-in-Billing Statue Deferred

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Last year, a new law, the Television Viewer Protection Act of 2019 ("TVPA"), was enacted, requiring Multichannel Video Programming Distributors ("MVPDs") and providers of fixed broadband services to disclose all charges that a consumer will have to pay before he or she signs up for service. The statute requires compliance by June 20, 2020, but the FCC has exercised its authority to grant a six-month extension.

MVPD and fixed broadband bills are known for being loaded with charges, fees, and taxes of many kinds, some originated by the provider and some imposed by governmental entities. Consumers don't expect these charges, which are not insignificant in amount, when they sign up for a seemingly low promotional monthly fee. The TVPA requires covered service providers to give new customers a breakdown of all components of the actual bill they will receive before the customer signs a contract. Customers must also be permitted to cancel their contract without penalty for 24 hours after they agree to buy.

The TVPA authorizes the FCC to extend the June 20 compliance deadline. The FCC has issued an *Order* exercising that authority, so that service providers do not have to devote resources to compliance when they need to keep their networks up and running and meet other consumer needs with reduced staffs during the coronavirus emergency.

The FCC has the authority to grant only one six-month extension; so come December 20, the new "truth in billing" requirement will go into effect, and the "fine print" aspects of MVPD and broadband bills should become easier for consumers to decipher and understand.

Is Hyper-Local FM Radio Coming?

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A company called GeoBroadcast Solutions, LLC, has filed a petition for rulemaking with the FCC, to allow FM radio stations to operate on-channel boosters that do not entirely duplicate the content of the main station. The idea is to allow each booster to insert local content intended for just the portion of the main station's service area where the booster is located. In effect, FM radio stations would be able to establish single-frequency networks of the type that advocates of the new "NextGen" ATSC 3.0 technology say will soon enable targeted television broadcasting.

While broadcasters have long noted that wide-area dissemination of advertising is an important way to reach prospective customers, broadcast stations have nevertheless lost a significant amount of advertising to targeted streaming and messaging services that tailor messages to narrow segments of the public. The GeoBroadcast Solutions technology is intended to allow FM radio stations to offer both kinds of advertising, both wide-area and narrowly targeted content, although targeting will be based on only geographic location and not other factors.

According to GeoBroadcast Solutions' rulemaking petition, the technology can be used with both analog and digital FM broadcasting, so stations would not have to install "HD" transmitters to participate. The petition does not ask for any change in the current rule that requires the signal of a booster to be contained completely within the signal contour of the parent station.

The proposal appears to offer a significant opportunity for enhancing radio broadcasting service. In evaluating the proposal, however, broadcasters should consider whether they think it will work technically without causing interference to the primary station, what the costs would be (taking into account GeoBroadcast Solutions' patent rights), and whether any benefits from being able to offer geographically targeted content would be sufficient to recoup implementation and operational costs.

The FCC has invited comments on the rulemaking petition, which are due May 4, 2020.

"Sweeps" Are Under the Rug: FCC Seeks Comment on New Metrics to Establish Significant Viewership

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The FCC has invited comments on it's *Notice of Proposed Rulemaking* ("NPRM") on whether it should update its rules that determine whether a television broadcast station is "significantly viewed" in communities outside of its Designated Market area ("DMA") for purposes of carriage on MVPD systems, both cable and satellite.

Full power TV stations are normally entitled to a collection of rights within their DMA, including network and syndicated programming exclusivity – the right to require MVPDs to blackout duplicative programming on any out-of-market stations they carry – and must-carry rights for those stations that do not elect retransmission consent. MVPDs also enjoy fixed copyright fees for carriage of in-market stations. (Class A and LPTV stations do not have exclusivity rights, although they have asked the FCC for decades to grant them; and only a few in small markets have must-carry rights.)

TV stations may extend their local treatment rights to individual communities outside their DMA if they are "significantly viewed" in those communities. "Significantly viewed" has been defined, for full and partial network stations, as having a 3% share of viewing hours and net weekly circulation of 25% within one standard error; for independent stations, the threshold are 2% and 5% respectively. Measurements of viewing must be made by an independent professional service, during two weekly periods separated by 30 days, with only one measurement between April and September. Importantly, "significant viewing" is limited to over-the-air viewing and excludes MVPD viewing and streaming. The FCC published a list of significantly viewed stations in 1972; but since then, some stations have successfully petitioned to be added to the list, and some stations have successfully petitioned to have competing stations removed.

Significant viewing determinations have traditionally been made based on data derived from TV ratings surveys by Nielsen, which used to conduct these surveys up to four times a year (called "sweep" periods). In 2019, however, Nielsen abandoned its measurement method based on diaries filled out by viewers and migrated entirely to continual electronic measurement, based on various techniques, including obtaining data fed back from MVPD subscriber set-top boxes. This change by Nielsen raises a question as to whether the independent professionally measured data on which the FCC has relied in the past are available any longer. Over-the-air viewing may not be separately measured from MVPD viewing anymore, and the concept of just a few sweeps a year is history.

So the FCC is asking, now what? Are there other sources available for independent measurement data that separate over-the-air viewing? Should the FCC rely on sophisticated computerized predictions of where a station's broadcast signal reaches, with a presumption that if the signal gets there, people are watching? Is the whole system so complicated and expensive now that smaller stations are discouraged from exercising their right to petition to be added to the significantly viewed list?

Then there are little questions about what could be killer legal constraints. Do applicable statutes permit the FCC to change from viewer measurement to signal prediction? What is the impact of the difference between copyright law, which seems to lock the FCC into its 1976 rules, and the Communications Act, which gives the FCC more discretion to amend its rules? If the copyright law is an obstacle to change, would it be practical to have different significantly viewed methodology for copyright and for exclusivity purposes?

Finally, the FCC notes that the terms full network, partial network, and independent stations are defined in Rule Section 76.5 concerning programming carried from "the three major national television networks." The number "three" seems a bit out of date these days, as it excludes FOX, to say nothing of Univision, Telemundo, The CW, MyNetworkTV, and other suppliers of programming to stations on a nationwide basis, which are likely to proliferate as new technology increases the multi-stream capability of TV stations. The FCC asks whether it should update the definition.

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There is a fair amount at stake here, and the differing language between the copyright and communications statutes introduces complexity that may not be easy to sort out. Comments are due on **May 14, 2020**. Reply comments are due **June 15.**

Dates Announced for Comments on Regulation of RF Emissions in Higher Frequency Bands

On January 9, 2020, we blogged about a FCC decision resolving many of the issues that it had been considering with respect to limits on exposure of human beings to radiofrequency ("RF") energy. The FCC also invited comments as to whether it should extend its regulation of RF emissions from the present range of 100 kHz to 100 GHz up to 3 THz (3,000 GHz).

Deadlines have now been announced for the new filings: May 6, 2020, for Comments, and May 21, 2020, for Reply Comments.

We would be happy to consult with clients who might wish to make their views known to the FCC with respect to regulation of RF exposure at higher frequencies.

Update: Comment Deadlines Available for Proposal to Drop Cable TV Public File Reports of Interest in Video Programming Services

On March 16, 2020, we wrote that the FCC has proposed to eliminate the rule that requires cable television systems to post in their online public inspection file ("OPIF") information about the nature and extent of their attributable interests in video program services and which of those services they own are carried on their system.

The *NPRM* has now been published in the *Federal Register*, and the deadline for Comments is set for **May 4, 2020**, with Reply Comments due **May 18, 2020**.

Upcoming FCC Broadcast and Telecom Deadlines for May – July

Broadcast Deadlines:

May 4, 2020
FM Boosters and Hyper-local Broadcasting – Comments are due with regard to a petition for rulemaking by GeoBroadcast Solutions LLC asking the FCC to permit radio broadcasters to use single frequency network (SFN) technology to provide hyper-local programming, emergency alerting, and advertising.
TV White Space Device Rules – Comments are due with regard to the FCC's NPRM proposing targeted changes to the Part 15 (Radiofrequency devices) white space devices rules in the TV bands (channels 2-35).

May 14, 2020
Significantly Viewed Local TV Stations – Comments are due with regard to the FCC's NPRM examining whether to update the methodology for determining whether a TV broadcast station is "significantly viewed" in a community outside of its local television market and thus may be treated as a local station in that community and permitted under FCC rules to be carried by cable systems and satellite operators.

June 1, 2020
Radio and Television License Renewal Pre-Filing Announcements – Radio stations licensed in Illinois and Wisconsin, as well as TV stations licensed in North Carolina and South Carolina, must begin broadcasts of their pre-filing announcements concerning their applications for renewal of the license. These announcements must be continued on June 16, July 1, and July 16.

Radio License Renewal Applications Due – Applications for renewal of license for radio stations located in Michigan and Ohio must be filed in the Licensing and Management System ("LMS"). These applications must be accompanied by Schedule 396, the Broadcast Equal Employment Opportunity ("EEO") Program Report, also filed in LMS, regardless of the number of full-time employees.

Radio Post-Filing Announcements – Radio stations licensed in Michigan and Ohio must begin broadcasts of their post-filing announcements concerning their license renewal applications on June 1. These announcements must continue on June 16, July 1, July 16, August 1, and August 16. Once complete, a certification of broadcast, with a copy of the announcement's text, must be posted to the OPIF within seven days. Likewise, if it has not already been done, a certification of broadcast and text of the pre-filing announcements should be posted at the same time.
Television License Renewal Applications Due – Applications for renewal of license for television stations located in the District of Columbia, Maryland, Virginia, and West Virginia must be filed in the Commission's License and Management System. These applications must be accompanied by Schedule 396, the Broadcast EEO Program Report, also filed in LMS, regardless of the number of full-time employees.

Television Post-Filing Announcements – Television stations licensed in the District of Columbia, Maryland, Virginia, and West Virginia must begin broadcasts of their post-filing announcements concerning their license renewal applications on June 1. These announcements must continue on June 16, July 1, July 16, August 1, and August 16. Once complete, a certification of broadcast, with a copy of the announcement's text, must be posted to the OPIF within seven days. Likewise, if it has not already been done, a certification of broadcast and text of the pre-filing announcements should be posted at the same time.

EEO Public File Reports – All radio and television station employment units with five or more full-time employees and located in Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, and Wyoming must place EEO Public File Reports in their OPIFs. For all stations with websites, the report must be posted there as well. Per announced FCC policy, the reporting period may end ten days before the report is due, and the reporting period for the next year will begin on the following day.

June 2, 2020
TV White Space Device Rules – Reply Comments are due with regard to the FCC's NPRM proposing targeted changes to the Part 15 (Radiofrequency devices) white space devices rules in the TV bands (channels 2-35).

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June 15, 2020
Significantly Viewed Local TV Stations – Reply Comments are due with regard to the FCC's NPRM examining whether to update the methodology for determining whether a TV broadcast station is "significantly viewed" in a community outside of its local television market and thus may be treated as a local station in that community and permitted under FCC rules to be carried by cable systems and satellite operators.

July 10, 2020
Children's Television Programming Reports – For the first time, and after two delays, all commercial television and Class A television stations must file electronically annual children's television programming reports with the Commission, although the first one will cover only the portion of the year which began with the effective date of the revised rules (September 16-December 31, 2019). These reports should be automatically included in the OPIF, but we would recommend checking, as the FCC bases its initial judgments of filing compliance on the contents and dates shown in the online public file.

Issues/Programs Lists – For all commercial and noncommercial radio, television, and Class A television stations, listings of each station's most significant treatment of community issues during both the first and second quarters of 2020 must be placed in the station's OPIF. The lists should include brief narratives describing the issues covered and the programs which provided the coverage, with information concerning the time, date, duration, and title of each program with a brief description of the program. Although with the postponed deadline, it should not matter whether these reports are formatted as one report or two, we would recommend retaining two separate reports and uploading one for each quarter to avoid confusing future reviewers.

Class A Television Stations Continuing Eligibility Documentation – The Commission requires that all Class A Television Stations maintain in their OPIF documentation sufficient to demonstrate that the station is continuing to meet the eligibility requirements of broadcasting at least 18 hours per day and broadcasting an average of at least three hours per week of locally produced programming. While the Commission has given no guidance as to what this documentation must include or when it must be added to the public file, we believe that a quarterly certification which states that the station continues to broadcast at least 18 hours per day, that it broadcasts on average at least three hours per week of locally produced programming, and lists the titles of such locally produced programs should be sufficient. Whether you upload one document or two in this category, make sure you include both the first and second quarters in the time period covered.

<u>Telecom Deadlines:</u>

May 1, 2020
Quarterly Telecommunications Reporting Worksheet (FCC Form 499-Q) – FCC rules require telecommunications carriers and interconnected Voice over Internet Protocol ("VoIP") providers to file quarterly revenue statements reporting historical revenue for the prior quarter and projecting revenue for the next quarter. The projected revenue is used to calculate contributions to the Universal Service Fund ("USF") for high cost, rural, insular and tribal areas as well as to support telecommunications services for schools, libraries, and rural health care providers. USF assessments are billed monthly.

Geographic Rate Averaging Certification – Non-dominant interstate interexchange providers operating on a detariffed must certify that their service complies with the provider's geographic rate average and rate integration obligations. The certification is due annually by May 1 and must be signed by an officer of the company under oath. Certifications should be sent to the FCC's Office of the Secretary, directed to the attention of:

Office of the Secretary
Attn: Chief, Pricing Policy Division
Room 5-A225
445 12th Street, S.W.
Washington, DC 20554

Numbering Resource Utilization Forecast ("NRUF") (FCC Form 502) – Twice a year, service providers with numbers from the North American Numbering Plan Administrator ("NANPA"), a Pooling Administrator, or another telecommunications carrier must file a numbering resource utilization forecast. Subscriber toll-free numbers are not included in the report. Interconnected VoIP providers are subject to the reporting requirement along with other service providers who receive NANPA numbers, such as wireless carriers, paging companies, Incumbent Local Exchange Carriers ("ILECs"), and Competitive Local Exchange Carriers ("CLECs").

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May 15, 2020:
Quarterly Percentage of Internet Usage ("PIU") Certification – USF prepaid calling card providers must file a certification stating that it is making the required USF contributions. The certification must be signed by an officer of the company under penalty of perjury and can be filed electronically using the FCC's Electronic Comment Filing System ("ECFS"). The Quarterly PIU Certification due May 15, 2020 will cover the First Quarter of 2020 (January 1, 2020 through March 31, 2020).

May 31, 2020 (Due June 1, 2020 this year because May 31 falls on a Sunday):
Annual Employment Report and Discrimination Complaint Requirement (FCC Form 395) – FCC licensees or permittees of common carrier stations **with 16 or more full-time employees** must complete FCC Form 395 and file it with the Commission by May 31 annually. The report should be filed in Docket No. 16-233 of the FCC's ECFS filing systems. However, filers should not submit any confidential information using ECFS. If a filer seeks confidential treatment of any information in its Form 395 filing, the filer should submit a redacted version of the report using ECFS and send a request for confidential treatment along with its non-redacted Form 395 filing to the FCC at:

Office of the Secretary
Federal Communications Commission
Attn: Industry Analysis and Technology Division, Wireline Competition Bureau
445 12th Street, S.W.
Washington, DC 20554

In addition to the Form 395 filing, all licensees or permittees of common carrier stations, **regardless of the number of employees**, must submit discrimination reports to the Commission. Filers that submit Form 395 can satisfy this requirement by completing Section V of Form 395 and need not submit a separate report.