OTHER STATIONS ARE ALSO COUNTING TIME

The FCC has approved other time brokerage agreements in recent months. Among them is a 10-year deal in which M. Belmont VerStandig, licensee of WSVA(AM)-WQPO(FM) Harrisonburg, Va., will program and advertise for Stonewall Broadcasting Co.'s WPKZ(FM) Elkton, Va. The commission also approved a similar agreement in which Citadel Associates Ltd., licensee of KKFM(FM) Colorado Springs, will broker for Whale Communications of Colorado Inc., licensee of KKMG(FM) Pueblo, Colo. Additionally, the FCC granted a programing affiliation agreement between Independence Broadcasting Co., licensee of KAMG(AM) Victoria, Tex., and Coastal Wireless Co., licensee of KPLV(FM) Port Lavaca, Tex. KAMG will program for KPLV every day from 6 a.m. to midnight. There is a substantial overlap of station signals in all three als.

pecially with respect to the three elements that the FCC considers fundamental to such control. "We look to see whether the licensee retains control of finances, control over managing personnel and control over programing," he said, adding that time brokerage agreements cannot preclude the licensee from other responsibilities, including maintaining a public inspection file and the issues program list that has to be in that file, maintaining a main studio with correct airing of station identification and attending to all EEO requirements (unless full time staff falls below five employes).

"The licensee still has full responsibility to comply with the commission's rules, so, while a licensee can enter into a time brokerage situation, that does not relieve the licensee of responsibility with respect to these three areas that we have always said could result in unauthorized transfer of control," Stewart said. Of the "handful" of time brokerage situations the Mass Media Bureau thus far has reviewed, Stewart said the FCC primarily wants to insure that "the licensee shall retain absolute control and discretion over the station."

Stewart said that, at this point, the commission is not requiring that every station entering into a time brokerage situation submit a declaratory filing as long as those stations pattern their agreement after situations previously approved. "Our intent is to approve several of these, which then will become available as models that reflect our concerns, eventually reaching a point where there's an understanding of what responsibilities and control a licensee must retain," Steward said, adding that the FCC is not considering any specific agenda items dealing with time brokerage.

Time brokerage language so far rejected by the FCC includes provisions requiring the receiving station to preempt the agreement only in the event of emergency; permitting the broker station access to the facility at the broker's insistence, and permitting the broker station to establish staff and maintain remote control points of the station without supervision of the licensee (receiving station).

According to Chuck Kelley, chief of the Mass Media Bureau's enforcement division: "A station's programing obligation must extend to any time the receiving station thinks it appropriate to preempt, without justification that it is an emergency. The receiving station has to have absolute discretion to preempt whatever programing it is getting, without limit." Likewise, the broker station cannot make decisions about technical conditions and operation of the receiving station, which can only be in discretion of the licensee. "Not only is that the licensee's right, it is their responsibility," Kelley said.

While the FCC's policy indicates that some programing may be leased, "one might extrapolate from the word 'some' that the commission didn't intend that all programing be so brokered, 24 hours a day, seven days a week," Kelley said. "But since we don't have specific obligations for broadcasters other than general requirements that they serve the public interest, the practical requirement is that at renewal time a station can demonstrate that it has aired programing that is responsive to the community." Kelley said that, to the extent that a station wishes to avoid a charge that it's a clone of another station, it should be able to demonstrate that it maintains an independent programing function.

ECONOMIC FACTORS

If necessity is the mother of invention, the necessity behind the growing trend of time brokerage is grounded in the sluggish radio marketplace.

Opus Media Chairman Tom Birch said that the over-population of the radio dial and decreasing retail dollars have led to the growing trend in time brokerage. "Too many stations are competing for too little revenue," he noted. "The law of the jungle says that there is not going to be an even spread of revenue among stations. Some stations will generate the lion's share of revenue and audience, and others are going to be much weaker."

Those stations that enter into lease agreements with weaker stations provide a reasonable way to save the operator who is in a tough situation, can provide a means for the stronger station to expand in a tight market where expansion otherwise might be impossible and remove cheap inventory from the market. "It's a very reasonable way for the mar-

KATZ AND POP SIGN AGREEMENT

The Katz Radio Group will represent Point-of-Purchase Radio (POP Radio), the in-store radio network division of ActMedia. Katz Radio Group will sell POP Radio in conjunction with its lineup of stations, allowing the rep to pursue both traditional and nontraditional radio money.

"The agreement is a twofold effort," said Stu Olds, executive vice president, Katz Radio Group. "As we got into our expanded sales efforts we looked for a vehicle that would allow vertical penetration of agencies, especially in the food industry." Additionally, said Olds, the rep will now be able to offer its stations, in-store, off-air promotions tied to the POP Radio network.

Currently, POP Radio serves more than 15,500 food, drug and mass merchandising outlets. The programing is either satellite-delivered or distributed via cassette tape. The sound is designed to emulate "live radio" and features 48 minutes of music per hour, 10 minutes of national advertising and two minutes of retailer spots. The format is adult contemporary music and is hosted by a disk jockey.

ActMedia is a wholly owned subsidiary of Dallas-based group operator, Heritage Media Corp. New York-based Katz Radio Group represents more than 1,500 stations.