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To: All Radio Clients

December 19, 2008

**Second Further Notice of Proposed Rulemaking on  
New Rules to Protect AM Stations from the  
Effects of Nearby Construction**

**COMMENTS DUE JANUARY 12, 2009  
REPLY COMMENTS DUE FEBRUARY 9, 2009**

On October 8, 2008, we notified you that the FCC had issued a Second Further Notice of Proposed Rulemaking ("SFNPRM") in its AM Directional Antenna Performance Verification proceeding that seeks comments on new rules to harmonize the disparate treatment afforded under existing rules with respect to protection of AM stations from the effects of nearby construction. The purpose of this Memorandum is to notify you that a summary of the SFNPRM has been published in the Federal Register, and that the deadline for filing comments in this proceeding is January 12, 2009. Reply comments are due to be filed by February 9, 2009.

The FCC's rules currently contain several provisions that are intended to protect AM stations from the effects of nearby tower construction (specifically, Rules 73.1692, 22.371 and 27.63). These rules impose different requirements on broadcast and wireless entities, and Parts 90 and 24 of the FCC's rules contain no provisions for the protection of AM stations from such construction.

In the SFNPRM, the FCC proposes to replace its existing AM proximity rules, which specify fixed distances within which tower construction is presumed to affect an AM station, with new rules under Part 1 that specify critical distances from an AM station in terms of wavelengths at the AM frequency (not to exceed 3 kilometers). The proposed rules also designate moment method modeling as the principal means to determine whether a nearby tower would affect an AM pattern, but would permit the use of traditional partial proofs of performance taken before and after construction as an alternative procedure when the AM station in question was licensed pursuant to field strength measurements.

For a detailed summary of the issues raised in the SFNPRM on which the FCC has sought comment, please see our All Radio Client Memorandum dated October 8, 2008.

If you would like to file comments in response to the SFNPRM, or have any questions concerning this proceeding, please contact John Poutasse ([jpoutasse@lsl-law.com](mailto:jpoutasse@lsl-law.com)) in our office.

*Leventhal Senter & Lerman PLLC*

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact John Poutasse directly at 202/416-6774.