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**UPDATE  
April 5, 2022**

**FCC Begins Electronic Filing System Upgrades**

Yesterday, the FCC released a [Public Notice](#) announcing that the Electronic Comment Filing System (“ECFS”) had undergone a system upgrade which will help enable expanded features and functions to be introduced to ECFS in the coming year. In short, the FCC transitioned ECFS to a cloud-based platform and added reCAPTCHA functionality to the system.

ECFS serves as the repository for official records in the FCC’s docketed proceedings from 1992 to the present. In addition to accepting comments in docketed proceedings, the FCC also uses ECFS as a filing system for certain requirements, most prominently the annual CPNI certifications which are required to be filed in Docket No. 06-36 by March 1<sup>st</sup> of each year.

If you have any questions regarding ECFS, CPNI filings or other requirements, please contact Bruce Beard at (314) 394-1535 or [bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com).

**FCC Affirms Forfeiture Order Against Broadcasters for 2019 Good Faith Violations**

Last month, the FCC released a [Memorandum Opinion and Order and Order on Reconsideration](#) denying a petition for reconsideration by a group of broadcasters seeking reconsideration of a Forfeiture Order by the FCC that imposed a \$512,228 penalty per-station against each defendant for willfully and repeatedly violating the FCC’s good faith negotiation requirements.

The FCC dismissed the petition for reconsideration on procedural grounds, but, as an independent and alternative basis for the dismissal, also denied the petition on the merits.

**Good Faith Violations.** The forfeitures and failed attempt to reverse the FCC’s decision stem from the Media Bureau’s [Order](#) in fall 2019 granting a good faith complaint filed by AT&T against seven station groups, all represented by a single negotiator. Each of the stations (and station groups) were Sinclair spin-offs, managed and controlled through shared services agreements, and had delegated their negotiations to a common agent, Max Retrans. Through their common agent, the Media Bureau found that the station groups refused to negotiate, unreasonably delayed negotiations and failed to respond to AT&T’s proposals, each a *per se* violation under the FCC’s retransmission consent good faith rules. This delay, in the Media Bureau’s words, was “the most egregious example of delay that [the FCC has] encountered since the good faith rules were adopted.”

In summary, the FCC found that negotiating jointly does not excuse any member of that joint negotiation from its individual obligation to comply with the good faith obligations of the Communications Act and the FCC’s rules. Although the FCC stated that nothing in the Communications Act or FCC’s rules prohibit broadcast stations located in different markets from

jointly negotiating for retransmission consent, each entity remains ultimately responsible for its own compliance with the good faith requirements.

If you have questions regarding retransmission consent and the good faith negotiation rules, please contact Scott Friedman at (314) 462-9000 or [sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com) or Bruce Beard at (314) 394-1535 or [bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com).

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