

**CINNAMON MUELLER**  
*A Professional Limited Liability Company*  
307 North Michigan Avenue, Suite 1020  
Chicago, Illinois 60601  
Telephone: 312-372-3930  
Facsimile: 312-372-3939

IF YOU HAVE QUESTIONS ABOUT THIS UPDATE, PLEASE CONTACT EMILY DENNEY AT 312-580-8288.

## **CLIENT UPDATE**

**September 10, 2004**

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We summarize below key developments of interest to our clients in the cable television industry.

### **Pole Inspection Fees**

We have received an increasing number of inquiries regarding pole inspection fees and charges that may be excessive. The Pole Attachment Act requires that the rates, terms and conditions for pole attachments be just and reasonable. This includes pole inspection fees, a lucrative source of revenue for some pole owners. The FCC has issued a number of orders curtailing improper inspection fees and practices, including:

- Charging for a post-attachment inspection one year or more after installation
- Charging a separate fee for a routine inspection
- Failing to allocate costs of a pre-make-ready inspection among attachers

If you have received an invoice for inspection fees that you feel are excessive, you need to take action if you want to preserve your rights. If you would like to discuss a specific pole attachment matter, call Nicole Paolini at 312-372-3930.

### **FCC Form 396-C Due September 30**

**All cable operators must file the FCC's Public File Report (Form 396-C) by September 30, 2004.**

Cable operators with fewer than 6 full-time employees need only fill out Sections I, II and V of Form 396-C. Cable operators with 6 or more employees must fill out all Sections of Form 396-C.

Filers who submitted a request for exemption from filing in 2003 because of employment of five or fewer full time employees do not need to file a Form 396-C for 2004, unless the unit has increased employment to more than five full time employees since the last Form 396-C was filed.

The FCC also randomly selects some cable operators to file a Supplemental Investigation Sheet. The FCC's on-line system will advise you if you are required to file an SIS.

**Where do I file Form 396-C?** Go to the Media Bureau's Consolidated Database System Electronic Filing System at: [svartifoss2.fcc.gov/prod/cdbs/forms/prod/cdbs\\_ef.htm](http://svartifoss2.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm), and follow the instructions. For telephone assistance in filing the form, contact the FCC at 202-418-1450. Note: paper versions of the form will not be accepted unless accompanied by an appropriate request for waiver of the electronic filing requirement.

**What about Form 395-A?** Generally, Forms 396-C and 395-A are due on September 30 of each year. However, because the FCC has not released the new Form 395-A, only Form 396-C is due by September 30. We will notify you when there is a deadline established for Form 395-A. At this time, only Form 396-C is due.

## **Political Advertising**

With the November elections looming, there is increasing political advertising on cable systems. FCC regulations govern rates and terms for political advertising. Key provisions of the FCC's cable political advertising regulations include:

- No cable system is obligated to provide political candidates access to the system. If the system does provide access, it must afford "equal opportunities to all other candidates for that office."
- The appearance of a candidate on a newscast, news interview, or convention coverage does not constitute providing access for purposes of the regulations.
- For political advertising, except for periods before an election, the system shall charge no more than the rates for comparable use of the system by commercial advertisers. Discounts and other terms offered commercial advertisers must be disclosed and offered to political advertisers.
- For 45 days before a primary and 60 days before a general election, the system shall charge no more than the lowest unit charge for the same class and amount of time.
- Cable systems providing political advertising must maintain a political advertising file of all candidate requests for time and the dispositions of the requests.

If you have specific questions about political advertising, call Chris Cinnamon at 312-372-3930.

## **Recent Cinnamon Mueller Successes**

Our lawyers represent cable and telecommunications clients in a wide variety of matters. Recent activity and success include:

**Transactions.** **\$12 million sale of cable system.** We represented the seller in all phases of the sale of its cable system in the Southeast.

### **Litigation.**

**Theft of cable service.** We represented the cable operator in obtaining damages and injunctions against two individuals for theft of cable service.

**Franchise fee claim.** We represented the cable operator in obtaining dismissal with prejudice of a putative class action for alleged improper franchise fee pass-through.

**Franchise matters.** We represented a cable operator in the Southwest in resolving several disputes with franchise authorities and obtaining two 15-year franchise renewals.

**Cable Copyright.** We are currently advising over 15 cable companies in cable copyright compliance and cost control. This representation includes copyright cost management when interconnecting headends and combining channel line-ups.

### **Other activity.**

Chris Cinnamon has been invited to speak at the National Telecommunications Cooperative Association's annual legal update in San Antonio, November 8. Chris will speak on retransmission consent and broadcast signal carriage issues.

Nicole Paolini recently presented an in-house seminar "Combating Theft of Service - Litigation and Communications Strategies" for a cable client.

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Please visit our website at [www.cm-chi.com](http://www.cm-chi.com) to learn more about our lawyers and practice. You can reach Cinnamon Mueller at 312-372-3930.

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