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LOCAL AD REV ON WAY UP?

Radio industry over-the-air revenues inched slightly upwards in 2012, increasing to \$14.3 billion, a 1.5 percent change from the year before, according to a report by BIA/Kelsey. That slight change is due in large part to the sluggish overall economy for 2012 and the increased competition radio faces in the local media market. The company also notes that station revenue mix will continue to shift somewhat and income from online advertising is expected to rise at a rate of about 10.8 percent annually over the next five years versus 2.5 percent from over-the-air.

For 2013, BIA/Kelsey forecasts over-the-air radio revenues should see 2.3 percent growth, or \$14.7 billion, again due to the slightly stronger economy. In 2012, online radio ad revenues reached \$491 million, representing 3.3 percent for the industry. Markets such as Boston saw 14.2 percent in online radio revenue with overall numbers rising by 3.6 percent.

COURT NIXES MAD REQUEST

A U.S. District Court last week rejected a request from Mission Abstract Data (MAD)/Digimedia to lift a stay on a patent infringement case that has targeted thousands of radio stations around the country. MAD is suing seven broadcast groups and four small stations in Texas for patent infringement. They claim to hold two patents related to hard disk automation systems, and have threatened thousands of stations with lawsuits if they don't settle. The court left the stay in place pending a reexamination of the two patents in question, which were issued in 1994. To counter the claims by the "patent trollers," broadcast groups have produced prior art showing the automation systems, from ENCO, Arrakis, SMARTS and others were already in use by 1992. .

The VAB Voice



April, 2013

GENACHOWSKI, MCDOWELL TO EXIT FCC



Julius Genachowski

After four busy years, FCC Chairman Julius Genachowski announced last month that he will leave the Commission when his term expires in June.

Genachowski was the driving force behind the 2011 National Broadband Plan, which favors less spectrum for broadcasters and more for wireless telephone companies.

The decision had been rumored for weeks, and has touched off much speculation about who his successor might be. Last week, 37 Democratic Senators signed a letter urging President Obama to pick Commissioner Jessica Rosenworcel, former staffer for Sen. Jay Rockefeller. To pick Rosenworcel, however, the President would have to skip over a more senior member of the FCC, Commissioner Mignon Clyburn, daughter of Rep. James Clyburn.



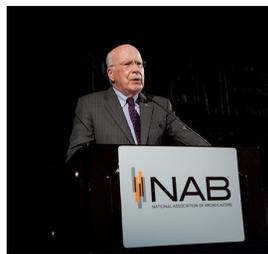
Jessica Rosenworcel



Robert McDowell

Meanwhile, Commissioner Robert McDowell announced that he will also leave the FCC before his second term expires next year. McDowell was originally appointed to the Commission in 2006. His departure will leave the commission with only one Republican appointee, Ajit Pai.

LEAHY LAUDS BROADCASTERS FOR PUBLIC SERVICE



Vermont U.S. Senator Patrick Leahy was scheduled to address the NAB's State Leadership Conference in Washington last year, but had to bow out at the last minute because of pending roll call votes. This year, Leahy made good on his commitment, speaking to broadcasters from around the country at the SLC on March 5.

Leahy, Chairman on the Senate Judiciary Committee, praised broadcasters for their roles as first informers before, during and after crises, including natural disasters and

events such as the shootings in Newtown, CT. "Your stations can, and often do, save lives," Leahy told the crowd. He was applauded when he suggested broadcasters should be compensated when their content is used by others for profit.

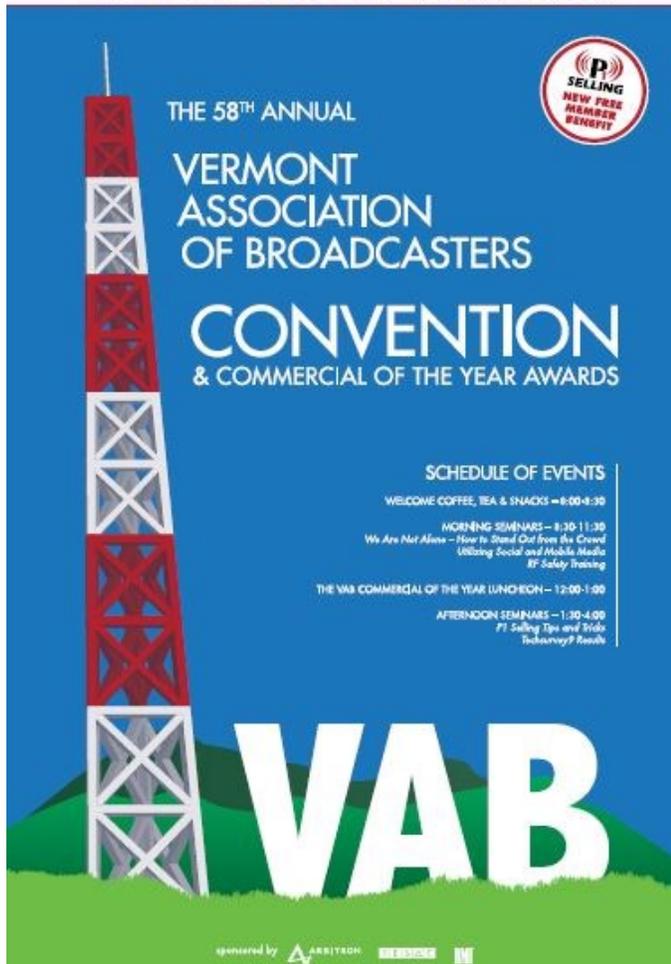
Attendees also heard from two Republicans, Texas Rep. Gene Greene and Utah Sen. Orrin Hatch.



Sen. Leahy and Candis Leopold of the VAB

REGISTER NOW AT VAB.ORG

THURSDAY, MAY 16 • CAPITOL PLAZA HOTEL, MONTPELIER • \$25



THURSDAY, MAY 16 AT THE CAPITOL PLAZA, MONTPELIER

Tentative Schedule of Events

- 8:00 - 8:30 Registration, Coffee & Snacks
- 8:30 - 8:45 VAB Business Meeting
- 9:00- 11:45 Morning Seminars
 - SALES:** We are Not Alone - How to Stand Out in a Crowd - P1 Selling
 - PROGRAMMING/SALES:** Utilizing Social and Mobile Media - Jacobs Media
 - ENGINEERING:** RF Training with Don Haes
- NOON - 1:00 VAB Commercial of the Year Luncheon
- 1:15 - 3:15 Afternoon Seminars
 - SALES:** Tips and Tricks with P1 Selling
 - PROGRAMMING:** TechSurvey9 results with Fred Jacobs of Jacobs Media



Reminder!
QUARTERLY ISSUES/PROGRAMS LISTS MUST BE PLACED IN YOUR PUBLIC FILE BY APRIL 10.

DON'T DELAY PUBLIC FILE ACCESS

- David Oxenford of Wilkinson Barker Knauer, LLP

The FCC proposed that a noncommercial broadcaster be fined \$10,000 for its failure to allow a visitor unquestioned and immediate access to the public inspection files for 6 noncommercial radio stations operated from the same main studio. Though the delay in allowing access was only a few hours long, that delay, together with questions asked of the person who requested access as to his reasons for the inspections, led to the Notice of Apparent Liability issued by the FCC. In the decision, the Commission reminded all broadcasters that their obligation is to make the file available immediately upon a request made during normal business hours. The person inspecting the file cannot be asked why they want to see the file, or for their business or professional affiliation.

In this case, an individual apparently representing a competing broadcaster showed up at the station at about 10:30 in the morning. While it was disputed as to whether the individual immediately asked the receptionist to see the public file, or whether he simply asked to talk to the general manager of the station, the Commission found that both parties agreed that, when the general manager was reached by phone, the individual did ask to see the file. The general manager did not immediately tell his staff to allow inspection of the file, instead telling the visitor that the manager would return to the office at about noon, and the file could be seen then. It was that delay – putting the visitor off for a few hours- that the Commission found was sufficient to trigger the violation. During normal business hours, access must be provided, with no questioning of the motives of the visitor.

This case illustrates the continuing importance of the public file to the FCC. It also serves as a great reminder to radio broadcasters of the need to educate their staff, especially those greeting the public, about the obligations to provide immediate unquestioned access to the public file to members of the public who ask to see it during normal business hours. Even a delay of only a few hours can be costly, as illustrated by this case.

TV broadcasters, because most of their files are online, will have less concern about these obligations, though the rules still apply to the remaining paper portion of the public file – the letters from the public about station operations, and the political file for those stations in smaller markets where the online political file is not yet an obligation.. Be careful to observe these obligations, as the FCC may well be ready with a fine.