



# The **Broadcasters' Desktop Resource**

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... edited by Barry Mishkind – the Eclectic Engineer

## Ask the Lawyer

### **Explaining FCC Rules on Public & Political Files, IDs, NOVs, and STLs**

*By Cary S. Tepper*

*[August 2014] Want to ask something about dealing with the FCC Rules or procedures? Communications Attorney Cary Tepper is once again at your service:*

This month we have a wide assortment of questions: some of our readers wanted information about the Public and Legal Files, Station IDs, what to do if you get an NOV, and how long can you operate an STL without a License

#### **LPFM AND PUBLIC FILES**

**Question:** *Are LPFM stations required to maintain a Public File?*

**Cary Tepper:** No, they are not.

However, some documents that would otherwise be required to be placed in a full power broadcast station's Public File – including the station's FCC license and written communications with the FCC – should be maintained in an internal file kept at the LPFM station's principal control point. This is usually the main studio.

#### **THE POLITICAL FILE**

**Question:** *Do all broadcasters have to keep every request for political time in their Political File?*

**Cary Tepper:** Yes, they should.

The political file should include all pertinent information about the station's disposition of

each request. This would include the fee charged (if any) and the time and date when the spots were broad-cast.

#### **LPFM AND THE POLITICAL FILE**

**Question:** *Is there any difference in the type of Political File kept by LPFM stations as compared to full power broadcast stations?*

**Cary Tepper:** This is a source of common confusion as both the FCC's Rules and the FCC's Self-Inspection Booklet for LPFM Stations refer to the political file.

As a result, many LPFM broadcasters think they are allowed to broadcast commercial political advertisements and charge a fee for them. *This is not correct.*

The LPFM service is a noncommercial broadcast service. Section 399B of the Communications Act prohibits advertisements of any nature to be broadcast on a noncommercial station. When the FCC issued its Report & Order in January 2000 creating the LPFM Service, it was acknowledged that LPFM stations cannot broadcast political advertisements, and cannot charge a fee for political advertisements. However, LPFM broadcasters must provide reasonable access to candidates – and that access must be free of charge.

Therefore, this free access must be comprised of informational and factual content about the candidate, *but no sales pitches or calls to action.*

Obviously, LPFM broadcasters must proceed carefully here. That being said, the FCC's Rules and policies would allow an LPFM broadcaster to broadcast an underwriting announcement from a political candidate.

Here is an example of what would be permitted: "Programming on WXYZ-LP is brought to you by John Smith, candidate for Congress. Further information about the John Smith candidacy can be found at [www.smithcampaign.com](http://www.smithcampaign.com)."

### A NON-ENGLISH STATION ID?

**Question:** *We have a Spanish-language programming format. Is it OK for our legal ID to be in Spanish, or does it have to be in English?*

**Cary Tepper:** I was not able to find any FCC rule or policy statement on this matter, but I recall this exact topic was discussed by an FCC staff person at a broadcasters' convention. It is permissible for the station's legal ID to be in the same language as the programming format.

### AFTER AN NOV ARRIVES

**Question:** *We just received a Notice of Violation ("NOV") from the FCC. What should we do? How long does it take the FCC to resolve the matter?*

**Cary Tepper:** These matters should be taken seriously, and your response should be carefully prepared.

The NOV will explain exactly which FCC rule the station is alleged to have violated. The NOV also will ask what was done to resolve the matter, and for a person of authority to respond by a certain date.

There is no set FCC timetable for these matters. But if you resolve the matter completely, provide a thorough explanation to the NOV, and if your station does not have a history of problems there is a very good chance you will never hear from the FCC again.

But, if you do not resolve the matter to the satisfaction of the FCC or if the station has a history of Rules violations, you might receive a Forfeiture Notice seeking payment of a fine within four to six months.

Above all things: *you need to be totally honest with the FCC.* If you misrepresent anything and the FCC finds out about it, you will place the FCC license in jeopardy, are likely to be issued a large monetary fine, and will need to hire an attorney.

### WHEN TO LICENSE AN STL

**Question:** *Is it true that we can put up an STL and operate it for 720 hours\* without needing to apply to the FCC for a license?*

**Cary Tepper:** No. That is not correct. You must have a license application on file for your STL before using it. Furthermore, since the FCC changed the STL application rules in 2003, the application process is more complex.

The first step you must take is frequency coordination, which includes analyzing the parameters of the new STL with regard to interference.

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Then you must go through Prior Coordination Notification (“PCN”) whereby you must notify all current users that may be potentially affected by your proposed operation. The area for which stations must be notified about your proposed operation is pretty large – about 125 miles in all directions from the proposed STL transmitting site.

Once the PCN’s are sent, parties have 30 days to respond in case they are worried about interference to one of their systems. During that time, in some circumstances, the station may begin use of the STL frequency. If there are no PCN problems, the FCC license application can be prepared and filed.

As soon as the license application is accepted and on-file, FCC Rule 74.25 gives you temporary conditional operating authority to operate while you await FCC approval.

The entire coordinate and application process is something that qualified technical personnel will handle. There is minimal involvement for lawyers in this process.

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*Here is your chance to ask question about any FCC rule or procedure. Just [click here and ask away](#) with no obligation.*

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*Cary Tepper is the founder and managing member of Tepper Law Firm, LLC. Tepper has had, since 1985, an extensive telecommunications law practice with regard to broadcast regulation, business negotiations, acquisitions and mergers, broadcast facility modifications, radio spectrum allocations and administrative hearing litigation. Tepper Law Firm represents several hundred radio and TV stations throughout the US. Contact Cary at [Tepperlaw@aol.com](mailto:Tepperlaw@aol.com)*

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\* Since the original publication, the typo on the number of hours in the question was corrected from 920 to the correct 720. Our thanks to Rick Grzebik for his sharp eye. Rick also correctly noted that in some cases, STL operation may commence after the PCN letters have been mailed.

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