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The *Transmitter* is free to members and available to non-members by subscription for \$25 per year. KAB's mission is to provide professional lobbying and governmental representation, efficient communication and effective recruiting, education and training for Kansas broadcasters, and to promote free over-the-air broadcasting, for the purpose of enhancing the success of Kansas broadcasters and helping them better serve the people of Kansas.

### Kansas Association of Broadcasters

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## 2007 EAS monthly tests

- Tues., April 10, 10:50 pm
- Tues., May 8, 1:50 pm
- Tues., June 12, 10:50 pm
- Tues., July 10, 1:50 pm
- Tues., August 14, 10:50 pm
- Tues., September 11, 1:50 pm
- Tues., October 9, 10:50 pm
- Tues., November 13, 1:50 pm
- Tues., December 11, 10:50 pm

## Annual AMBER Test

Friday, May 25

National Missing Children's Day

## Mark Your Calendar

KAB is returning to Harrah's  
Prairie Band Casino Hotel and  
Convention Center for the  
**2007 KAB Convention**  
October 21-23, 2007



## Chairman's message



*Eugene Williams, CEO/General Manager  
KTWU TV, Topeka*

At the October 2006 KAB annual convention, Nielsen representatives gave a very interesting presentation on what is called A2/M2 Anytime Anywhere Media Measurement. And just last week, I purchased a digital encoder specifically for Nielsen's measurement of KTWU's digital audience. Never mind that this \$7,000 piece of equipment won't be of any use to me for at least another 18 months or that being in the 138th media market may mean that it will take even longer than that to realize a return on this investment. All of this speaks to the fast-paced at which our core industry is changing.

As stations go about their day-to-day activities (news, community affairs, sports, documentaries, etc.) we're finding that repurposing content and making it available via various platforms requires that we have adequate measurement tools for audience assessment and retention. Nielsen has made some bold strides in trying to meet the needs of this new era. I don't know how it will turn out, but I'm very anxious to see.

Nielsen proposes to measure the ubiquity of content in the future. This would require measurement of content in a more than 500 channel environment, inclusive of video-on-demand and digital video recorders. For future purposes this will also include tracking content on certain portable devices like MP-3

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# Transmitter

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March 30, 2007

## KABers attend NAB Leadership Conference

NAB's Annual Leadership Conference was held in Washington DC on February 26 and 27. More than 600 broadcasters and state broadcast association executives from across the U.S. attended the two-day meeting. Attendees heard legislative and regulatory briefings from lawmakers and other decision makers. Broadcasters also visited Capitol Hill on February 28 and March 1 to educate senators and representatives on issues of concern to broadcasters.

KAB members attending the conference and calling on the Kansas Congressional offices included KAB Chair-Elect Mark Vail; National Government Relations Chair for Radio Rich Wartell; KAB National Government Relations Chair for Television Wayne Godsey, KAB Board Member Rob Burton, KAB Members Hank Booth of Lawrence, Jim Ogle of Topeka, and KAB President Harriet Lange. KAB Member Gary Exline, St. Joseph MO, also attended the conference with the Missouri Broadcasters Association delegation.

The KAB group met with First District Congressman Jerry Moran and Legislative Director Alex Richard; Third District Congressman Dennis Moore and Legislative Assistant Adam Pase; Fourth District Congressman Todd Tiahrt and Legislative Assistant Sam Sackett; and Senator Pat Roberts and Legislative Assistant Sean Farrell. Senator Sam Brownback was not available but KAB met with his Legislative Counsel Amy Blankenship. In Congresswoman Nancy Boyda's office KAB met with Legislative Assistant Lindsey Matese.

Capitol Hill issues which the group discussed included satellite radio, the proposed XM-Sirius merger, AM on FM translators, the DTV transition, direct to consumer advertising, radio performance tax, and Kansas broadcasters community service.

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KAB members pictured at the NAB Leadership Conference are (from left): Rob Burton, Rich Wartell, Hank Booth, David Rehr/NAB, Harriet Lange, Jim Ogle, Mark Vail, and Gary Exline.

### Chairman's message cont.

players, iPods and cell phones. And starting last fall, Nielsen began its foray into personal meters designed to capture and aggregate out-of-home viewing (bars, restaurants, sporting events etc.).

With so much content being repurposed and migrating to the internet as well as being shown on a multiplicity of broadcast/cable digital channels and portable devices, it is hard for me to fathom the process and accuracy of audience measurement. But there is one thing I'm absolutely sure of -- I will have to buy at least a few more \$7,000 pieces of equipment -- that I won't be able to use in a timely manner -- to tell me that I'm not reaching enough audience -- or that I'm not reaching any audience at all.

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### Sports seminar set for April 24

Kauffman Stadium, Kansas City, will be the site of the annual KAB Sports Seminar on Tuesday, April 24. Chairing the seminar, will be Mike Sutcliffe, KINZ FM, Chanute.

Round table discussions are scheduled for the morning on topics of interest to sports broadcasters.

During the noon luncheon KAB will present the 2007 Hod Humiston Award for Sports Broadcasting.

The afternoon schedule will include the area's top sports announcers and representatives from the Royals organization.

Compliments of the Kansas City Royals, participants will be given a ticket to the game that evening -- Royals vs Chicago White Sox. Registration information is posted at KAB's web site: [www.kab.net](http://www.kab.net).

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### 2007 KAB deadlines

- April 2, deadline for KAB Kids Scholarship applications
- May 1, deadline for KAB Broadcast Scholarship applications
- May 1, deadline for KAB paid summer student internships
- May 1, deadline for KAB paid summer educator internships
- July 2, deadline for KAB station awards entries
- August 13, deadline for nominations for KAB Distinguished Service Award, Hall of Fame inductees, Sonny Slater Award, and Mike Oatman Award.

## Date for career fair changed to June 26

KAB is teaming up with Career Fairs Global, Inc., of Omaha, to provide KAB member stations with an opportunity to find qualified applicants for open positions at stations, as well as earn one full EEO credit by hosting jointly a career fair with KAB, Career Fairs Global and participating stations. It will be held Tuesday, June 26, at the Wichita Marriott. This is a change of date from the May 21 date originally published.

The Career Fair will not be a "broadcast only" fair, but will be open to all employers who wish to participate. Participating stations will jointly "host" the career fair thereby qualifying for one EEO credit. "Hosting" will require stations to be involved in a "meaningful way" in the planning, promotion and implementation of the fair.

Details on how stations may register and participate will be distributed soon.

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## 2007 station renewals

Thanks to these stations which have renewed their membership for 2007 since the February *Transmitter*:

**RADIO** – KSNP FM, Burlington; KKOY AM/FM, Chanute; KXXX/ KQLS, KTCC FM, Colby; KGNO/KOLS/ KZRD/KSSH, Dodge City; KEKS FM, Emporia; KDNS/ KZDY, Glen Elder; KLOE/KKCI/KWGB, Goodland; KZLS/ KNNK/KGTR, Great Bend; KYUU/KSLS, KSCB AM/FM/ KLDG FM, Liberal; KMAN/ KMKF/KXBZ/KACZ, KSDB FM, Manhattan; KNDY AM/FM, Marysville; KQNK AM/FM, Norton; KWXD/ KHST, Pittsburg; KWLS AM, Pratt; and KILS/KQNS, Salina.

**TELEVISION** – KOOD TV, Bunker Hill; KCPT TV, KCTV/KSMO TV, KSHB TV/KMCI TV/KPXE TV, Kansas City; and KOAM TV/KFJX TV, Pittsburg.

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## 2007 KAB Events

- April 2, KAB Student Seminar, Wichita Hyatt
- April 24, KAB Sports Seminar, Kauffman Royals Stadium
- May (date TBA), KAB Music licensing/streaming webinar
- May 22, KAB Broadcast Scholarship Interviews, Topeka
- May 24, KAB/MSTV DTV Transition Meeting, Emporia
- June 5, KAB Board of Directors Meeting, Wichita
- June 13 Sales Seminar featuring Paul Weyland, Wichita
- June 26, KAB/Member Station Hosted Career Fair, Wichita
- August 23, KAB Board of Directors Meeting, Topeka
- October 21-23, KAB Convention, Harrah's Prairie Band Casino and Convention Center, Mayetta
- November 6, KAB Executive Committee meeting, Topeka
- December 4, KAB Board of Directors meeting, Topeka

## More pass inspection

These stations have recently passed a KAB/FCC Alternate Inspection, exempting them from routine FCC inspections for three years: KNZA FM, Hiawatha and KMZA FM, Seneca.

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## Legal brief

By Michael Merriam, KAB Hotline Attorney, Topeka



A regular topic of KAB Hotline calls is the legality of price and brand liquor advertising. Can a retailer place broadcast spots specifying sales or specials by price and/or brand? What about retailer sponsored promotions?

The administrative regulation, K.A.R. 14-8-2, continues to read that price and brand ads (other than brand ads by the distributor owning the label) are prohibited. This regulation was in direct conflict with K.S.A. 41-714(c)(2) until 2005, when that statute was amended to allow the ABC to regulate advertising as it saw fit. Apparently no new regulations have been adopted, and the KAR was never repealed. I have repeatedly stated that price and brand ads are legal if the promotion itself is legal (e.g., not selling under cost), based upon the "stated policy" of ABC to not enforce any prohibitions on this type of advertising.

The ABC and the Assistant Attorney General who advises ABC have both recently confirmed that the agency is not enforcing this regulation, and furthermore, is in the process of revising the Trade Practices regulations; the proposed regulations would not restrict such ads for retailers and distributors.

This is not surprising, because the United States Supreme Court held in 1996 that such regulations are unconstitutional. In 44 *Liquormart v. Rhode Island*, truthful advertising for alcoholic beverages was held to be legal, and state attempts to prevent it are unconstitutional. It would thus appear that ABC will never be able to adopt any regulation of truthful and legal advertising for alcoholic beverages. There is at least one case permitting a zoning regulation for outdoor liquor ads near schools in order to protect children from exposure to them, but this is not a concern to broadcasters at this point.

To recap: truthful price and brand liquor advertising is legal as long as the sale or promotion itself is legal. And if your retailer can legally advertise it, then your station can carry the spot.

Notwithstanding this result, retailers may not engage in prize contests or similar promotions. Retailers are prohibited from engaging in any direct or indirect gifts, prizes, premiums, rebates or similar inducements by KAR 14-13-13. A remote at a liquor store is permissible, but any station contest, giveaway or similar promotion conducted during the remote must be strictly separated from the retailer and it should be made clear that the retailer is not the sponsor. I also recommend a side agreement, or a statement in the schedule contract, to the effect that the station is running the promotion anyway and independently from the retailer, which is not involved in that aspect of the remote.

## Volunteers needed for Foundation board

The KAB Foundation has a goal to build a \$1 million endowment the proceeds from which will fund KAB's Broadcast Scholarships, paid student and educator internships, and KAB Kids Scholarships. The Foundation is a 501 c (3) not-for-profit corporation.

There are a few seats open on the Foundation Board of Directors which we are seeking to fill to help guide the Foundation in achieving its goals.

The most immediate efforts of the board will be to:

- Identify donors to fund a feasibility study to determine potential for raising a \$1 million endowment
- Develop fundraising materials/goals for foundation (by June 2007)
- Fund feasibility study (completed by end of 2007)

Board members are expected to:

- Attend one or two meetings a year - NEXT MEETING is scheduled for April 11 in Topeka (11:00 am to 2:00 pm)
- Participate in 3 or 4 conference calls during the year
- Make a financial contribution to Foundation
- Eventually – personal face to face calls to prospects – to raise funds

Anyone interested in serving (broadcaster or a friend of broadcasting) should contact the KAB office.

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## Press Club of Dallas seeking Kansas contestants

The Press Club of Dallas is inviting Kansas broadcasters to participate in the Club's Katie Awards. The 2007 Katie Awards will be presented November 17 at the Trade Mart at Dallas Market Center.

To get on the Club's mailing list contact Leann Bryan, [pressclubdallas@sbcglobal.net](mailto:pressclubdallas@sbcglobal.net)

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## NAB mails handbook

The NAB has mailed to member radio stations, *FCC Rules and Policies* handbook. The handbook helps stations avoid violations of the Commissions rules from contests and promotions to public files and station logs. The information is of value to on-air staff, program directors and station managers. NAB radio members may request additional copies by contacting NAB Radio (800) 455-5394.

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## Stauffer award to Erb



Michael Erb, KSAL AM, Salina is the 2007 winner of the Oscar Stauffer Award – Sportscaster of the Year. The award is sponsored by the Kansas State High School Activities Association.

Erb joined KSAL in 2000 and for six years he

provided extensive coverage of Sacred Heart High School contests as well as other schools in the KSAL listening area. He also has covered Great Bend High School games for Eagle Radio. Erb currently works for the NFL's Instant Replay division in Kansas City in addition to his full time job as a territory representative for Vindex Pharmaceuticals.

Erb is a native of Great Bend and has a journalism and broadcast management degree from the University of Kansas. He began his radio career at the age of 16 with Eagle Radio in Great Bend. While attending KU, he served as a student broadcaster and sports director at KJHK and provided play-by-play of high school games for KLWN in Lawrence.

KAB assisted KSHSAA by soliciting play-by-play tapes from Kansas high school sportscasters and judging the entries. KAB's Sports Chairman Mike Sutcliffe coordinated the KAB's involvement.

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## RTNDA announces Murrow awards

The Radio-Television News Directors Association has announced the 2007 regional winners of the **Edward R. Murrow Awards** for excellence in electronic journalism.

Region 5 winners include KMBC TV, Kansas City, which won seven awards, more than any other television station in the country. KMBC TV won in these categories for large market television: news series, feature, news documentary, spot news, continuing coverage, newscast, and overall excellence. KCTV, Kansas City, won large market television for investigative reporting.

Winning in small market television were KWCH TV, Wichita, for hard news feature and videography; and KTKA TV, Topeka, for broadcast affiliated website.

Small market radio winners included KFDI FM, Wichita for overall excellence, sports reporting, and spot news coverage; and KNSS AM, Wichita for newscast.

Regional winners automatically become eligible for the national awards competition, which will be judged in early June. The national Edward R. Murrow Awards will be presented in October at the RTNDA Awards Dinner in New York.

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# Washington update

## At the FCC

\*The FCC and four radio groups have settled over alleged violations of the FCC's **payola rules**. Clear Channel, CBS Radio, Entercom and Citadel admit to no wrongdoing but in settling have agreed to pay the FCC \$12.5 million in fines and donate 8,400 hours of airtime to independent artists and record labels to promote new music.

\*The FCC has released a Report and Order and Further Notice of Proposed Rulemaking that **prevents local franchise authorities from unreasonably denying competitive franchises** for entities wishing to provide cable television service to local communities. The Order prevents local authorities from imposing build-out requirements, extending negotiations indefinitely, or denying franchises because a video provider does not contribute to public, educational or government channels.

\*A sampling of **recent FCC fines** includes:

- \$4,000 levied against each of four licensees (in Kansas, New Jersey, Pennsylvania, and Massachusetts) for violation of radio contest rules;
- \$16,800 to a Kansas radio station for violating the Commission's Main Studio, Operating Power, and Public Inspection File rules;
- \$10,000 to tower owner for violating the Tower Lighting rules.

## In Congress

\*The House of Representatives recently passed legislation to **strengthen the federal Freedom of Information Act**. The legislation would reduce delays and address other problems citizens encounter in trying to obtain information from federal agencies.

## Other

\*The **Copyright Royalty Board** issued a decision to **significantly increase the fees** paid for sound recordings on the Internet. The fees, retroactive to 2006, apply to Internet simulcasts of radio broadcasts as well as streamed Internet-only channels. The fees are to increase each year through 2010, and will result in an increase of more than two and one-half times the current rate. Radio groups have requested a re-hearing by the CRB.

# KAB Board adopts resolution opposing satellite merger

The KAB Board of Directors at its March 28 meeting in Topeka, adopted the following resolution, opposing the proposed merger between XM and Sirius Satellite Radio companies:

**WHEREAS**, XM and Sirius Satellite radio companies have announced their plans to form a government-sanctioned monopoly leaving only one company functioning in the satellite radio market; and

**WHEREAS**, KAB is a trade association representing Kansas radio and television stations and companies and individuals that supply and use broadcast-related, post-production, multimedia and telecommunication equipment and services; and **WHEREAS**, KAB believes that such a merger creating a total government-sanctioned monopoly in the satellite radio market will be harmful to consumers, musicians, broadcasters and the public because the resulting monopoly:

- violates current Federal Communication Commission rules prohibiting only one provider of satellite radio in the satellite radio market;
- will be able to exercise unlimited market power which will allow it to raise subscription rates without limit, reduce program diversity and cause subscribers to incur long-run equipment costs;
- will be able to monopolize national and regional programming such as sports and entertainment events through exclusive arrangements;
- will exploit its monopoly power and unfairly compete with other media for national advertising by offering artificially low (subsidized) advertising rates; and
- will cross-subsidize its offering of new services and unfairly compete with local radio stations through its monopolization of the only national multi-channel, mobile, radio service in the country.

**WHEREAS**, in 1997 when the Federal Communications Commission first considered the issuance of licenses for satellite radio services, Sirius' predecessor filed comments with the Commission arguing that multiple providers were necessary to assure competition, guarantee program diversity and expressing concern that allowing mergers such as this to occur in the future would "have serious anticompetitive repercussions;" and **WHEREAS**, the satellite radio market has not changed significantly to justify altering current federal regulatory prohibitions against such mergers; and

**WHEREAS**, given the past history of violating Federal Communication Commission rules by both XM and Sirius there is ample cause to be concerned and alarmed that any concessions agreed to by the merging parties will not be fulfilled; and **WHEREAS**, KAB believes that competition is the cornerstone to an efficient and fair marketplace and that it is wrong for the government to sanction a monopoly in the satellite radio market and thereby disadvantage consumers, musicians, broadcasters and the public; now, therefore, be it **RESOLVED** by the Kansas Association of Broadcasters, That the Congress, the Federal Communications Commission, the Attorney General

# News briefs

\***Tom and Monica Norris** have purchased **KALN/KIKS**, Iola from **Mike and Lovetta Russell**.

\***KPRS FM, Kansas City**, is one of 50 finalists in NAB's Crystal Radio Awards to recognize outstanding year-round commitment to community service.

\***Steve Slivka** is the new sports reporter/weekend sports anchor for **KOAM TV** and **KFJX TV**, Pittsburg. He is a 2006 graduate of Indiana University. **Kelsay Hart** has joined **KOAM TV** as a news producer for KOAM News at Noon and KOAM News at 5:00 pm. She is a 2006 graduate of Pittsburg State University.

\***Sunflower Broadcasting, Inc.**, license holder for **KWCH TV**, Wichita, plans to purchase **KSCW TV**, from Banks Broadcasting, Inc. Sunflower Broadcasting is a subsidiary of Schurz Communications, Inc., which purchased KWCH TV and its three western Kansas satellite stations last fall, from Media General.

\***Manny Cowzinski** has been named director of marketing and promotions for **Journal Broadcast Group**, Wichita. He has worked in the Wichita market for over 15 years, returning in 2005 to host the Magic 92.3 morning show on Journal Station KMXW FM. **Tim Peters** is returning to Wichita from KFKF FM, Kansas City, to host **KFTI FM's** first morning show since the station (formerly KMXW FM) switched to Classic Country Music in January. He was in Wichita between 1982 and 1987 on KEYN and KKRD.

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of the United States and the Justice Department and the Attorney General for the State of Kansas be urged to oppose any merger between the only two competing satellite radio companies and refrain from sanctioning a monopoly that such a merger will create; and

**RESOLVED FINALLY**, That the President of KAB transmit copies of this resolution to the:

- Attorney General of Kansas
- President of the United States Senate,
- Speaker of the U.S. House of Representatives,
- Members of the Kansas Congressional Delegation,
- Commissioners of the Federal Communications Commission, and
- Attorney General for the United States

so that they may be apprised of the sense of the Kansas Association of Broadcasters in this matter.