

NEWS & EVENTS

TAB political broadcasting seminar on Dec. 21



TAB is reprising its FCC political broadcast webinar on Monday, Dec. 21 at 10 a.m.

Bobby Baker, the FCC's chief of political programming and David Oxenford of Davis Wright Tremaine LLP, will again explain the FCC's political rules, as they did for TAB's Dec. 2 webinar.

Nearly 80 broadcasters participated online and in person in the Dec. 2 session.

Baker and Oxenford provided the latest on the federal and state regulations affecting political candidates, third-party advertising, lowest unit charge, rates, issue advertising and station appearances in news programs or debates.

Stephen Warley of Local Broadcast Sales presented a webinar on Dec. 3 to arm stations with strategies to combat the flow of political ad dollars to social media. This webinar is archived and available for purchase on DVD.

The 2008 presidential race opened many campaign workers' eyes to the possibilities of social media and consequently there is a threat this election cycle that some of those ad dollars traditionally spent on over-the-air broadcast messages may migrate to this new means of connecting with voters.

[Register today](#) for TAB's final political broadcasting webinar for the 2010 election year.

The workshops will also be available on DVD for \$50.

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Texas political seasons opens with a bang



The 2010 Texas election cycle officially began with a last-minute change of candidates on the Democratic side and almost daily demonstrations of how fractious the Republican contenders will be in the 2010 Texas governor's race.

The official start of the Texas political campaign cycle began with the Dec. 3 window opening for candidate filings.

There have already been some surprises in the gubernatorial primaries in both parties.

Gov. Rick Perry and Sen. Kay Bailey Hutchison have already launched the first television commercials of the fractious Republican primary fight with each camp claiming the conservative high ground aimed at winning Republican voters.

Who's buying for Perry and Hutchison

Stations have been asking and TAB delivers – here's who's buying for Gov. Rick Perry and Sen. Kay Bailey Hutchison.

Rick Perry – Agency of Record: Weeks & Co.

- 114 W. 7th Street, Suite 200, Austin Texas 78701, (512) 477-6540
- Weeks' Radio Buyer: Haley Beth Davis (214) 599-0900
- Weeks' TV Buyer: Patti Heck (703) 299-1760

Kay Bailey Hutchison – Agency of Record: Smart Media Group

- 101 N. Columbus Street, Alexandria VA 22314-3056
- Smart's Buyer (Radio &TV): Becky Kimbro (703) 518-4747

Kay wants to know what Rick's spending

Many Texas stations received letters in late November from the Hutchison camp putting stations on notice that her campaign would be requesting information on competitive political buys (e.g., what is the Perry camp buying and how much is it spending?).

Should stations provide this type information over the phone or by e-mail?

TAB posed the question to Bobby Baker and David Oxenford, who conducted TAB's Political Broadcasting Seminar on Dec. 2.

Baker, chief of the FCC's political bureau, said there is no FCC regulation requiring a station to provide this type of information over the phone or by e-mail.

Stations are required to produce the political file when an in-person request is made.

Baker advises that stations should not provide this information over the phone or by e-mail.

If stations do it for one candidate, they must do it for all candidates.

Implications of a "candidate's right of access" to a station's airwaves also could be affected by incorrect information.

David Oxenford, an attorney with TAB Associate Member law firm Davis Wright Tremaine, said giving out inaccurate and incomplete information over the phone could certainly be a problem.

"It would be easy for a candidate to complain about what a salesperson said or didn't say - a he-said, she-said scenario - while the public file at least will be one set of documents that the station can point to as the definitive disclosure of what information was given out," said Oxenford.

"Of course, the station has to keep the files up to date, too."

At least two Republican gubernatorial debates

The Republican candidates for governor will debate at least twice before the primary.

The dates and organizers are:

Jan. 14 – Texas Debates, Dallas

This hour-long debate will be produced by KERA-TV (PBS), KTVT-TV (CBS), KUVN-TV (Univision) and Texas Monthly.

TAB will offer free live satellite distribution to Texas radio and TV stations.

TAB also will arrange real-time closed captioning and Spanish translation for use as SAP or primary audio.

There will be no restrictions on the debate feed or its use.

Feed details will be made available this month so stations may publicize carriage of the debate.

An alternate date of Jan. 15 is being planned in case a Senate health care reform vote is scheduled on the planned date.

[Read more...](#)

Jan/Feb TBA – WFAA-TV, Dallas

The date for this hour-long debate is not final, but it will be broadcast on Belo's four Texas television stations – WFAA, KHOU, KVUE and KENS.

Belo's plans are to offer it to one TV station and one radio station in the remaining 15 TV markets not served by a Belo-owned TV station.

[Read more...](#)

For now, Senate special election on hold

Hutchison's November announcement that she won't resign her seat to run for governor until after the March primary has raised many questions.

Specifically, what's to become of a special election to fill the unused portion of her term and what does her announcement mean to down ballot races?

For now, any special election for the Senate seat is on hold.

It is possible there won't be one at all if Hutchison were to lose the primary race to Perry and decide to serve the remainder of her term.

Should she win and resign the seat, Gov. Perry would appoint an interim senator to serve and then set a date for a special election to fill the remainder of Hutchison's term which ends in 2012.

Hutchison also could decide to keep her Senate seat, appoint her successor and any special election would be further delayed.

Political observers believe if a special election does take place, it would likely be in the spring – in April or May when there's already a state sanctioned election day set aside for municipal and school board elections.

If a special Senate election is held, a mixed field of Republicans and Democrats will compete for the prize.

If no winner garners a majority of the vote, there would be a runoff between the top two vote getters.

The date for a runoff would again be set by the governor, likely about four weeks later if historical precedent is followed.

Both parties will be on hyper alert because anything can happen in a special election.

In 1961, John Tower became the first Republican senator from Texas since Reconstruction when he emerged as one of two top vote getters from the crowded field for Lyndon B. Johnson's senate seat and ultimately won the runoff election against Democrat William A. Blakely. The state was still heavily Democrat at the time.

Sen. Hutchison herself won the post in a runoff election with Ambassador Bob Krueger in 1993 after Sen. Lloyd Bentsen took a Clinton administration cabinet post.

On the Democrat side of things, former Comptroller John Sharp says he will run for the job if it opens early or at the end of Hutchison's term in 2012.

Schieffer jumps out, White jumps in

In a surprise move in late November, Tom Schieffer, the former Bush administration ambassador to Australia and Japan, pulled out of the Democratic primary race for governor.

As a result, Houston Mayor Bill White jumped into the governor's race.

White had announced as a candidate to succeed Hutchison, but after her announcement he concluded there may be no special election for U.S. Senate in 2010 because a special election hinges on a Hutchison win in the Republican primary for governor.

White is a formidable candidate with proven fundraising capability.

His entry into the race has already motivated one of the other Democratic hopefuls for Governor, Tyler rancher Hank Gilbert, to run for Agriculture Commissioner.

The future of others in the race is yet to be determined but other Democrats seeking the state's top executive job are ex-Railroad Commission nominee Mark Thompson, teacher Felix Alvarado, satirist musician Kinky Friedman and Houston hair-care millionaire businessman Farouk Shami.

Down the ballot

In the Republican down ballot races, there's plenty of teeth-gnashing occurring.

About a half dozen politicians have to run for their current jobs because the Senate job they're eyeing, or one created by a domino effect if it ever opens, isn't available yet.

Lt. Gov. David Dewhurst would have set off the dominoes in the Republican party by running for U.S. Senate, a job he has indicated that he wants.

State Sen. Florence Shapiro, R-Plano, also was interested.

Both of their terms expire in 2010 so they are filing for their current jobs.

Others looking at the U.S. Senate job were Railroad Commissioners Michael Williams and Elizabeth Ames Jones.

Their terms don't expire next year.

Former Secretary of State Roger Williams also is interested.

Sen. Steve Ogden, R-Bryan, already announced he was not seeking another term in the Legislature and was reportedly interested in a run for U.S. Congress. He since changed his mind and announced he's running for re-election.

Rep. Dan Gattis, R-Georgetown, had announced for Ogden's seat but withdrew after Ogden changed his mind.

Gattis said he will not seek another House term so he can spend more time with his family and on his law practice.

Attorney General Greg Abbott was interested in the Lt. Governor's job if Dewhurst left the position.

State Rep. Dan Branch, who had been interested in the AG's job if Abbott left office, is now running for re-election.

Former Solicitor General Ted Cruz also is eyeing the AG job.

If the special election ever takes place, and the jobs start opening, the Republican Party may select candidates to compete in the November general election for the open positions such as Lt. Governor, Attorney General, etc.

TAB is a station's political resource

TAB will keep stations abreast of developments in Texas political broadcasting as they develop.

TAB has posted the *Guide to Political Broadcasting* and a listing of 2010 races and political dates in the Members Only section of the [TAB website](#).

Stations should remember that TAB is the "go to" source for help with 2010 political broadcast questions.

Call TAB at (512) 322-9944.

Houston broadcasters meet with Culberson



A group of Houston broadcasters held a grassroots meeting Dec. 7 to meet with U.S. Rep. John Culberson, R-Houston. The event, held at KHOU-TV, allowed Houston broadcast general managers to discuss a variety of issues with Culberson and to strengthen broadcast relationships with a Texas member of Congress.

The chief topic discussed was the FCC's inquiry on reclaiming most of the current digital TV broadcast spectrum for wireless broadband redeployment.

Culberson encouraged broadcasters to demonstrate ways they intend to use current spectrum and explore other options for spectrum use.

TAB will stage a number of grassroots meetings between broadcasters and their local lawmakers in 2010. TAB will inform stations when a meeting is planned in those markets.

Caption: D'Art Bebel, KRIV/KTXH-TV; Mark Krieschen, Cox Radio; Henry Florsheim, KTRK-TV; Cong. Culberson; Ann Arnold, TAB; Susan McEldoon, KHOU-TV; Craig Bland, Univision Television (not pictured: Roger Bare, KIAH-TV; Roel Medina, KTMD-TV; Michael Schneider, TAB; Lisa Shumate, KHOU-TV)



Sales training is always the right choice



Looking for a holiday gift for your sales staff? Sales training is the gift that benefits everyone! LocalBroadcastSales.com is TAB's online, on-demand sales training service...and we've subsidized it for TAB Members ONLY!

Your staff can take advantage TODAY for only \$100 (\$250 AUS, HOU, DFW, SAnt)

That's an annual fee for your entire staff! Pay now and you'll be good through 2010!

[Download the registration form](#) or just [e-mail Beth](#) your credit card number – your staff can start training this afternoon.

Modules include:

- Sales 101 & Business Development
- Web Sales & Strategies
- Selling by Personality & Effective Networking
- Healthcare & Automotive Sales

[Preview the training](#) and sign up now.

TAB Convention set for Aug. 11-12



TAB's Annual Convention & Trade Show returns to Austin, Aug. 11-12, at the Renaissance Austin Hotel.

The event, which is the largest state broadcast meeting in the country, features one and a half days of management, engineering and sales programs and a 114-booth trade show with industry vendors from around the country.

Exhibits timeframe

Exhibit sales are now open to 2009 exhibitors and sponsors.

- Gold Patron Associates: sales opened Dec. 1
- Silver Star Associates: sales opened Dec. 8
- Associates: sale opened Dec. 14
- Booths will open to all other Associate Members on Jan. 4.

Planning is underway

The Convention Committee met Nov. 19 to begin the planning process.

Events start with the Annual Golf Tournament on Wednesday morning, Aug. 11.

Sessions begin Wednesday afternoon and the day culminates with the Opening Reception and Pioneer Club Banquet.

The Community Service Breakfast kicks things off on Thursday, Aug. 12, and sessions and the Trade Show run all day.

The highlight of the convention is the Chairman's Reception & Awards Gala on Thursday evening. As in 2009, there will be no programs on Friday, Aug. 13.

Convention Planning Committee members include:

- Scott Parsons, Double O Radio (RADIO CHAIR)
- Greg McAlister, KLBK-TV Lubbock (TV CHAIR)
- Dan Bell, Texas State Networks
- Ben Downs, Bryan Broadcasting
- Dick Drilling, KIII-TV Corpus Christi
- Tom Ehlmann, KXAS-TV Dallas-Fort Worth
- J.D. Freeman, Clear Channel Radio Dallas-Fort Worth
- Mary Mike Hatcher, Bryan Broadcasting
- John Kittleman, KRGV-TV Rio Grande Valley
- Kevin Lovell, KVIA-TV El Paso
- Tim McCoy, KHZS/KLQB/KHCK Austin
- David Ostmo, KABB/KMYS-TV San Antonio
- Chris Paddie, KMHT Marshall
- Mike Ryan, Clear Channel Radio Dallas-Fort Worth
- Gary Schneider, KTXA/KTVT Dallas-Fort Worth
- Benny Springer, Diversified Broadcast Systems
- Mike Wenglar, KVUE-TV Austin

Suggestions for session topics and programs can be submitted to TAB Vice President [Oscar Rodriguez](#).

Three NCSA campaigns continue into next year

Schedules for three of TAB's NCSA sponsors will continue to air into 2010.

The Texas National Guard is a year-round campaign and stations can continue to air current copy until new spots arrive early next year.

"Poison Help," a new NCSA campaign from the Commission on State Emergency Communications is available to air until May 24, 2010. New radio spots were sent to stations the week of November 30. New television creative is currently in production and will be sent to stations soon.

The "Why Not Me?" adoption NCSA from the Texas Department of Family & Protective Services is available to air through January 31, 2010.

Contact TAB's Craig Bean at craig@tab.org or (512) 322-9944 with questions about these or any other NCSA schedule.

THANK YOU!

Special THANKS to the following stations that contributed airtime to TAB's NCSA campaigns during 2009.

Revenue from the NCSA program provides funding to support many of TAB's vital services such as the legal hotline, online job bank, workshops and seminars.

Abilene KEAN-FM	Amarillo KXGL-FM	Beaumont-Port Arthur KCOL-FM
Abilene KEYJ-FM	Amarillo KZBZ-LP-TV	Beaumont-Port Arthur KFDM-TV
Abilene KFGL-FM	Austin KAKW-TV	Beaumont-Port Arthur KIKR-AM
Abilene KGXL-FM	Austin KAMX-FM	Beaumont-Port Arthur KIOC-FM
Abilene KIDZ-TV	Austin KDHT-FM	Beaumont-Port Arthur KITU-TV
Abilene KORQ-FM	Austin KEYE-DTV	Beaumont-Port Arthur KKMV-FM
Abilene KRBC-TV	Austin KFON-AM	Beaumont-Port Arthur KLVI-AM
Abilene KSLI-AM	Austin KHZS-FM	Beaumont-Port Arthur KQXY-FM
Abilene KTAB-TV	Austin KIXL-AM	Beaumont-Port Arthur KTCX-FM
Abilene KTES-TV	Austin KJCE-AM	Beaumont-Port Arthur KUIL-LPTV
Abilene KTXS-TV	Austin KKMJ-FM	Beaumont-Port Arthur KYKR-FM
Abilene KULL-FM	Austin KLQB-FM	Big Spring KBYG-AM
Abilene KXVA-DTV	Austin KOOP-FM	Bonham KFYN-AM
Abilene KYYW-AM	Austin KTBC-TV	Borger KQTY-AM
Amarillo KAMR-TV	Austin KTXS-FM	Borger KQTY-FM
Amarillo KCIT-TV	Austin KVUE-TV	Brenham KTTX-FM
Amarillo KCPN-TV	Austin KWNX-AM	Brenham KWHI-AM
Amarillo KFDA-TV	Austin KXBT-FM	Bryan-College Station KAGC-AM
Amarillo KGNC-AM	Austin KXXS-FM	Bryan-College Station KBTX-DTV
Amarillo KGNC-FM	Austin KZNX-AM	Bryan-College Station KMAY-TV
Amarillo KGRW-FM	Ballinger KRUN-AM	Bryan-College Station KNDE-FM
Amarillo KQFX-FM	Beaumont-Port Arthur KAYD-FM	Bryan-College Station KRHD-LP-TV
Amarillo KVIH-DTV	Beaumont-Port Arthur KBMT-TV	Bryan-College Station KSCM-LP-TV

Bryan-College Station KYLE-DTV
Bryan-College Station KZNE-AM
Bryan-College Station WTAW-AM
Carrizo Springs KAJP-FM
Carthage KGAS-AM
Carthage KGAS-FM
Colorado City KAUM-FM
Colorado City KVMC-AM
Corpus Christi KAJA-TV
Corpus Christi KBNJ-FM
Corpus Christi KDF-TV
Corpus Christi KIII-TV
Corpus Christi KKPN-FM
Corpus Christi KLHB-FM
Corpus Christi KLUX-FM
Corpus Christi KMIQ-FM
Corpus Christi KMXR-FM
Corpus Christi KNCN-FM
Corpus Christi KNDA-FM
Corpus Christi KPUS-FM
Corpus Christi KRIS-TV
Corpus Christi KRSR-FM
Corpus Christi KTOV-LP-TV
Crockett KIVY-AM
Crockett KIVY-FM
Dallas-Fort Worth KBFB-FM
Dallas-Fort Worth KBOC-FM
Dallas-Fort Worth KDAF-TV
Dallas-Fort Worth KDFI-TV
Dallas-Fort Worth KDXX-FM
Dallas-Fort Worth KESS-FM
Dallas-Fort Worth KFLC-AM
Dallas-Fort Worth KFWR-FM
Dallas-Fort Worth KFXR-AM
Dallas-Fort Worth KFZO-FM
Dallas-Fort Worth KHYY-FM
Dallas-Fort Worth KJCR-FM
Dallas-Fort Worth KLDT-DTV
Dallas-Fort Worth KLNO-FM
Dallas-Fort Worth KMPX-TV
Dallas-Fort Worth KNON-FM
Dallas-Fort Worth KNOR-FM
Dallas-Fort Worth KSCS-FM
Dallas-Fort Worth KSOC-FM
Dallas-Fort Worth KSTR-DTV
Dallas-Fort Worth KTCU-FM
Dallas-Fort Worth KTCY-FM
Dallas-Fort Worth KTFW-FM
Dallas-Fort Worth KTVT-TV
Dallas-Fort Worth KTXA-TV
Dallas-Fort Worth KUVN-TV

Dallas-Fort Worth KVCE-AM
Dallas-Fort Worth KVRK-FM
Dallas-Fort Worth KXAS-TV
Dallas-Fort Worth KZZA-FM
Dallas-Fort Worth WFAA-TV
Denton KNTU-FM
El Paso KDBC-TV
El Paso KHEY-AM
El Paso KHEY-FM
El Paso KINT-TV
El Paso KPRR-FM
El Paso KSII-FM
El Paso KTFN-TV
El Paso KTSM-AM
El Paso KTSM-FM
El Paso KVIA-TV
Fort Stockton KFST-AM
Fort Stockton KFST-FM
George West KGWT-FM
Hillsboro KHBR-AM
Houston KAFR-FM
Houston KAMA-FM
Houston KBME-AM
Houston KBXX-FM
Houston KCOH-AM
Houston KFTH-TV
Houston KGLK-FM
Houston KHLM-TV
Houston KHMV-FM
Houston KHPT-FM
Houston KIAH-TV
Houston KIKK-AM
Houston KILT-AM
Houston KILT-FM
Houston KKBQ-FM
Houston KKHH-FM
Houston KLAT-AM
Houston KLOL-FM
Houston KLTJ-TV
Houston KLTN-FM
Houston KMJQ-FM
Houston KNWS-DTV
Houston KOVE-FM
Houston KPFT-FM
Houston KPXB-TV
Houston KQBU-FM
Houston KRIV-TV
Houston KROI-FM
Houston KRTX-AM
Houston KSEV-AM
Houston KTBU-TV

Houston KTHT-FM
Houston KTJM-FM
Houston KTMD-TV
Houston KTRK-TV
Houston KTXH-TV
Houston KXLN-TV
Houston KZJL-TV
Huntsville KHVL-AM
Huntsville KSAM-FM
Junction KMBL-AM
Junction KOOK-FM
Kenedy KAML-AM
Kerrville KERV-AM
Kerrville KKVR-FM
Kerrville KRNH-FM
Kerrville KRVL-FM
Kerrville KSYF-FM
Laredo KETF-CA-TV
Laredo KGNS-TV
Laredo KLDO-TV
Liberty KSHN-FM
Lubbock KCBF-TV
Lubbock KEJS-FM
Lubbock KJAK-FM
Lufkin-Nacogdoches KTRE-TV
Madisonville KMVL-AM
Madisonville KMVL-FM
Mesquite KEOM-FM
Midland-Odessa KCHX-FM
Midland-Odessa KCRS-AM
Midland-Odessa KEUS-TV
Midland-Odessa KFZX-FM
Midland-Odessa KHXX-FM
Midland-Odessa KMCM-FM
Midland-Odessa KMID-TV
Midland-Odessa KMMZ-FM
Midland-Odessa KMRK-FM
Midland-Odessa KOSA-TV
Midland-Odessa KPEJ-TV
Midland-Odessa KQRX-FM
Midland-Odessa KWEL-AM
Mineola KMOO-FM
Navasota KWBC-AM
Ozona KYXX-FM
Palestine KNET-AM
Palestine KYYK-FM
Plainview KKYN-FM
Plainview KREW-AM
Plainview KRIA-FM
Plainview KVOP-AM
Prairie View KPVO-FM

Rio Grande Valley KBMI-FM
Rio Grande Valley KBUC-FM
Rio Grande Valley KJAV-FM
Rio Grande Valley KNVO-FM
Rio Grande Valley KNVO-TV
Rio Grande Valley KOIR-FM
Rio Grande Valley KQBO-FM
Rio Grande Valley KRGV-TV
Rio Grande Valley KRIO-AM
Rio Grande Valley KSOX-AM
Rio Grande Valley KURV-AM
Rio Grande Valley KVEO-TV
Rio Grande Valley KVMV-FM
Rockdale KRXT-FM
San Angelo KANG-TV
San Angelo KELI-FM
San Angelo KGKL-AM
San Angelo KGKL-FM
San Angelo KIDY-DTV
San Angelo KKC�-FM
San Angelo KLST-DTV
San Angelo KNRX-FM
San Angelo KSAN-DTV
San Angelo KTXE-TV
San Antonio KABB-DTV
San Antonio KAJA-FM
San Antonio KBBT-FM
San Antonio KCYY-FM
San Antonio KDRY-AM
San Antonio KHHL-FM
San Antonio KISS-FM

San Antonio KKYX-AM
San Antonio KNIC-CA-TV
San Antonio KNIC-TV
San Antonio KONO-FM
San Antonio KPWT-FM
San Antonio KQXT-FM
San Antonio KRPT-FM
San Antonio KSAT-TV
San Antonio KSMG-FM
San Antonio KSYM-FM
San Antonio KTKR-AM
San Antonio KVDA-TV
San Antonio KWEX-TV
San Antonio KXTN-FM
San Antonio KXXM-FM
San Antonio KZEP-FM
San Antonio WOAI-AM
San Antonio WOAI-TV
Seymour KSEY-AM
Sherman-Denison KXII-TV
Sherman-Denison KQDR-FM
Sonora KHOS-FM
Sweetwater KXOX-AM
Sweetwater KXOX-FM
Texarkana KTAL-TV
Tyler-Longview KETK-TV
Tyler-Longview KFXK-TV
Tyler-Longview KKUS-FM
Tyler-Longview KLTV-TV
Tyler-Longview KOOI-FM
Tyler-Longview KOYE-FM

Tyler-Longview KSLA-TV
Tyler-Longview KTAA-FM
Tyler-Longview KYKX-FM
Tyler-Longview KYTX-DTV
Victoria KAVU-DTV
Victoria KMOL-TV
Victoria KUNU-TV
Victoria KVCT-TV
Victoria KVTX-TV
Victoria KXTS-TV
Waco-Temple-Killeen KBCT-FM
Waco-Temple-Killeen KBGO-FM
Waco-Temple-Killeen KBRQ-FM
Waco-Temple-Killeen KCEN-TV
Waco-Temple-Killeen KHCK-FM
Waco-Temple-Killeen KIIZ-FM
Waco-Temple-Killeen KLFX-FM
Waco-Temple-Killeen KPLE-CA-TV
Waco-Temple-Killeen KWKT-DTV
Waco-Temple-Killeen KWTX-AM
Waco-Temple-Killeen KWTX-DTV
Waco-Temple-Killeen KWTX-FM
Waco-Temple-Killeen KXXV-DTV
Waco-Temple-Killeen WACO-FM
Wichita Falls KAUZ-TV
Wichita Falls KFDX-DTV
Wichita Falls KJBO-LP-TV
Wichita Falls KJTL-DTV
Wichita Falls KKTM-LP-TV
Wichita Falls KSWO-DTV
Zapata KJJS-FM

LEGAL ISSUES

Legal Q&A



On Dec. 1, the Federal Trade Commission's newly-revised Guides on Endorsements and Testimonials will become effective.

Broadcasters, including on-air talent, need to know when a statement or presentation is an endorsement/testimonial, what on-air disclosures may be required, and what the obligations are to ensure that claims are truthful and not misleading.

Attorney Lauren Lynch Flick with Pillsbury Winthrop Shaw Pittman, TAB's FCC legal counsel, says these endorsement/testimonial-related issues can arise in a variety of contexts, including

when station personnel voice commercials, prepare copy for advertisers, engage in banter regarding a product or service, serve as a spokesperson for an advertiser, or provide content to station websites.

[Continue reading...](#)

Texas Open Meetings Act suit expected this month

A federal lawsuit is expected to be filed this month by attorneys representing several city councils who say the Texas Open Meetings Act violates their right of free speech.

TAB and other Open Government groups say the law and its criminal penalty provisions are necessary to ensure the public's business is conducted in the light of day.

The proposed suit stems from a case involving two Alpine city council members who exchanged e-mails about a city issue in 2004.

A Brewster County district attorney indicted the two on violating the TOMA, but the indictments were later dropped.

The council members filed a federal lawsuit, Rangra v. Brown, seeking to remove the criminal provisions in the law that impose a fine of up to \$500 and a possible jail sentence of up to six months.

Federal judge Rob Junnell upheld the constitutionality of the TOMA and in November, the Fifth Circuit Court of Appeals in New Orleans dismissed the appeal because the council members no longer had legal standing (their terms on the council had ended).

Alpine City Attorney Rob Ponton says he plans to re-file an identical lawsuit with support from the cities of Big Lake, Rockport and Pflugerville. Ponton said other cities might join.

The issue presents a story opportunity for Texas broadcast newsrooms (see story below).

"The lawsuit seeks to make the criminal provisions unconstitutional," Ponton told the Beaumont Enterprise.

Ponton said while the public's business should be conducted in public, the law criminalizes conversation.

"Texas is the only state that threatens to throw you in jail for talking."

TAB and other Open Government advocates said while the threat exists, no Texas public official has ever spent a night in jail under the law (which has been in effect for more than three decades).

The Texas Attorney General's office will defend the law when the suit is filed and said any claims that the TOMA is unconstitutional are unfounded.

"Under Texas law, taxpayers have a right to know what their elected representatives are doing on their behalf," said Jerry Strickland, an AG spokesman told the Beaumont Examiner.

"If a quorum of public officials wants to discuss public business, the law requires that they do so in public. In this case, elected officials, municipalities and critics of Open Government are turning the First Amendment on its head."

Open Government advocates said there could be a push by the Texas Municipal League to rescind the TOMA's criminal penalties with some form of bill in the 2011 Texas Legislature.

On Oct. 23, TML passed a resolution, offered by the City of Sugar Land, to pass a law to provide "less restrictive penalties that balance the First Amendment right of government officials" who violate the Texas Open Meetings Act.

Some cities are not joining either effort to decriminalize the law.

The Abilene City Council voted 4-3 in November to table a request to join the three other cities in the upcoming lawsuit.

Others such as Beaumont, Port Arthur and Orange say no legislative fix is needed and that the law serves its purpose well.

The expected lawsuit and TML's potential legislative move, riles Open Government advocates including those who helped strengthen the law in the 1970s after its original passage in 1967.

"We are talking about a Class B misdemeanor, which is one step up from a traffic offense," said former Texas Senator Don Adams.

Adams passed the Texas Public Information Act and strengthened TOMA as part for a reform-minded Legislature in 1973. He is a longtime TAB legislative advisor keenly involved in TAB's Open Government efforts.

"What they really want is to do is relax the law to the point where there is no real prohibition against decision making whenever and wherever they want. If you follow TML's reasoning you might as well decriminalize bribery and abuse of office from a felony to a Class C misdemeanor."

Former Texas Lieutenant Governor Bill Hobby has lashed out at TML in a series of op-ed pieces in newspapers across the state for what he called a "ridiculous" plan.

"The First Amendment cannot be a shield to prevent accountability of public officials," Hobby wrote in the Austin American-Statesman.

TAB will continue to update stations about developments on this issue and encourages stations to keep the heat on though broadcast stories about the issue.

TOMA suit: call for newsroom stories

This month's proposed suit and expected Texas Municipal League push to remove the criminal provisions of the Texas Open Meetings Act create a prime opportunity for newsrooms to do Open Government stories in their individual markets. Newsrooms should interview local city councils to determine if they are going to join the proposed lawsuit and to ascertain whether or not they support TML's effort to weaken the existing law.

- If the city plans on fighting the law by joining the suit or supports a legislative change, shouldn't the public's business be conducted in the light of day?
- If the city isn't planning on fighting the existing law, why not? Do the deterrents in place strike a fair balance of ensuring transparency?

It's also very important for general managers and news directors to have discussions on this issue with elected officials in their markets. There may be opportunities to do just that at social events during the holidays.

Let them know this issue is important to broadcasters and that the broadcast community is watching and acting to prevent any weakening of the law. Please report lawmaker contacts to [TAB](#).

Talking Points

The Texas Open Meetings Act (TOMA):

- Was first passed in 1967 and was strengthened in 1973 as part of governmental transparency reforms passed in the wake of the Sharpstown bank scandal. The same scandal also created the Texas Public Information Act.
- Prevents a majority of officials of a public entity (such as a city council or school board) from deliberating issues outside of a public meeting for which adequate public notice has been made
- Does not prevent a member of a public body from commenting on issues before it with any citizen or with one another as long as no majority of its members (called a quorum) is assembled outside of a public meeting
- Also applies to public comments in the form of e-mail or phone conversations
- Has adequate exceptions and procedures in the law that allow closed door discussions by a quorum (but not decisions) on a variety of topics
- Provides criminal penalties under the Act – violation is a Class B misdemeanor, punishable by up to six months in jail and/or up to a \$500 fine.
- A Class B misdemeanor is one of the lightest punishments under Texas law and is only one step above a traffic offense. No Texas official has ever been jailed under the law.
- Elected and appointed officials subject to the TOMA are required to complete a course of training about duties and responsibilities under the law. Not knowing about its provisions isn't an excuse.

Another FFOIA win

The *Dallas Morning News* is the latest Texas media entity to win a court fight over required testimony in a case by using the recently enacted Texas Free Flow of Information Act.

This month, a towing company's efforts to require a Morning News reporter to testify in a Dallas County district court hearing were rebuffed after a judge said the new shield law applied.

Reporter Kevin Krause wrote extensively this past summer about the aggressive towing operations of two Dallas County constables. The stories prompted county officials to seek towing contracts for all the constable precincts to bring oversight and accountability to the process.

Dowdy Ferry Auto Services, which had contracts with two constables' offices, sued alleging that the Dallas County commissioners were interfering with a valid contract. Attorneys for the towing company asked Judge Emily Tobolowsky to compel Krause's testimony about one of his newspaper stories.

Paul Watler, an attorney with Jackson Walker LLP, represented the newspaper and challenged the move. Watler serves as co-counsel on open government to TAB's Board of Directors.

Tobolowsky said she was concerned about compelling journalists to discuss sources and that timely notice of the intent to compel his or her testimony had not been given. Tobolowsky denied the request and Krause did not testify.

Texas FFOIA track remains good

On May 13, Texas became the 37th state to enact a Free Flow of Information Act.

After more than three decades of trying, TAB led an effort to pass a qualified privilege law which protects, in many instances, against compelled newsroom testimony and production of newsroom work product.

"Since then, we've seen a pretty strong showing of cases in the media's favor, in fact, nearly all of them are wins for our side," said Michael Schneider, TAB director of programs.

Schneider said the law has mostly been used equally by broadcast and print outlets.

"Of the nine cases we know about that have resulted in subpoenas, at least four of them involved broadcasters."

The first use of the new law came just two weeks after its enactment.

A Corpus Christi judge quashed a subpoena that sought testimony from a KIII-TV reporter.

In three of the cases, defense counsel has sought the identities of anonymous online commentators posted on news outlet websites. Six of the cases have resulted in wins and two of the cases are pending. In the remaining case, supporters term the decision a draw but stress the ruling did clarify and thus help the media outlets involved.

That's because in the murder trial of James Broadnax, the media's appeal weakened the trial judge's attempt to eviscerate a key provision in the new law.

Prosecutors subpoenaed every media outlet in the Dallas area to testify in the trial despite the fact the State already had video copies of all of the jailhouse interviews in which Broadnax confessed to the crime.

KDFW-TV led the way and stations filed motions to quash subpoenas for station reporters to testify.

KTVT-TV, KXAS-TV and WFAA-TV followed suit, but State District Judge Michael Snipes denied the motions and ruled the Free Flow Act did not apply to interviews that took place prior to May 13, 2009, the date the law was enacted.

Further, and more troubling, Snipes also ruled that even if the Free Flow Act had applied, the State met its burden by merely asserting they needed the reporters to testify because Broadnax's attorneys filed motions to suppress the video confessions.

Laura Lee Prather, an attorney with the Sedgwick Detert Moran & Arnold law firm, represented several of the stations in the case. Prather serves with Watler as co-counsel on open government issues to TAB's Board of Directors.

She said the move was surprising, since the judge made the decision without requiring the State to put on any evidence. The Dallas-based Fifth Circuit Court of Appeals agreed with the judge's decision that the Free Flow Act did not apply to interviews that took place prior to May 13.

More importantly, the appellate court did not agree that the State had met its evidentiary burden under the Act.

"The most dangerous part of Snipes' order was overturned and the integrity of the Free Flow Act was preserved," Prather wrote in the September *TABulletin*.

Prather said that the nine cases known so far do not encompass all of the cases in which media outlets have been able to utilize the new law.

"What has happened a fair amount is when a media outlet learns a subpoena is coming or even after it has been issued, they've been able to get the matter to 'go away' by simply referring the subpoenaing party to the new law," Prather said.

TAB is interested in knowing about Texas newsrooms' experience this year with the new law, even if it's just to report that that subpoenas was never served after the issue of the law's existence was brought up.

Stations should contact TAB's [Michael Schneider](#) with any examples of use of the new law.

U.S. Senate Judiciary Committee adopts federal FFOIA

After 17 committee vote attempts, the federal Free Flow of Information Act, S. 448, is now going to the full Senate.

The Senate Judiciary Committee voted 14-5 on Dec. 10 to approve the measure.

Sen. John Cornyn, R-Texas, voted against the bill.

Passage came after some three hours of debate on a number of Republican and one Democrat offered amendments, most of which were voted down.

One the defeated amendments called for the bill to sunset in 2013.

A Senate floor vote is up next and then a conference to reconcile differences between the Senate version of the bill and a House version that already passed overwhelmingly.

In its current form, S. 448 is a compromise worked out by senators, media representatives, the intelligence community and the Obama administration.

The President has already indicated that he is supportive of the legislation, but odds of it becoming law this year are long.

S. 448 gives journalists a qualified protection from being compelled to give up information or identify sources.

However, the bill does feature a number of exceptions for national security, bodily harm and sensitive personal and business information.

BRIEFS & TABS

FCC seeks comment by Dec. 21 on future use of TV spectrum



The FCC has wasted no time in pressing ahead with the discussion of whether the spectrum currently used by local broadcast television stations is being put to the greatest use and whether it should be "re-purposed" for wireless broadband use.

The commission has issued a [Public Notice](#) soliciting comments by Dec. 21 regarding the demand for spectrum, the factors the FCC should consider when considering the re-purposing of TV spectrum, and potential approaches to increasing spectrum availability and efficiency.

Although the Public Notice asks broad, far-ranging policy questions, the comment period for the "specific data" that the FCC seeks to obtain from interested parties was just a three-week window.

The specific topics of discussion identified by the Commission and details about how to submit comments can be found in the Commission's [Notice](#).

Among the issues broadcasters will undoubtedly address (and indeed have already begun to address in other forums) is the fact that claims of a forthcoming spectrum crisis – which seems to have become a given in certain circles – have not been substantiated.

Related to that is the notion that broadcasters already have the ability to lease any "excess" digital television spectrum and use the capacity to provide broadband access, mobile services, or virtually anything else under the sun.

Stations will likely suggest that this mechanism will allow the wireless broadband market to tap this spectrum without further government intervention, if and when the demands of the wireless market require it.

Other issues sure to be of discussion are the value of local broadcast stations, usefulness of free over-the-air broadcasting, future of broadcast journalism and the service stations provide to the public.

It will be challenging, to say the least, for commenters to quantify and address any of these significant questions within the three-week comment period.

Having just completed the DTV transition six months ago, most broadcasters have just begun to explore the options afforded by the transition in terms of high-definition, multicasting, data casting, broadband access, and mobile TV before having to rush to defend its use, or lack thereof.

The FCC's rush to solicit comments is clearly guided by its need to develop a broadband plan early next year, however, the issues raised by the Public Notice are among the most significant it has ever attempted to address, certainly with respect to broadcasting and mass media.

[Continue reading...](#)

New ownership report due Jan. 11

All commercial radio and television stations, including Class A and LPTV stations, must file FCC Form 323, biennial ownership reports, by Jan. 11. In addition to licensees that have traditionally been required to file biennial ownership reports, sole proprietors and general partnerships will be required to file biennial ownership reports by this deadline as well.

As a general rule, individuals and other legal entities that hold direct or indirect "attributable interests" in stations must now provide a Federal Registration Number in the reports.

The form for the FCC's Ownership Report is now available for stations to complete online.

[View the form](#)

TAB Associate Member Davis Wright Tremaine LLP last wrote [here](#) about the FCC's announcement of the impending availability of the form, and the decision to allow broadcasters to obtain temporary FCC Registration Numbers (FRNs) for principals from whom Social Security Numbers cannot be obtained by the January 11 filing deadline.

Thus, with the form in the database, and the Social Security Number issue temporarily resolved, broadcasters need to prepare these forms and file them by January 11.

The FCC has promised vigilance in enforcing this requirement.

(Information courtesy of www.broadcastlawblog.com)

FCC political window opens Jan. 16

The FCC's political window opens next month on Saturday, Jan. 16. It's the first of two FCC-mandated political windows take place in 2010. The windows are the special time periods for broadcasters which are covered by the bulk of the FCC's political broadcast rules.

[View full list of 2010 political dates](#) (login required)

Music royalty letters arrive

Radio broadcasters all over the country have been receiving letters about music royalties – from ASCAP, BMI and the Radio Music Licensing Committee (RMLC). The ASCAP and BMI letters are asking for the broadcaster to sign a letter committing themselves to some royalty obligation for 2010

They pose three options to the broadcasters – sign up to pay royalties for 2010, join the RMLC negotiating group, or notify ASCAP and BMI that they will be negotiating their own royalties.

[Continue reading...](#)

Panasonic to acquire Sanyo

The Federal Trade Commission has approved Panasonic's \$9 billion purchase of Sanyo. Both Panasonic and Sanyo count TV sets among their many products.

The approval came after the two companies agreed to sell Sanyo's assets in batteries for first responder radios within 15 days and is allowed only one 15-day extension. The companies are the two largest manufacturers and sellers of the radios. The public comment will be up on Dec. 25 according to the FTC, after which it will make the decision final.

Mauldin moves to LA

Steve Mauldin is the new president/general manager of KCBS/KCAL-TV Los Angeles.

He most recently served as president/GM of KTVT/KTXA-TV Dallas-Fort Worth.

Before Dallas, Mauldin oversaw CBS' southwest station portfolio, including stations in Austin and Oklahoma City. He began his television career as an account executive at KOSA-TV Midland-Odessa.

Mauldin succeeds Patrick McClenahan who is leaving CBS to pursue other opportunities.

CBS taps Ferro for VP spot

Pio Ferro is the new VP of Spanish programming for CBS Radio, overseeing the company's Spanish-language stations.

Ferro spent many years with Spanish Broadcasting System, including a stint as VP/Programming. For CBS, he'll serve as day-to-day PD at KMKV Dallas-Fort Worth, and work remotely with the local programming teams for KLOL Houston, WLZL Washington, and WYUU Tampa.

Carr upped at Bexel ASG

Helen Carr is the new pro audio sales manager for Bexel ASG, a TAB Gold Patron Associate Member.

She will oversee sales efforts of the company's national team that sells, installs and supports audio brands including Calrec, Lectrosonics, Zaxcom, and Clear-Com. Carr joined Bexel in 2003 and held previous positions at Quantel and Snell & Wilcox, also TAB Associate Member companies.

Broadcasters mourn loss of Gomez

Ray Gomez, news director at KGNS-TV Laredo, died last month after complications from pneumonia. He was 45.

Gomez's news career began in high school – he interned in the photography department at the Laredo Morning Times.

He later moved to TV news at KVTU-TV Laredo and then to stints at KENS-TV and KSAT-TV, both San Antonio, as well as KVUE-TV Austin.

When his wife Diana "Dee Dee" Fuentes landed a job at the Laredo Morning Times, Gomez followed and started his time at KGNS-TV. As news director, Gomez was responsible for five daily and two weekend newscasts at Pro 8 News; a daily 9 p.m. newscast on Your CW and morning news updates on Telemundo Laredo.

Fuentes established a scholarship in Gomez's name through the Carole Kneeland Project for Responsible Journalism.

Gomez worked with Kneeland in Austin and attended the Kneeland Project in 2005.

"This Scholarship Fund will ensure that other deserving, hard-working news directors like Ray are offered opportunities to become even better journalists for many years to come," according to www.kneelandproject.org.

[Support the project...](#)

Marrou retires; Vaughn joins KENS-TV

Chris Marrou retired from the anchor desk at KENS-TV San Antonio last month – after 36-year tenure.

Marrou was born in Nixon, Texas and graduated from Robert E. Lee High School in San Antonio. He attended Princeton University and started his broadcast career at the school's radio station.

He eventually returned to report for WOAI-TV San Antonio and then KRLD Dallas-Fort Worth. In 1973, Marrou returned to San Antonio as the 10 pm news anchor for KENS-TV. He has held that position ever since, leaving briefly in 1980 to pursue an opportunity in Boston.

Marrou received his law degree from St. Mary's University in 2007 and passed the bar the same year. He is a partner with the law firm of Ramirez, Marrou & Martinez de Vera. His final stint behind the anchor desk was capped by a 30-minute special looking back at his career.

[View tribute...](#)

Jeff Vaughn, who most recently was the morning anchor for KSHB-TV Kansas City, will succeed Marrou.

Prior to his work in Kansas City, Vaughn was a weekend morning anchor and general assignment reporter at WDIV-TV Detroit.

Vaughn has Texas roots as an anchor and reporter at KCBD-TV Lubbock and as a reporter at KMID-TV Midland-Odessa.

Rahilly to head CC national ad sales

Charlie Rahilly moves from president of Premiere Radio Networks to a new post as president of Clear Channel Radio's National Advertiser Platforms Group.

The newly-formed division covers ad sales for Clear Channel Radio, CCR Digital National Sales, CCR Creative Services Group, and CCR Advertiser Development divisions, as well as Premiere Radio Networks Ad Sales.

Katz Media Group also comes under the new division's umbrella, with Stu Olds remaining in place as president and CEO.

PIONEER ROUND-UP

Scholarship named for Gunn

Harold Gunn was recently honored at the Texas Auto Writers Association Banquet.

In recognition of his accomplishments as a three term president, the association's annual scholarship was renamed the "Harold Gunn Scholarship for Journalism."

His syndicated outdoors program, "Texas Outdoor News," has been named the number one outdoors radio show in Texas by the Texas Outdoor Writers Association.

Gunn's previous station affiliations include KULF Brenham, KHOU, KRIV, KPRC, KTBU, and KXYZ Houston.

Garth schedules book signing event

E.P. Garth, author of the book, "Off the Air: A Pat Cassidy Novel," will have a book signing at the Kolache Depot Bakery in Ennis on December 19 at 10 a.m.

The book is published by Ingram Publishers and is available at booklocker.com and amazon.com.

Garth worked in broadcasting for more than 37 years. His station affiliations include KBEC Waxahachie, KAND/KCIR Corsicana, KNEL Brady, KXOL Brownwood, WACO Waco-Temple-Killeen, KWTX Waco-Temple-Killeen, KBAL San Saba, KNFO Waco-Temple-Killeen, KCLE Cleburne and KWOW Waco-Temple-Killeen.

ASSOCIATE FOCUS

Sony debuts camcorder line

Sony Electronics, a TAB Gold Patron Associate Member, has introduced a new line of professional video products that supports the AVCHD format.

They are also designed to bring the benefits of seamless and easy-to-use solid-state production capabilities to professionals and "pro-sumers," according to the company.

The first model in the series is a professional camcorder that features Sony's Exmore CMOS sensor with ClearVid array, to deliver full high-definition resolution and low light sensitivity with low noise.

"Building on our success with file-based solid-state technology, the time is right to bring to market a memory-based camcorder using the latest AVCHD technology with low-cost memory cards," said Tatsuro Kurachi, group marketing manager, Sony Electronics' Broadcast and Professional Audio/Video Group.

"Coupled with the latest innovations in lens and sensor design, this new family will offer outstanding picture performance for professional applications such as event videography, commercial or corporate video production."

[Read more...](#)

Gepco introduces HDR1

Gepco International, a TAB Associate Member, has introduced its HDR1 high-density distribution rack which is an updated design to its original HDR with a new, electrically isolated, one-rack-unit six-position design.

The new HDR1 can deliver up to six SMPTE 304M positions in a 1RU space or up to 12 positions in a 2RU space with two HDR1 units, according to the company.

The HDR1 is available in a standard modular frame that allows all configurations to be expanded up to six-channels with optional expansion kit modules.

[Read more...](#)

FOR MORE INFORMATION

Texas Association of Broadcasters

Address	502 E. 11 th St., Ste. 200, Austin, Texas 78701
Phone	(512) 322-9944
Fax	(512) 322-0522
Website	www.tab.org
Main E-mail	tab@tab.org
About TAB	www.tab.org/about
Board of Directors List	www.tab.org/about/board-of-directors
Staff Contact List	www.tab.org/about/staff
Associate Member Directory	www.tab.org/member-services/associate-directory/
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