



Newsletter

Virginia Association of Broadcasters

January 2011

Rockefeller Re-Introduces D-Block Bill

Senate Commerce Chairman John (Jay) Rockefeller, D-W.Va has reintroduced legislation that would re-allocate a chunk of spectrum to public safety officials for the creation of a national broadband interoperable network.

Rockefeller said the bill mirrors the measure he offered last Congress that would re-allocate the D-block of spectrum to public safety officials instead of auctioning it off to commercial bidders as the Federal Communications Commission has proposed.

He noted that with the upcoming 10th anniversary of the September 11, 2001, terrorist attacks, Congress needs to finally implement a recommendation by the commission that investigated those attacks to create a national broadband interoperable public safety network to help first responders better communicate during emergencies. The 2001 terrorist attacks highlighted the problems first responders have had in trying to communicate with each other during emergencies.

"I think it's a national priority," Rockefeller said.

The issue is controversial because some House lawmakers including key members of the Energy and Commerce Committee favor the FCC's plan, which also called for using the proceeds from the auction of the D-block to help pay for the construction of the public safety network.

Rockefeller's bill includes a provision authorizing the FCC to conduct incentive auctions, which are aimed at persuading



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broadcasters to voluntarily give up some of their spectrum in exchange for some of the proceeds from the auction of that spectrum. Rockefeller's bill notes that some of the money from these incentive auctions and funding derived from other auctions also can be used to help pay for the construction of the public safety network.

The issue has not only split lawmakers

but also industry. Some of the nation's biggest wireless providers such as AT&T and Verizon favor giving the D-block to public safety, while T-Mobile, Sprint and smaller wireless carriers favor the FCC's proposal to auction off the spectrum to commercial bidders.

T-Mobile and other wireless providers are part of the Connect Public Safety Now coalition that are urging lawmakers to allow the FCC to auction the D-Block to commercial bidders and at the same time provide funding to build the public safety broadband network.

"While we respectfully disagree with Mr. Rockefeller on the way to get there, we stand with him on the need to build this network, and are committed to ensuring that it becomes a reality - quickly," the coalition said in a statement which also noted the FCC's move to request comments on the technical details related to building a national broadband interoperable public safety network. ❖

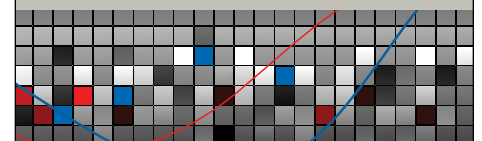
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DHS Discontinues Color-Coded Alert

Secretary of Homeland Security Janet Napolitano has announced that the Department of Homeland Security (DHS) will discontinue the color-coded alerts of the Homeland Security Advisory System (HSAS) in favor of a new system, the National Terrorism Advisory System (NTAS), that will more effectively communicate information about terrorist threats by providing timely, detailed information to the public, government agencies, first responders, airports and other transportation hubs, and the private sector.

The National Terrorism Advisory System will be implemented over the next 90 days in order for DHS and our federal, state, local, tribal, community and private sector partners to transition to the new system.

"Security is a shared responsibility, and we must work together to keep our nation safe from threats," said Secretary Napolitano. "This new system is built on a clear and simple premise: when a credible threat develops that could impact the public, we will tell you and provide whatever information we can so that you know how to keep yourselves, your families and your communities safe."

HSAS was first introduced on March 11, 2002. In July 2009, Secretary Napolitano formed a bipartisan task force of security experts, state and local elected and law enforcement officials, and other key stakeholders—co-chaired by Fran Townsend, former Assistant to President George W. Bush for Homeland Security, and Judge William Webster, former director of the Federal Bureau of Investigation (FBI) and Central Intelligence Agency (CIA)—to assess the effectiveness of HSAS. The results



of this assessment formed the basis of the National Terrorism Advisory System.

Under the new system, DHS will coordinate with other federal entities to issue formal, detailed alerts when the federal government receives information about a specific or credible terrorist threat.

These alerts will include a clear statement that there is an "imminent threat" or "elevated threat." The alerts also will provide a concise summary of the potential threat, information about actions being taken to ensure public safety, and recommended steps that individuals and communities, businesses and governments can take.

The National Terrorism Advisory System alerts will be based on the nature of the threat: in some cases, alerts will be sent directly to law enforcement or affected areas of the private sector, while in others, alerts will be issued more broadly to the American people through both official and media channels—including a designated DHS webpage (www.dhs.gov/alerts), as well as social media channels including Facebook and via Twitter @NTASAlerts.

Additionally, NTAS will have a "sunset provision," meaning that individual threat alerts will be issued with a specified end date. Alerts may be extended if new information becomes available or if the threat evolves significantly.

Secretary Napolitano announced this change today during her "State of America's Homeland Security" address at the George Washington University Homeland Security Policy Institute. A copy of her prepared remarks is available here.

For more information on the National Terrorism Advisory System, visit www.dhs.gov/alerts. ❖

Senator Cantwell Offers Net Neutrality Bill

Sen. Maria Cantwell, D-Wash., has introduced legislation that would implement stronger rules aimed at preserving the openness of the Internet than those adopted by the Federal Communications Commission last month.

The bill would add a new section to Title II of the Communications Act that would incorporate the six network neutrality principles originally proposed by the FCC in 2009. Those proposed rules were later supplanted by FCC Chairman Julius Genachowski's more modest proposal, which was adopted on a party-line vote by the commission in December.

The original 2009 proposed rules would have codified four general open Internet principles along with two other more controversial rules that would require broadband providers to treat all Internet content, applications and services in a nondiscriminatory manner and mandate that providers be transparent about their network management practices.

The FCC order that was ultimately adopted did not apply the rule against "unreasonable" discrimination to wireless broadband, which many net neutrality proponents criticized.

Cantwell's bill also would bar

"The actions that the FCC and Congress take now will set the ground rules for competition on the broadband Internet, impacting innovation, investment, and jobs for years to come."

broadband providers from instituting paid prioritization of Internet content. In addition, the measure would require that broadband Internet access charges, practices, classifications and regulations meet a "just and reasonable" standard and allow for consumers to file complaints with the FCC or in court. The measure also includes provisions aimed at spurring broadband adoption.

Cantwell said while she believes the FCC had the authority to implement its December net neutrality order, which critics say the commission lacks, she does not believe the rules were strong enough.

"The actions that the FCC and Congress take now will set the ground rules

for competition on the broadband Internet, impacting innovation, investment, and jobs for years to come," Cantwell, a member of the Senate Commerce Committee, said in a statement. "My bill returns the broadband cop back to the beat, and creates the same set of obligations regardless of how consumers get their broadband."

The bill is co-sponsored by Sen. Al Franken, D-Minn., who said the "FCC ruling on net neutrality does not do nearly enough to protect consumers, and this bill is designed to maintain a free and open Internet."

In a letter to Cantwell supporting the bill, Public Knowledge President Gigi Sohn said the "legislation would firmly cement the democratic principles affirmed by an open Internet and ensure that the Internet remains the marketplace of ideas where no central authority, public or private, has the power to pick winners and losers."

Verizon filed a court challenge last week against the FCC net neutrality order, saying the commission lacked authority to act. But other major broadband providers including AT&T and Comcast offered tepid support for the FCC's order but are likely to oppose Cantwell's bill. ❖

Survey: Republicans Now Matching Democrats in Social Media Use

As part of its ongoing work examining how Americans use the latest technologies, the Pew Research Center's new report released Thursday found the digital advantage that Democrats had over Republicans during the 2008 campaign had largely evaporated by the 2010 midterm elections, when the GOP scored huge gains.

The survey from Pew's Internet and American Life Project found overall that 22 percent of Americans used social media tools like Facebook or Twitter to follow events surrounding the November midterm elections. Most of those, 21 percent used social networking sites like Facebook or MySpace, while just 2 percent used Twitter.

Of the 22 percent who used these tools, 45 percent voted for Republicans while 41 percent chose Democratic candidates. Of the social network site users, the survey found that 40 percent of Republican voters and 38 percent of Democrats used these sites to get politically involved.

"The social networking population as a whole has grown larger and demographically more diverse in recent years, and the same is true when it comes to political activity on social networking sites," said Aaron Smith, a senior researcher specialist at the center and the report's author, in a statement. "These platforms are now utilized by politically active individuals of all ages and ideologies to get news, connect with others, and offer their thoughts on the issues that are important to them."

Meanwhile, the survey showed 11 percent of Americans were willing to say on social networking sites who they voted for in the 2010 elections, while 9 percent of online adults received campaign or political content and 8 percent posted political content on Twitter or a social networking site.

The survey of 2,257 adults was conducted Nov. 3-24 and had a margin of error of plus or minus 2.4 percentage points. ❖



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Eshoo Beats Out Rush As Top Dem on Communications Panel

Democrats on the House Energy and Commerce Committee have picked Rep. Anna Eshoo, D-Calif., to be the ranking member on the subcommittee with jurisdiction over technology and telecom issues.

Eshoo was chosen over Rep. Bobby Rush, D-Ill., to serve as the top Democrat on the Communications and Technology Subcommittee. Rush made an aggressive push for the job and had the support of the Congressional Black Caucus and several civil rights and minority groups.

But at least one minority group, ColorOfChange.org, vocally opposed Rush's bid to serve as the ranking member on the panel because of what the group claimed was Rush's past resistance to network neutrality rules.

The panel's Democrats chose Eshoo over Rush on a 14-9 secret ballot vote, according to Hill sources. Rush, however, was picked instead to be the ranking member on the committee's Energy and Power Subcommittee. In addition, Rep. G.K. Butterfield, D-N.C., was chosen to serve as the ranking member on the Commerce, Manufacturing & Trade Subcommittee, which shares jurisdiction over privacy

with the Communications Subcommittee.

"I'm grateful to my colleagues for giving me the honor to lead the Subcommittee on Communications and Technology," Eshoo said in a statement. "My congressional district, home to Silicon Valley, is the innovation center of the world, and the policies we shape can advance America's competitiveness and job growth."

Eshoo said she planned to focus on such issue as expanding access to affordable broadband service, privacy, freeing up more spectrum, and working to transition the nation's 911 system to a next-generation broadband network.

Free Press Research Director S. Derek Turner applauded the panel's Democrats for picking Eshoo as the subcommittee's ranking member, saying she is a "strong defender of the public interest with a clear record of protecting consumers and the open Internet. She has been a leader on media and technology issues, and we look forward to working with her on crucial issues that will shape the debate over the future of the media."

Last month, Republicans chose Rep. Greg Walden, R-Ore., to serve as chairman of the Communications Subcommittee. ❖

Commission Announces Approval of Comcast-NBC Universal Transaction

On January 18, 2011, the Commission announced that it has approved, by a vote of 4-1, the long-pending Comcast-NBC Universal transaction, subject to certain conditions and "enforceable commitments."

The text of the Order granting approval for the combination has not yet been released. However, based on an FCC news release, the Order imposes, among many things, a series of conditions that were independently negotiated between Comcast-NBC Universal and the various network Affiliate Associations. According to the news release, these conditions involve agreements related to network-affiliate relations and "fair and equitable retransmission consent negotiations." Pending release of the full Order, the details concerning these conditions are not precisely known. But, if the Order adopts the conditions as they were negotiated between Comcast and the Affiliate Associations, this is a big "win" for network affiliates.

Additional conditions announced in the news release include measures to ensure reasonable access to Comcast-NBC Universal programming for rival MVPDs, to protect the development of online competition, and to provide access to Comcast's distribution systems. ❖

For Massive Comcast-NBC Merger, Review of the Review Begins

The federal government's review of the massive Comcast-NBC Universal deal is over, but a congressional review of the Federal Communications Commission's process for scrutinizing mergers is about to begin. As part of FCC oversight hearings tentatively set for February, House Republicans plan to examine how the Democrat-controlled agency assessed the \$30 billion transaction, and whether it overstepped its regulatory authority in the process.

Meanwhile, the FCC is facing considerable pushback from Democrats, with Senate Commerce Committee Chairman Jay Rockefeller, D-W.Va., saying he's "very disappointed that the consumer protections were not stronger." Emphasizing that bigger is not always better, he said in a statement that "going forward, we will need to make certain that Comcast and NBC follow through on their commitments."

House Republicans are also critical, despite efforts by FCC Chairman Julius Genachowski to broker a compromise plan for approving the merger that included olive branches to them. While the new Comcast will be subject to extensive safeguards intended to protect consumers and competitors, including many sought by Democrats, some restrictions were scaled back at the last minute to accommodate demands by the agency's two GOP commissioners, sources said.

Approving the deal on a 4-1 vote, Genachowski allied with Republican Commissioners Robert McDowell and Meredith Atwell Baker and Democratic Commissioner Mignon Clyburn, while rebuffing Democrat Michael Copps, who sought the toughest conditions. The Justice Department's Antitrust Division also announced Tuesday it had approved the transaction, subject to its own set of requirements.

Despite backing the deal, McDowell and Baker complained in a joint statement that the agency's approach to merger reviews "has become excessively coercive and lengthy." They further warned that the process should



not serve as a vehicle "to extract from petitioners far-reaching and non-merger specific policy concessions that are best left to broader rulemaking or legislative processes." The GOP commissioners technically concurred in their approvals, meaning they issued the weakest form of a yes vote.

Echoing the concerns were House Energy and Commerce Chairman Fred Upton, R-Mich., and Rep. Greg Walden, R-Ore., chairman of the Energy and Commerce Subcommittee on Communications and Technology, who complained of a "Chicago-style shakedown"—a common refrain used by Republicans angry about the Obama administration. "We will be examining whether changes in the FCC's transaction review process are needed as we exercise congressional oversight in the weeks to come," they wrote in a statement.

Of particular concern to Republicans is a requirement that Comcast abide by sweeping network-neutrality rules adopted by the FCC's Democratic majority last month—even if overturned in court—for seven years. The rules are supposed to prevent companies like Comcast from blocking or degrading online competitors, but critics dismiss them as unnecessary government intervention. The seven-year requirement is part of the FCC's approval of the transaction, but under a special arrangement, it was not part of the package that was voted on because the two Republican commissioners objected to it.

During a Tuesday press briefing, Comcast Executive Vice President David Cohen praised Genachowski's leader-

ship and touted the "broad support" Comcast received. "We believe it not only had more public support on the record than any transaction ever before, but was also one of the most thoroughly examined media communications transactions ever," he said.

Ironically, the bulk of the criticism of the final framework for the Comcast-NBCU deal came from liberal Democrats and watchdogs, who were unable to secure the more rigorous protections sought by Copps. Sen. Al Franken, D-Minn., a fierce critic of the corporate union, expressed "tremendous" disappointment. "What we see today is an effort by the FCC to appease the very companies it's charged with regulating," he complained. "This will ultimately mean higher cable and Internet bills, fewer independent voices in the media, and less freedom of choice for all American consumers."

Federal regulators did win praise from Sen. Herb Kohl, D-Wis., chairman of the Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights, who said the FCC "took a strong stand for consumers and competition." Noting that millions of consumers depend on a "diverse, competitive media marketplace," Kohl pledged to be "actively involved in ensuring that these merger conditions are enforced."

Also pleased was Sen. John Kerry, D-Mass., chairman of the Senate Commerce Communications Subcommittee, who said the merger review process struck "the right balance between a company's right to merge and the need to promote the public interest." ❖

Pitfalls to Avoid When Using Industry Wage Surveys



**By John G. Kruchko
and Kathleen A. Talty**

A company's salary structure is a significant component in attracting "the best and the brightest" of candidates and also in retaining the existing complement of valuable employees. An attractive and competitive salary can be the deciding reason in a candidate's decision to accept an offer of employment. Similarly, a competitive salary structure is an effective means of retaining existing personnel and contributing to positive employee morale. Of course, a company's ability to offer the salary structure is dependent upon the company's over-all economic health. However, other factors frequently contribute to how salary compensation decisions are made by many employers.

One factor often relied upon by many employers is wage survey studies in which companies within comparable industries participate and which set out the salary levels for a variety of positions. The salary levels can be set out in ranges or bands which are dependent upon variations in experience and/or education. The sharing of such wage information by employers in comparable industries may at first glance appear to be a wise business practice, particularly during difficult economic times. How-

ever, employers need to be aware that the participation in such wage sharing may implicate the antitrust laws and could result in substantial civil and criminal consequences, if it is found that the employers' practice is found to constitute a conspiracy to fix wages at compressed rates and, therefore, a violation of the Sherman Act.

Section 1 of the Sherman Act prohibits unreasonable restraints of trade and provides in part: "Every contract, combination....or conspiracy in restraint of trade or commerce....is illegal." Antitrust violations are punishable by criminal penalties, including imprisonment, as well as civil penalties, including trebled damages and attorneys' fees. While antitrust enforcement is mainly focused on anticompetitive pricing practices, the breadth of the antitrust laws also applies to the exchange of information concerning compensation within industries. In other words, wage surveys that are often utilized by employers when establishing or re-evaluating employee compensation levels come within the purview of the antitrust laws.

The antitrust implications with the use of employer wage surveys has drawn attention in recent years as a result of a series of lawsuits that were funded by

the Service Employees International Union ("SEIU") as part of its nation-wide organizing efforts of Registered Nurses at numerous hospitals. These lawsuits, which were largely an attempt by the SEIU to exert pressure on employers whose employees the SEIU sought to represent, alleged that the hospitals who participated in certain wage surveys violated the Sherman Act because the activities were per se or "automatically" unlawful due to the fact that the wage surveys unreasonably restrained trade.

Alternatively, SEIU argued that wage surveys violated the Sherman Act by application of a rule-of-reason analysis (which is a more fact-driven analysis) because the surveys resulted in anticompetitive effects that significantly outweighed any procompetitive benefit, which is deemed lawful.

In support of the claims that the employers' participation in and use of the wage survey data constituted antitrust violations, the plaintiffs in the SEIU-funded lawsuits alleged that representatives from the different employers regularly telephoned one another to determine the wages that were being paid by the different employing entities, that some of the employers conducted informal surveys of the wages that other

“To avoid potential antitrust claims, employers may decide to discontinue their participation in industry wage surveys. However, that drastic step may not be necessary if employers follow certain guidelines.”

employers were paying, that the information on wages was shared among the employers at job fairs, association meetings and other gatherings and that the wage data encompassed current, as well as future projections on wage levels. According to the plaintiffs, the totality of the employers' actions was designed to depress the wage levels for employees.

In considering arguments that compensation/benefits surveys that are shared by a group of employers lead to a depression of wages in an industry, the courts look to several factors. These factors include: 1) the timing (i.e., how current is the wage information); 2) the availability of the information to the general public; 3) the specificity of the information; and 4) the purpose of the information exchange.

Each of these factors will be weighed and assessed by the court in making its determination. There is the existence of one element in the analysis that will likely result in a court finding a violation of the antitrust laws. If the wage data that is shared represents future wages, a court will most likely conclude that the information is anti-competitive and, therefore, a violation of the antitrust laws.

To avoid potential antitrust claims, employers may decide to discontinue their participation in industry wage surveys. However, that drastic step may not be necessary if employers follow certain guidelines. The Federal Trade Commission (“FTC”) and the Justice Department issued a joint policy statement that addresses the acceptable components of shared wage information.

If the conditions set forth in the joint statement are satisfied, the wage survey should fall within the “antitrust safety zone” and, thus, the participants should avoid antitrust liability. While the joint statement was issued for employers in the healthcare industry, legal practitioners generally regard the conditions in the joint statement to be applicable to all industries.

According to the joint statement, the Justice Department and the FTC will not challenge, “absent extraordinary circumstances,” participation in wage or salary surveys if the following conditions are met:

(1) the survey is managed by a third-party (e.g., a purchaser, government agency...consultant, academic institution, or trade association);

(2) the wage information provided by survey participants is based on data more than 3 months old; and

(3) there are at least five employers reporting data upon which each disseminated statistic is based, no individual [employer's] data represents more than 25 percent on a weighted basis of that statistic, and any information disseminated is sufficiently aggregated such that it would not allow recipients to identify the ... compensation paid by any particular [employer.]

In addition to the above conditions, it is also advisable that users of the wage data do not engage in an excessive amount of conversation and discussion among and between the participating employers concerning the wage data that is the subject of the survey.

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**Power-Efficient
Transmission Facilities
Topic of New White Paper**

NAB FASTROAD has released a White Paper on power-efficient broadcast facility transmission design for radio and television stations. With funding from the NAB FASTROAD technology advocacy program, this paper was researched and authored by the broadcast engineering consulting firm of Cavell, Mertz & Associates (CMA).

Consisting of two parts, this White Paper first presents a primer on power-efficient broadcast facility transmission design for stations that are considering the alteration or construction of new RF transmission facilities for over-the-air radio and DTV broadcasting. Topics include historical information on the evolution of transmitter efficiency, the impact of cooling system requirements on overall plant efficiency, and a brief discussion of “green” energy alternatives.

In the second part, a proposal for a “Transmitter Energy Efficiency Award” (TEEA) for broadcast transmitters is developed, reminiscent of the U.S. Government's “Energy Star” rating for home appliances. The TEEA proposal establishes a set of criteria and measurement methods that can be used to compare various transmitter products against one another, and would provide a tool for broadcasters to use in making “greener” decisions when purchasing transmission equipment.

A companion, web-based tool is also under development by CMA, designed to allow a broadcast station engineer or manager to conduct a “what if” study of various transmitter site topology decisions and their impact on facility long-term operational costs, as opposed to one-time capital costs. The web-based tool is expected to be launched by the end of the first quarter of 2011.

The full text of the White Paper, entitled “Power Efficient Broadcast Facility Transmission Design,” and information on the NAB FASTROAD technology advocacy program are available at www.NABFASTROAD.org. ❖

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Virginia Association of Broadcasters LEGAL REVIEW



Deadline Nears for Completing EEO Menu Option Activities



The FCC's EEO rules require stations to engage in specific non-vacancy outreach efforts. The applicable two-year period for which the EEO menu options must be completed generally extends from the time a station files its renewal application to the second, then fourth, and then sixth anniversary thereof. For Virginia radio stations, the current two-year period ends June 1, 2011 (which is also the deadline for Virginia radio stations to file their license renewal applications), which means that radio stations that are not already on track to satisfy their EEO outreach requirements have a little more than four more months to complete the required number of menu options. (For Virginia television stations, the most recent two-year period ended June 1, 2010.)

Broadcasters may select initiatives from the FCC's outreach "menu" that they believe will be most effective for their stations. Every two years, stations that have more than 10 full-time employees and are not located in a "smaller market" must engage in at least four of the initiatives on the menu, and stations that are

located in a "smaller market" or have five to ten full-time employees must engage in at least two of the initiatives. (A "smaller market" is a community that is located in a county that is outside of all metropolitan areas, as defined by the federal Office of Management and Budget ("OMB") or is located in a metropolitan area that has a population of fewer than 250,000 people.) Stations with fewer than five full-time employees are not required to engage in any menu option activities. For purposes of the FCC's EEO rules, a "full-time" employee is one who regularly works 30 or more hours per week.

The menu options, as set forth in the FCC's rules, are as follows:

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions;
2. Hosting of at least one job fair;
3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities;
4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues;
5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies);
7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
9. Establishment of a mentoring program for station personnel;



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10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting;
12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities;
13. Provision of assistance to unaffiliated non-profit entities in the maintenance of web sites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

For example, to fulfill the menu option outreach requirement, a broadcaster that has more than ten full-time employees and is not located in a "smaller market" could, during a two-year period, host one job fair, establish an internship program, participate in a scholarship program, and co-sponsor one job fair with an organization in the business and professional community whose membership includes substantial participation by minorities and women.

It is important to remember that these menu options, as with all of the other EEO program requirements, apply to "station employment units." Thus, a commonly owned station group in the same market where at least one employee is shared among the stations is required to undertake four menu options every two years for the entire group, not per station.

The FCC has not quantified the amount of effort that broadcasters must devote to the menu options. The rules permit broadcasters to perform the menu options on a joint basis, either with other broadcasters, with organizations such as the VAB, or with a corporate licensee's corporate headquarters. However, a station seeking credit for a particular menu option performed on a joint basis must have meaningful involvement in the activity, by which the FCC means that the station has meaningful input into the planning and implementation of a particular event. It is not sufficient for the station to merely lend its name to an activity or to provide money where the activity is otherwise entirely conducted by another entity. For example, the hosting of a job fair may be performed on a joint basis; however, insofar as a particular station's participation amounts to little more than attendance at the job fair, that broadcaster can only claim credit for attendance, even if it

has been nominally designated a co-sponsor. In short, events can be jointly sponsored, so long as each broadcaster seeking credit for sponsoring the event is actively involved in planning and implementing the event.

With respect to scholarship, mentoring, internship, and training programs, the FCC recognizes that corporate headquarters and broadcasters' associations often establish and administer such programs. In order to receive credit for participating in a corporate headquarters or association program, there must be meaningful involvement in the program by the station seeking credit. For example, for a scholarship program, the individual station must be involved in activities such as designing the program, soliciting prospective scholarship recipients, maintaining scholarship materials at the station, interviewing or selecting scholarship recipients, promoting the program on air, and evaluating the effectiveness of the program. For mentoring, internship, and training programs, a station can receive credit so long as personnel from the station are active participants in the programs.

Finally, each year the FCC randomly audits broadcast stations to evaluate their compliance with the EEO rules, and the FCC has been enforcing its EEO rules by imposing fines and reporting requirements—including on stations that fail to comply with the menu option activities component of the rules. Since the EEO rules require stations to evaluate their EEO programs, including participation in menu option activities, stations may wish to take the opportunity early in 2011 to "map out" and plan their outreach activities for the calendar year, with Virginia radio stations especially keeping the June 1, 2011, two-year deadline in mind. ❖

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

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JANUARY JOB BANK

SUBMIT JOBS

Submit to VAB Newsletter:

- Please e-mail the listing directly to marci.malinowski@easterassociates.com.
- Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Submit to the Online Job Bank:

- Go to www.vabonline.com

Production / Continuity Director Charlottesville, VA

We need a creative, energetic Production/Continuity Director for our market-leading five station radio cluster. We'll provide all of the tools necessary for the right person who wants to help create great copy, to provide fresh angles and to help our stations turn it up a few notches! The position may also include an on-air shift. If you are this person we want to talk with you. Please send production samples including commercials and imaging along with copywriting samples and an aircheck to: Production Director, 1140 Rose Hill Drive, Charlottesville, VA 22903 or email daniels@charlottesville-radiogroup.com. No calls, please. EOE

Writer/Producer Norfolk, VA

WVEC 13News, the ABC affiliate in Norfolk VA, has an immediate opportunity for a Marketing Writer/Producer. If you are passionate about creating spots that get noticed, and have what it takes to write and produce compelling daily topicals, TSR's and image spots, we want to hear from you. You must be a self-motivated team player with working knowledge of Final Cut Pro and After Effects. Web Content management and an aptitude for social media is a definite plus. email your resume and a link to your best work to cspruill@wvec.com or send resume and demo dvd to: WVEC 13News Attn: Chuck Spruill 613 Woodis Avenue Norfolk, VA 23510.

Web Manager/Content Producer Richmond, VA

WTVR-TV, Richmond, VA has an immediate opening for a Web Manager/Content Producer. The ideal candidate needs a passion for digital media and must be willing to take ownership in WTVR.com as the region's trusted source for current news and information. The candidate also must be able to work in a fast paced environment, while maintaining weekly duties. We are looking for a dynamic, self-motivated individual with experience and skills in web content management, writing and editing for the web, graphic design and site management. The Web Manager/Content Producer will be responsible for developing all aspects of WTVR's online presence. In addition to writing, editing and proofreading site content, this person will also work with video, mobile and apps and work with the news, programming, marketing/promotions and sales departments on various projects. Experience with content management systems, live streaming, graphic design, flash animation, Photoshop, HTML and other standard web development tools is helpful. Strong time manage-

ment and organizational skills are a must. If you are interested, send resume to WTVR-TV, 3301 W. Broad Street, Richmond, VA 23230 or email information to banderson@wtvr.com.

Account Executive Norfolk, VA

Sinclair Communications is looking for creative people who enjoy the fast-paced, highly challenging world of radio marketing and sales. We seek winners who have at least two years of outside sales experience. Apply now by calling Luciana Varverud at 757/ 222-2930, or fax your resume to 757/640-8552. EOE.

Account Executive Lynchburg, VA

Looking for outside sales to sell radio and online advertising in the Lynchburg area. Sell #1 Radio Station in Market. Previous outside sales experience and understanding of Internet a must! send resume to lynchburgcareers@clearchannel.com EOE.

Part Time Traffic Assistant Arlington, VA

Part-Time Traffic Assistant needed to assist Traffic Director in network scheduling and affidavits and other business related duties for a cluster of radio stations in the Washington, D.C. Area. Ability to work in a fast paced environment, meet deadlines and multi-task is a must. Experience in accounting required. Experience in radio preferred. Fax Resume to 703/807.2247 or mail resume to: Dorian Baldwin, Traffic Director, WAVA, 105.1FM & 780AM, WRC 1260AM, Family Talk, SIRIUS161 & XM170, 1901 North Moore Street, Suite 200, Arlington, VA 22209 Salem Media of Virginia, Inc. EOE.

Account Executive Arlington, VA

Full-Time Position Available at WAVA/WRC Radio Sell Radio Advertising in the Washington, DC Metropolitan Area. Previous business to business sales experience preferred. Marketing and advertising experience a plus. Compensation includes Salary, Bonuses and Incentives plus Health/Life/401(k). No relocation offered. Fax Resume to 703/807.2249 or mail resume to Tom Moyer, Station Manager, WAVA/WRC Radio, 1901 North Moore Street, Suite 200, Arlington, VA 22209. EOE.

Board Operator Arlington, VA

Part-time position available at WAVA/WRC Radio. Applicant must have current knowledge of digital broadcast studio operations and be

computer proficient. Good verbal and written communications skills required. Experience in similar format preferred. Fax resume to 703/807.2248 or mail resume to WAVA/WRC Radio, Bob Jones, Broadcast Operations Director, 1901 North Moore Street, Suite 200, Arlington, VA 22209 Women and minorities encouraged to apply. EOE.

Sports/News Reporter and Anchor Portsmouth, VA

WAVY TV 10/FOX43 in Hampton Roads, VA is looking for a person who understands how to craft a story – whether in sports or news. The qualified candidate will bring ideas to the table, be a master at using natural sound and real people to tell stories, and will have a passion for doing great television. WAVY is looking for someone who wants to be out on the street but is just as good at the anchor desk. There are opportunities to anchor both sports and news. You must be able to shoot, edit on Avid, and understand how to produce the right content for multiple platforms including broadcast, mobile, the web and social networking. No beginners. If this posting describes you, send your link with your resume to News Director April Samp april.samp@wavy.com WAVY-TV, 300 WAVY Street, Portsmouth, VA 23704. No phone calls. EOE.

Account Executive Richmond, VA

CW Richmond is TV to Talk about ... Blog about ... Text about ... and Chat about! We are looking for that ideal person who can talk about the hottest shows on television to businesses around Richmond. CW Richmond is now interviewing for Account Executives. If you are an energetic and creative problem solver who is not afraid of hard work, we want to meet with you! Send resume with cover letter and salary requirements to: CW Richmond, 5710 Midlothian Turnpike, Richmond, VA 23225 Attn: David Hayes or email to dhayes@cwrichmond.tv. EOE.

PT Television Production Specialist Richmond, VA

Immediate opening for someone with strong working knowledge of television broadcast facility. Audio operation and character generator operation experience preferred. Other duties include studio set-up and maintenance, studio camera operation and floor direction and other assigned duties. Early morning, late night and weekend work required. Send resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464, or fax your resume to 804/330-8881, or email your resume to personnel@wric.com. NO phone calls please. EOE.

Account Executive Norfolk, VA

Entercom is seeking AE's for WWDE, WNVZ, WPTE, WVKL. Entercom has the latest tools and technology, the most knowledgeable management and is known for offering the best work

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environment for selling radio advertising in the industry. Successful candidates are experts in strategic targeting of clients, relationship building and marketing. Must have a successful track record of new business development and a proven track record in meeting and exceeding defined sales goals. Please apply online at www.entercom.com and click on "Careers". Entercom Norfolk is an EOE.

On Air Personality Norfolk, VA

Entercom Norfolk is looking for future air personalities both full and part time. 3 to 5 years experience is necessary for full time positions and some experience is necessary for part time positions. Full time air personalities will also be expected to be proficient in public appearances, voice work and commercial production. Please apply online at www.entercom.com and click on "Careers". Entercom Norfolk is an EOE.

Part Time Promotions Assistant Norfolk, VA

WWDE-FM, WPTE-FM, WVKL-FM and WN-VZ-FM have part time positions available for promotions. The qualified candidates will be responsible for setting up remote broadcasts, driving station vehicles, interacting with account executives, listeners and clients, handling heavy equipment, and maintaining promotional equipment. The qualified candidates MUST BE 21 YEARS OR OLDER, have a flawless driving record, be outgoing, organized, possess strong communication skills, available nights and weekends and able to handle heavy equipment without problems. Please apply online at www.entercom.com and click on "Careers". Entercom Norfolk is an EOE.

Internships Norfolk, VA

Entercom Norfolk offers an opportunity for students to apply classroom theory to practical work experience. Our internship program allows students to experience firsthand the reality of working in the radio broadcasting industry. Internships are available year-round, and are 12-15 hours per week, with specific days and times agreed upon in advance. All interns must be enrolled in a College or University and receiving college credit. Students are expected to obtain and complete any forms necessary to receive credit for the internship experience. Entercom Norfolk will assist students with the completion of such forms and provide information concerning duties and responsibilities. Internship are available for WWDE, WNVZ, WPTE, WVKL in the following departments: Promotions, Programming, Production, Sales, Business Office & Web Development. INTERNS ARE NON-PAID POSITIONS. Please apply online at www.entercom.com and click on "Careers". Entercom Norfolk is an EOE.

Creative Services/Digital Coordinator Norfolk, VA

The Digital Coordinator is responsible for the

daily creation and execution of digital and business development sales for all four stations and websites. This position will report to and work closely with the Director of Strategic Sales & Marketing to manage the digital execution, graphic and proposal creation from beginning to end including: reporting, inventory/ad trafficking, graphic design & creative, ideation and collaborative proposal creation. Ability to multi task and work under deadline and strong written and verbal communications skills a must. To be considered for this position, please apply online at www.entercom.com and click on "Careers". EOE.

Account Executive Richmond, VA

Account Executive - WWBT-NBC12, the #1 rated station in Richmond, VA has a rare opening for an experienced (3-5 years), energetic, creative, motivated, three-screen savvy seller. Are you that person? We're looking for producers who can demonstrate that their New Business prospecting and closing tools are better than the rest. How would you develop a seasoned agency list with high potential? Show us your skills. College degree preferred. Send cover letter w/ salary requirements and resume to Judy Gibson, HR Director, NBC12, P. O. Box 12, Richmond, VA 23218 or jgibson@nbc12.com. EOE M/F/H/V.

Sales Representative Roanoke, VA

Mel Wheeler Inc. has a rare opening for a sales representative on our staff for WFIR 960 News-Talk. Responsibilities include developing new clients and serving existing advertising clients for the station including some crossover with WSLQ - Q99. Candidates must be highly motivated, have the utmost in integrity and a strong work ethic, outgoing personality, excellent verbal and written communication skills. In addition to the skills and talents to do the job, candidates should contribute to making the company and station a positive place to work for all staff members. Requirements: Sales and/or some media experience is preferred Good organizational and time management skills High school diploma or equivalent Drivers license with good driving record Good computer skills are necessary To apply: Visit our website at www.wfir960.com Email to cskinner@wheelerbroadcasting.com Mail to HR Director, Mel Wheeler, Inc., 3934 Electric Road, Roanoke, VA 24018.

On Air Personality Roanoke, VA

WSLC "Star Country" has an opening for a talented on-air personality with at least three years of experience. In addition, WSLC is looking for an individual with strong experience and talents with internet, web, social media, and other digital platforms. Applicant should be a creative thinker, self-motivated and a strong team player that will contribute to continuing to make Star Country a great place to work. No calls please. Forward your resume and aircheck to: Cheryl Skinner, HR Director cskinner@wheelerbroad-

casting.com Mel Wheeler, Inc. 3934 Electric Rd. Roanoke, VA 24018 Fax: 540 774-5667. EOE.

PT Production Assistant (p.m. hours) Lynchburg, VA

Primarily responsible for in-studio production assistance, including the operation of Camera, Audio, character generator, or etc. as assigned by shift supervisor. Also responsible for field technician assistance for Creative Services as needed. Knowledge of television production or willingness to learn. Knowledgeable in the operation of personal computers. Basic understanding of audio-visual components. Some knowledge of electronics preferred, but not necessary. Available to work irregular hours and holidays. Also available for long hours during special circumstances. Please apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588, or apply in person at WSET-TV, 2320 Langhorne Road, Lynchburg, VA 24501 from 8:30 a.m. to 5:30 p.m., Monday through Friday. No phone calls please! EEO/M/F.

LHOV Show Host / Producer FT Lynchburg, VA

The Show Host/Producer position will be primarily responsible for hosting entertainment and information programs (non-news), and assisting with production of the program as determined by the Operations and Engineering Manager, setting up, producing, and reporting segments for shows, and participating in the promotion efforts of the station. This individual will also participate in the public affairs activities of the station and must be a good communicator and be able to take direction from management regarding job performance and on-air appearance. Previous host or anchor experience required. Advanced Education in the field of Broadcast Journalism or equivalent broadcasting work experience. Available 24/7. Valid Virginia Driver's license within 30 days of employment. Knowledge of journalistic standards as they relate to on-air presentation of news stories. Accurate and comprehensive writing skills. Ability to act and react appropriately on camera. Ability to maintain professional personal appearance. Ability to lift and transport standard camera equipment. Available to travel overnight to off-site locations, including foreign destinations, for extended periods of time, if needed. Please apply in writing to Director of Human Resources, WSET-TV, P. O. Box 11588, Lynchburg, VA 24506-1588, or apply in person at WSET-TV, 2320 Langhorne Road, Lynchburg, VA 24501 from 8:30 a.m. to 5:30 p.m., Monday through Friday. No phone calls please! EEO/M/F.



View the latest listings at
www.vabonline.com/careers

Virginia Association of Broadcasters Legislative Reception

January 19, 2011 • Jefferson Hotel, Richmond, VA



Ken Jennings with his daughter, Sarah and Delegate John Cox.



Left to right: VAB Secretary/Treasurer Bob Willoughby with Jill Vaughan and Paula Otto from the Virginia Lottery and Don Richards, WWBT.



Virginia's Chief Information Officer Sam Nixon with Senator Steve Martin.



VAB Past President Doug Davis (left) and current President Francis Wood.



Virginia Department of Game and Inland Fisheries Charlie Sledd, Directory of Agency Outreach with Executive Director Robert Duncan and his wife.



Delegate Jim Scott speaks with legislative services attorneys.