



Fleischman and Walsh, L.L.P.

30 years as strategic counsel to the communications industry

Regulation of Mobile Television Content - Broadcast Decency Rules, etc.

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The FCC's rules regulate technical aspects of transmission, but only broadcasters face most "content" regulations.

- Part 27 of the FCC's rules applies to providers of fixed or mobile communications, including providers of mobile TV
- The FCC will apply Section 27.2 of the Commission's rules to define the permissible communications for the Lower 700 MHz Band and allow a multitude of fixed, mobile, and broadcast uses that the market may demand
- Consistent with the FCC's Spectrum Reallocation Policy Statement, this flexible use approach will allow the provision of services to the public that could include mobile and other digital new broadcast operations
- The FCC will allow any broadcast services that meet its Part 27 technical rules.

A Look at the FCC's Indecency Rule for Broadcasters

- Broadcasters (radio and television) can never broadcast obscene material, or indecent material between the hours of 6 am through 10 pm
- No such FCC restrictions for mobile services (other than the Personal Radio Services and Amateur Radio Services, both of which are not permitted to transmit broadcasts)



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A Review of Application of the FCC's Broadcast Rules to Other Technologies Carrying Broadcast Content

Cable Television

-- FCC "indecent regulations" give operators options

- Cable operators shall be required to accommodate as expeditiously as possible all leased access requests for programming that is not obscene or indecent
- Any open video system operator may prohibit the use on its system of any channel capacity of any public, educational, or governmental facility for any programming which contains nudity, obscene material, indecent material

Direct Broadcast Satellite

- No FCC indecency regulations

MMDS

- No FCC indecency regulations

Part 64 Common Carrier Regulations

- FCC regulations regarding indecent telephone messaging service too removed from one-way programming nature of Mobile TV

Conclusion - Mobile TV More Broadcast than CMRS, or More CMRS than Broadcast?

- Based upon the FCC's regulatory treatment of other technologies transmitting broadcast programming, the FCC may permit mobile carriers the option of turning away "indecent" material based upon nondiscriminatory criteria, but likely will not apply the same indecency regulations as for "traditional" broadcasting
- Of course, politics could bring indecency regulations - watch the Congressional election next month

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Technical Costs of “Broadcasting” Over Mobile Telecommunications Devices

Spending now seen at the national level

- Fox Network is working with Toyota Motor Corp. to offer advertising-subsidized mobile video (such as the show, "24")
- "Access Hollywood" offers content through several carriers and MVNO Amp'd Mobile Inc.
- Networks are investing talent and money to create "mobisodes" that complement on-air programming

Virtually no spending at the individual station level

- Thus, local programming will not be immediate
- National programming will lead introduction of Mobile TV

Technology companies are spending hundreds of millions of dollars to build out dedicated multimedia networks

Carriers hope to turn broadcast programming into pumping advertising and subscription revenue streams

In addition to technical costs, talent costs are consideration

- Writers, actors, directors, unions
- Promotional programming (already included in talent contracts) vs. stand-alone programming (extra compensation)

Ease of upgradeability to support Mobile TV devices

- Philips claims its TV-on-Mobile product's programmable options make it easy to support evolving standards (it currently supports mobile video platforms Digital Video Broadcast - Handheld and DVB-T) and introduce upgrades, even after systems have been deployed in the field
- CellMetric uses the DVB-H platform and software-defined radio for flexibility and upgradeability



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