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AEREO GOES DARK

The CEO of TV startup Aereo announced June 28 that the company is suspending service to its subscribers in the wake of last week Supreme Court ruling. The company had set up a series of small antennas in a dozen cities to pick up over-the-air network signals and then stream the signals to subscribers for eight dollars a month. While cable companies must pay broadcast TV stations for the rights to retransmit their programs, Aereo claimed they were just renting equipment. The court, in a 6-3 ruling, said Aereo was infringing on broadcaster copyrights. (See related analysis on Page Two).

LEAHY: REAUTHORIZE STELA

Vermont U.S. Senator Patrick Leahy and Iowa Senator Chuck Grassley have introduced bipartisan legislation to reauthorize the Satellite Television Extension and Localism Act, a law known as "STELA" that provides certain consumers access to distant broadcast television content by satellite.



STELA's current authorization expires at the end of the year, and Leahy and Grassley are proposing a five-year extension of the law with only a few minor changes. If legislation is not passed before the law expires, about 1.5 million satellite customers could lose access to their current broadcast television stations.

"Consumers across the country benefit from having nationwide competitors to cable television. Rural consumers, including many in Vermont, rely on a healthy satellite industry that is able to provide service to customers where cable is unable to reach," said Leahy. The VAB thanks Sen. Leahy for leading the bipartisan reauthorization effort.

HARWOOD RETIRES; WCVT FORMAT TO CHANGE

WCVT-FM's Brian Harwood has announced his retirement, ending a broadcasting career that stretches back 60 years. Harwood, a former VAB President, was inducted into the VAB Hall of Fame in 2006.

He has worked at WDEV, WWSR, WCVT, WJOY, WVNY, WCAX, and founded WRFB-FM in Stowe in 1976. WRFB eventually became WCVT, and Harwood has hosted the morning show on the classical music station since 1988. His retirement is prompting a format change to Adult Contemporary.

The Radio Vermont Group, owner of WCVT (101.7 MHz), says the station will change formats July 1 and will simulcast with sister station WEXP-FM (101.5 MHz), Brandon.

Harwood, now 75, has served as chairman of VPT and the VSO. He is a member of the Waterbury High School Hall of Fame and was a founding partner of the advertising agency HMC, formerly Harwood Moses Chambers.

He also worked in Washington, D.C. for a few years as an aide to former Rep. Richard Mallery, but returned to Vermont when Mallery lost a U.S. Senate race to a relative newcomer named Patrick Leahy.

The VAB congratulates Brian on a stellar career and wishes him a wonderful retirement. Thank you, Brian!



Hosting "Dance Date" on WCAX-TV, 1964.



Brian sawing wood in a WRFB-FM print ad.



VAB AWARD NOMINATIONS NOW BEING ACCEPTED

Know someone deserving of special recognition by the VAB? Nominations are now being accepted for these VAB awards:

VAB Hall of Fame

The VAB Hall of Fame honors those men and women who have demonstrated excellence throughout their careers, have enhanced the broadcasting industry and have contributed to the betterment of their communities.

Broadcaster of the Year

Honors a broadcaster (or station) that has made a significant contribution to their state and to the broadcasting community over the past year.

Distinguished Service Award

Honors those individuals who have distinguished themselves in their profession over the course of many years. Open to all broadcast-related occupations.

Community Service Award

Honors those individuals or stations that have gone above and beyond the call of duty to make their community a better place to live.

Anyone may make a nomination through our website at www.vab.org, but don't wait too long. The nominations will close at midnight, September 19. The awards will be presented at our VAB Hall of Fame Awards Banquet, to be held later this year (details to be announced soon).

Supreme Court Finds Aereo's Major Innovation Is Copyright Infringement

By Scott R. Flick, Pillsbury Winthrop Shaw Pittman, LLP



In a 6-3 decision released June 25, the Supreme Court didn't just rain on Aereo's parade, but drenched it. For a case involving fairly convoluted points of law, the Supreme Court's decision is surprisingly straightforward: if it walks like a duck and quacks like a duck, no amount of technology will change the fact that it is a duck.

...The question before the Court was whether Aereo's system "performs" broadcasters' copyrighted works, and whether that is a "public" performance. If so, Aereo's operations infringe on broadcasters' copyrights in that programming. Aereo's argument in response was that since its system does nothing until activated by a subscriber, and even then only transmits a single private copy to that subscriber, Aereo was not involved in generating public performances.

The Court strongly disagreed, finding that an essential purpose of Congress's passage of the Copyright Act of 1976 was to make clear that transmissions of broadcast programming by third-parties to the public (e.g., cable systems) create public performances that implicate copyright law. Specifically, the Court noted "the [Copyright] Act is unmistakable: An entity that engages in activities like Aereo's performs," and "the fact that Aereo's subscribers may receive the same programs at different times and locations is of no consequence. Aereo transmits a performance of petitioners' works to the public."



Aereo's argument that it is just a renter of receiving equipment fared no better, with the Court stating: "We conclude that Aereo is not just an equipment supplier and that Aereo 'performs.'" Of note for those concerned about whether an Aereo decision for broadcasters might affect the public's ability to store other data in the cloud, the Court agreed with the brief filed by the Department of Justice that there is an important distinction between members of the public storing their own content in the cloud and those using the Internet to access the content of others...

One of the most interesting legal analogies is found in Justice Scalia's dissent, where he likens Aereo to a copy shop where the shop owner plays no part in the content copied:

"A copy shop rents out photocopiers on a per-use basis. One customer might copy his 10-year-old's drawings--a perfectly lawful thing to do--while another might duplicate a famous artist's copyrighted photographs--a use clearly prohibited by Section 106(1)."

...in the Aereo scenario, the subscriber can't use the system to display his ten-year-old's drawings; he can only display the content that Aereo puts on the shelf in its copy shop for the subscriber to access--all of which is copyrighted. Even if a particular program has entered the public domain, the broadcast signal--including its combination of program selections, current advertising, and station interstitials--is not in the public domain. In any event, Aereo has never attempted to limit its relay of content to subscribers to public domain materials (which admittedly would be the worst business plan ever)...the Court made clear that the only innovation it saw in Aereo was copyright infringement, and that has already been around for a long time.

(Article condensed from a June 25 post on www.commlawcenter.com)

They did it!

VT DUO WINS VIDEO GOLD MEDAL

Earlier this year, a pair of River Valley Technical Center students from Springfield won the Vermont video production contest as part of the Skills USA competition.

The VAB and other sponsors helped raise money to send Elliot Thompson and Rebekah Ferreira to Kansas City for this week's national Skills USA tournament.

Our faith was not misplaced! Their teacher, Zachary McNaughton, reports Rebekah and Elliot won the national gold medal, beating out scores of other video production teams from around the country. Along with the gold medals, their school will receive \$15,000 worth of video production gear.



Teacher Zachary McNaughton with Gold Medal winners Rebekah Ferreira and Elliot Thompson

Their winning entry was a [60-second promotional video](#) for the Association for Career and Technical Education.

Congratulations to Rebekah and Elliot, and thanks for doing our state proud!



By July 10, all full-power radio, full-power television, and Class A television stations must place in their public inspection files their

Quarterly Issues/Programs List covering the period April 1, 2014 through June 30, 2014.