

[As License Renewal Cycle Approaches - Dealing With Last Cycle's Applications Held Up By Indecency Complaints](#)

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As the next broadcast **license renewal cycle** is about to begin in June (see our post [here](#) about that process), the last renewal cycle still has not ended despite the fact that the last renewal application due in that cycle was to have been submitted almost 5 years ago. At the **NAB State Leadership Conference** held in Washington, DC yesterday, FCC Commissioner Robert McDowell provided statistics about the hundreds of renewals still pending – principally due to indecency complaints against the stations. The FCC will not grant a license renewal application when there is an indecency complaint pending, as the grant of the renewal could preclude the FCC from taking action against the licensee on the complaints filed before the renewal grant. But with indecency enforcement in a holding pattern pending the final resolution of the pending court cases challenging the FCC's renewal policy (with no immediate end in sight to the uncertainty that surrounds that policy), these renewals are still in limbo. The Commissioner did, however, provide some good news on the indecency front, noting that the Enforcement Bureau had started weeding through all of the pending complaints, dismissing those that were clearly without merit.

The dismissal of indecency complaints that were without merit is a seemingly small, but nevertheless significant, step in weeding out the backlog of renewal applications. The Enforcement Bureau has traditionally not looked deeply into the merits of each of the pending indecency complaints while the Court challenges to the policy were pending, presumably to avoid a waste of resources were the standards to change based on the Court review. But that avoided weeding out some clearly meritless complaints – ones that complained of content that was broadcast during the 10 PM to 6 AM **indecency safe harbor**, or complaints that were focused on issues that were not prohibited under the FCC's policy and precedent – such as complaints that really centered on violence, or ones that dealt with innuendo rather than the use of prohibited words or the depiction of prohibited body parts. Up until now, except when there was a sale of a station pending, there was no pressing reason for the FCC to dispose of the complaints. Stations continued to operate, and the pending complaints had little day to day impact. But, with the renewal cycle soon to begin again, the resolution of these issues takes on some urgency.

In the distant past, when renewal challenges by parties trying to displace an existing licensee (see our post [here](#) on the **comparative renewal process** that existed before the **Telecommunications Act of 1996**), the processing of challenged license renewals could sometimes take an eternity and, especially when license renewals were filed every three years, several renewal cycles could go by before a challenge could be resolved. In those cases, the FCC had a policy of having

licensees who still had an old renewal application pending file an informational submission, updating all the representations made on the renewal application. But this policy is not specifically set forth in law or statute, so getting the old renewals processed before the new ones are submitted seems like a smart decision.

How many applications are still pending from the last renewal cycle? According to the information provided by the Commissioner yesterday, over 300 TV renewals (most held up by indecency), and over 100 radio ones (over half of which were held up because of Enforcement issues, presumably indecency). A significant number – one that will be hopefully reduced by this action – but still far too many given the time that has elapsed.

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