

ALERT

# FCC Changes Course on Internet-Only Recruitment for Broadcasters & MVPDs

April 24, 2017

Reacting to a petition submitted this past December and the subsequent, unanimous supporting comments from broadcasters and industry organizations alike, the Federal Communications Commission (FCC or Commission) issued a declaratory ruling on April 21, 2017 reversing its policy that, since 2002, prohibited broadcasters and multichannel video program distributors (MVPDs) from using Internet sources as a sole means of recruiting to fill their full-time vacancies.

Effective immediately, a broadcaster or MVPD “may choose to rely on a single online job posting if the posting appears on a website that is so widely used that it can reasonably be expected to widely disseminate information about the job vacancy.” The FCC reminded licensees that, “Commission staff will continue to examine the specifics of each case to ascertain whether a particular broadcaster or MVPD has satisfied the requirement to widely disseminate information about a full-time job vacancy.” It also encouraged licensees to consider the following three factors in evaluating whether the online job posting process meets the “widely disseminated” requirement: (1) the online job posting must be easy to find; (2) job openings should be posted online for an adequate period of time with auditable interview records maintained; and (3) broadcasters should “continue to cultivate job referral relationships with resources that are likely to include diverse candidates.”

The Commission adopted its current Equal Employment Opportunity (EEO) program back in 2002, which requires broadcasters and MVPDs to widely disseminate information about their full-time job vacancies. To ensure wide dissemination, the FCC’s 2002 order specified that broadcasters must develop a list of recruitment sources that could be reasonably be expected to reach the licensee’s entire community.

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While the FCC did not – and still does not – dictate a certain number or type of sources that licensees must use to achieve wide dissemination, it did conclude at the time that Internet usage was not sufficiently widespread to allow licensees to use Internet sources alone to distribute a job vacancy notice. The declaratory ruling issued this past Friday acknowledges that times have, indeed, changed – Internet use has skyrocketed, most Americans now use online resources in their job searches, and online job postings can be far more effective than traditional print media in terms of cost to the licensee and in terms of reaching a broad applicant base. As a result, using Internet sources alone to recruit for a full-time vacancy – even a single Internet source if widespread enough in a licensee’s community – is now permissible under the FCC’s EEO rules.

If you have any questions, please contact one of the attorneys listed on this alert.