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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., 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

## 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

Digital television and digital radio, what's a broadcaster to do?

It seems that no matter where we look these days, the talk is about digital. Our trade magazines are filled with the conversation. And although there is plenty of buzz for us professionals about the benefits of digital broadcasting, there is very little discussion about what it means for the consumer. At NAB this year, for the first time in a long time, there was substantive discussion about how to get the "digital message" out to consumers.

As TV broadcasters approach the February 17th 2009 deadline, we are going to have to get a handle on how we educate our audience on our local "digital" services. For most consumers, even though they know the terminology of digital, they unfortunately are not able to discriminate between the varied services promised by the varied digital technologies. For radio broadcasters, this will mean educating consumers on what the differences are between our local services and whatever iteration of a satellite service will exist, in the future. More importantly, radio will need to educate them on how to access the local digital services that they are providing. For television, we will need to get away from the ubiquity of the term "digital" and concentrate on the differences between broadcast, cable and internet digital technologies. For the lay consumer, it can be very confusing. Here are some of the common questions I've encountered:

Will I need a new set to receive digital television? I already have digital cable, I don't need anything else do I?

Now, explain to me what digital radio is again?

I can get all that stuff through my computer right now, can't I?

(continued on page 2)

# Transmitter

Volume 46 No5

May 29, 2007

## Weyland to conduct June 13 sales seminar



Sales Trainer Paul Weyland will present *The Secrets to Selling More Local Direct Business* on June 13 at the Wichita Airport Hilton.

In this seminar Weyland covers local direct subjects including:

- Why it's in your best interest to always ask for long-term local direct business
- Why it's in your client's best interest to have a long-term contract regardless of rates or ratings
- Why clients don't like media salespeople and how to avoid their disdain
- How to explain modern marketing and branding to a local direct client
- How to explain the difference between good and bad advertising
- How to manage your client's expectations
- How to get your client to double or triple what he "perceives" he should be spending
- Where rate resistance comes from and how to deal with it
- Great new ways to prospect for local direct business
- Great new ways to get appointments with local direct clients
- How to get into your client's "circle of trust" and build life-long client relationships
- How to produce genius creative whether you're a creative genius or not
- How to calculate Return on Investment
- How to show a client that buying your station is a good, calculated risk instead of a crap shoot

Weyland also will present *How to Write Outstanding Copy That Really Stands Out*. In this session participants will learn: how to create an emotional headline; how to write clear benefits and results to your audience, without using clichés; and how to make sure your call-to-action, what you want your listener or viewer to do, is crystal clear.

Registration information is available at [www.kab.net](http://www.kab.net).

## Chairman's message cont.

As you know, each one of these questions can require a very complicated answer. And if you're talking with someone who is truly a novice to technology, the conversation may be more aggravating than educationally engaging. If we are to solidify our digital future as broadcasters, we are going to have to spend some time educating our audience and constituents on the benefits of our digital broadcasts. So far, we have been so busy acquiring the technology and planning its implementation we have had no time to promote to our consumption base.

Well, here we are. What's a broadcaster to do?

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## DTV transition topic of May 24 seminar

In conjunction with the Association for Maximum Service Television, Inc. (MSTV), KAB hosted a seminar - *DTV Transition, The Rubber Meets the Road* - on May 24, in Emporia. Fourteen television broadcasters attended representing stations in Kansas City, Topeka and Wichita.

One of the primary goals of the seminar was to generate discussion and move towards the development of a transition plan for KAB members.

David Donovan, President of MSTV, Inc. led the discussion on transition issues:

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## Legal webinar held

KAB Hotline Attorney David Oxenford and Rob Driscoll, both of Davis Wright Tremaine LLP, conducted a webinar on May 10 with 20 Kansas broadcasters participating. Topics for the webinar included music licensing and streaming. KAB Chair-Elect Mark Vail moderated.

A KAB webinar is planned for each quarter in 2007, covering legal issues of importance to KAB members.

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## More pass inspection

These stations have recently passed a KAB/FCC Alternate Inspection, exempting them from routine FCC inspections for three years: **KOTE FM**, Eureka.

Broadcasters interested in a KAB alternative inspection should go to KAB's web site to download the "Request for Inspection" form and return it with payment to KAB. To download the form go to [www.kab.net](http://www.kab.net) and click on "Legal and Regulatory" on the left side menu of options.

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## Legal brief

By Mike Merriam, KAB Hotline Attorney, Topeka



This month I address gift certificates and broadcast auctions. The 2006 Kansas Legislature passed a restriction upon the issuance of gift certificates and gift cards, aimed at merchants who abused these marketing techniques by imposing early termination dates and

sometimes hidden or excessive fees. Often such cards had undisclosed declining balances based on non-use. The new law, K.S.A. 50-6,108, is now part of the Kansas Consumer Protection Act. Its two principal provisions require that any expiration date be at least 5 years from the date of issuance, and that no fees may be charged against the balance until at least 12 months have elapsed (there is a problem with the wording of the statute, but we will assume it is enforceable). What is the implication for broadcast auctions of merchant-provided goods and services?

You can't do it like you used to. Broadcast auctions work this way: in exchange for some amount of advertising time, a merchant provides the broadcaster specific merchandise or a gift certificate to their business (this discussion is limited to the certificate alternative; hard goods in the station's possession are not covered). The station holds an auction either on-the-air or over the internet, and may provide a "buy now" option, in which case it is not strictly speaking an auction, but rather a discount purchase opportunity. The consumer then pays the station in cash in exchange for a certificate for that merchant's goods or services. The new law covers these certificates, which means that compliance is the problem of the issuing merchant. Right?

Maybe. Many merchants who have been participating in broadcast auctions are probably not prepared to comply with this law. They may balk at issuing certificates good for 5 years, both from a control and tracking stand-point as well as having a long-term liability on the books. If the station accepts and then sells a non-complying certificate, the station, as the end seller, may be responsible for the Consumer Protection Act violation, which can be onerous, including a possible civil penalty of up to \$10,000, plus attorney fees, and it may face a class action lawsuit. Not good. The answer will require a change in tactics and a revision of the auction system.

The statute exempts "prepaid bank cards" which are defined to be "general use prepaid card . . . issued by a bank . . . in a predenominated amount useable at multiple, unaffiliated merchants or at automated teller machines or both." Because these are exempt, no expiration issues apply, but then it's hardly an issue since the prepaid bank card (PBC) is essentially cash. Let's say *the station* purchases a PBC in the face amount of a successful bid and then exchanges it with the consumer for cash. Its agreement with the merchant on the item is that the merchant

## 2007 KAB deadlines

- July 2, deadline for KAB station awards entries and Tony Jewell Award for Community Service
- August 13, deadline for nominations for KAB Distinguished Service Award, Hall of Fame inductees, Sonny Slater Award, and Mike Oatman Award.

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## 2007 KAB Events

- 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

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agrees to accept that particular PBC for the amount of the item contributed to the auction, in return for the usual bartered advertising arrangement with the station. The auction rules stipulate that only the PBCs are awarded, but the participating merchants agree to accept them in exchange for the auctioned item. There is an identification form that goes with the PBC and identifies the merchant who will accept the PBC (by serial number or other ID) in exchange for the item, and perhaps a stipulation that the merchant will honor the PBC for the item value only for a stated period. After that, the PBC is only worth its face value and remains useable at any merchant or ATM.

A bidder may pay more or less than the value of the item, but it is irrelevant to the station. To avoid any unconscionability under the Consumer Protection Act, the merchant would probably have to refund any amount of the PBC over the stated value of the item in cash, but otherwise would just keep the PBC when it is used. In "buy now" auctions, there will seldom if ever be surplus over the stated value anyway. If the PBC is presented at any other merchant, or even an ATM, it is only worth the PBC face amount and the bidder simply forgoes the difference between the PBC value and the auction item value, if greater.

Mechanically, the station will have to have an arrangement with its bankers to make the PBCs available as needed. I don't pretend that this will be easy or convenient to do. This is a new and untested statute that only became effective January 1, 2007. The solution I propose has also not been tested. It seems to me that the retail industry lobby ought to address this matter legislatively if its members experience hardships in their marketing practices.

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## 17 to receive broadcast scholarships

KAB will award 17 broadcast scholarships for the 2007-2008 school term. To be eligible, applicants must be Kansas residents, attending a Kansas college or university as an upperclassman, and majoring in broadcast or a related field. The application for a KAB broadcast scholarship requests information about the student's school and community activities, and an essay written by the student to address the student's choice of broadcasting as a career choice, career goals, the importance of advertising to a station, the role of government in broadcasting, and how the student's education will improve his/her value as a broadcaster.

KAB's Scholarship Committee is chaired by Joe Jindra, KNCK/KCKS; Committee members are Rob Burton, Journal Broadcast Group; Olivia Dorsey, KMBC TV; Lance Sayler, SE Kansas Broadcasting; Cliff Shank, KSKU/ KXKU/KGGG; and Harriet Lange, KAB.

The students who will receive a 2007/2008 broadcast scholarship are:

- \***Jon-Charles Armstrong**, Muscotah/ Kansas State University - Senior;
- \***Danna Aves**, Macksville / Kansas State University - Senior;
- \***Katie Bowman**, Parker / Ottawa University - Junior;
- \***Aric Cherry**, Ozawkie / Southwestern College - Junior;
- \***Alex Dingman**, Topeka / Baker University - Junior;
- \***Rustin Dodd**, Overland Park / University of Kansas - Junior;
- \***Andrew Epp**, Buhler / Fort Hays State University - Junior;
- \***Alli Jo Gilpin**, Wichita / Fort Hays State University - Junior;
- \***Joel Jellison**, Dodge City / Kansas State University - Junior;
- \***Michala Karn**, McLouth / Kansas State University - Junior;
- \***Zoel Lopez**, Coffeyville / Pittsburg State University - Junior;
- \***Chase Marzolf**, Glen Elder / Wichita State University - Junior;
- \***Jessica Mills**, Topeka / Washburn University - Senior;
- \***Alicia Phillips**, Pratt / Washburn University - Senior;
- \***Joshua Roesener**, Dodge City / Dodge City Community College - Sophomore;
- \***Lucas Wempe**, Lawrence / Seward County Community College - Sophomore; and
- \***Phil White**, Wellington / Kansas State University - Senior.

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## Paid student internships approved

The KAB Scholarship Committee has approved paid student summer internships at KAB member stations for five Kansas college students. The students and their corresponding member station are: **Katie Bowman**, Ottawa University – KOFO AM, Ottawa; **Eric Janzen**, Kansas State University – Entercom Radio, Wichita; **Kristen Klucas**, Kansas State University – Platinum Broadcasting, Junction City; **James Lowe**, Kansas Wesleyan University – Eagle Radio, Salina; **Jennifer Montenegro**, Fort Hays State University – KWCH TV, Wichita; and **Chelsea Scholler**, Butler County Community College, El Dorado – KSNW TV, Wichita.

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## KAB Foundation board elects officers, adds members

In a meeting on April 11 in Topeka, the KAB Foundation Board of Directors elected officers for 2007 and appointed new board members.

New board members appointed to replace directors going off the board include: Kenneth Braun, CPA, Hays; Mike Matson, Kansas Farm Bureau, Manhattan; Bob Pomatto of Pittsburg with Galichia Medical Group, Wichita; Mark Vail, Eagle Radio, Hays; and Fred White, Kansas City Royals.

Going off the board are Kyle Bauer, KFRM/KCLY; Lance Sayler, Southeast Kansas Broadcasting; Rose Stanley, Wichita; Danny Thomas, KOAM TV; and Jackie Wise, Entercom Radio.

Remaining on the board are Scott Donovan, Eagle Radio, Great Bend; Kevin Hager, Wichita State University; Ed Klimek, Platinum Broadcasting, Junction City; Harriet Lange, KAB, Topeka; Cliff Shank, Ad Astra per Aspera Broadcasting, Hutchinson; and Barry Umansky, Ball State University, Muncie IN.

Elected president for 2007 was Mark Vail, vice president - Cliff Shank, and secretary/ treasurer - Harriet Lange.

The Foundation Board made plans to launch a fundraising campaign to build an endowment from which KAB scholarships and internships will be funded. To raise operating funds the Board made preliminary plans for a golf tournament at Prairie Dunes in Hutchinson in 2008.

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## July 2

Is the deadline for entries in KAB's Station Awards and the Tony Jewell Award for Community Service. Go to [www.kab.net](http://www.kab.net) for entry guidelines.

## JOB OPENING

### Chief Television Engineer

The Media Resources Center at Wichita State University is seeking applicants for the position of Chief Television Engineer.

The Chief Television Engineer and his staff provide technical support for a video production unit, a cable television station, a campus-wide cable television system, an active video and satellite conferencing service, 4 EBS channels, and more than 125 mediated classrooms. For a complete list of responsibilities, required and preferred qualifications and the application process see [https://www.hrepartners.com/jobs/wsu\\_job\\_bs.htm](https://www.hrepartners.com/jobs/wsu_job_bs.htm) and click on "Professional Vacancies" and apply on-line.

For full consideration application packages must be received by Friday, June 22, 2007. The position will remain open until filled.

**Wichita State University is an AA/EEO employer.**

## KAB member stations aid victims of the Greensburg tornado, sportscasters voice PSAs

KAB member stations have reported from across Kansas about their activities in aiding the victims of the Greensburg tornado. From Coffeyville and Pittsburg to Wichita, Pratt, Dodge City and Liberal, to Hutchinson, Great Bend, Hays, and Concordia, to Topeka, Lawrence, and Kansas City, Kansas broadcasters are stepping up and raising funds and providing assistance to neighbors in need. For details about what Kansas broadcasters are doing go to [www.kab.net](http://www.kab.net).

Also available on KAB's web site are PSAs voiced by Kansas sportscasters for the benefit of the Greensburg Future Fund – Bob Davis, Mitch Holthus, Ryan LeFevre, Wyatt Thompson, Fred White – have all contributed to the cause with PSAs, as has Bill Kurtis.

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## Congressional families PSAs

NAB is making available PSAs voiced by congressional families. Stephene Moore, wife of 3<sup>rd</sup> District Congressman Dennis Moore has recorded PSAs about literacy and online predators. First District Congressman Jerry Moran has recorded PSAs about healthy heart and literacy. Go to: [http://www.nab.org/AM/Template.cfm?Section=Public\\_Service1](http://www.nab.org/AM/Template.cfm?Section=Public_Service1) for more information.

# Washington update

## At the FCC

\*In early May, the FCC released a decision proclaiming “primacy” of over-the-air broadcasting in the area of breaking local news and coverage of live events. The Media Bureau rejected the attempt by Clarity Media to build wireless, video systems at truck-stops nationwide. Clarity wanted to use frequencies in the BAS/ENG and CARS bands, saying that the system would be used to deliver Amber Alerts to truckers. The Bureau concluded that “the public interest is better served by ensuring that viewers are able to receive breaking news, including natural and unnatural disasters, and coverage of live events through the services provided by the primary users (BAS/ENG and CARS)” and “installing (Clarity’s system) at the risk of interfering with broadcast station coverage that is distributing the same alerts to a much wider audience is not prudent”. (Source: Pillsbury Winthrop Shaw Pittman LLP).

## In Congress

\*On May 9, the U.S. Senate passed S. 1082, the Food and Drug Administration (FDA) Revitalization Act of 2007, by a 93-1 vote. The bill that passed the Senate represents an important legislative victory for NAB and broadcasters across the country against threats to pharmaceutical advertising. Earlier, the Senate agreed by unanimous consent to a Manager’s Amendment, or substitute legislation, on S. 1082. The amendment repealed the restrictions on commercial speech contained in the original bill and substituted an administrative procedure to provide FDA sanctions in the form of civil monetary penalties for advertising found to be false or misleading. These penalties would be imposed on pharmaceutical companies. The amended language was originally offered by Senators Pat Roberts (R-KS) and Tom Harkin (D-IA). Initially, S. 1082 proposed a two-year moratorium on ads for prescription medications, pre-clearance of the ads by FDA and mandatory warnings in ads informing consumers of all known -- and potentially unknown -- risks associated with a drug. The legislation now moves to the U.S. House.

\*Cong. Jim Sensenbrenner (R-WI) circulated a letter among U.S. House members, urging them to sign the letter asking the Department of Justice and FCC to reject the merger-to-monopoly of national satellite radio providers XM and Sirius. KAB asked Reps. Jerry Moran, Dennis Moore, and Todd Tiahrt to sign on. Rep. Nancy Boyda had sent a letter earlier to FCC Chairman Kevin Martin, opposing the merger.

\*U.S. House Commerce Committee Chair John Dingell (D-MI) and Telecommunications Subcommittee Chair Ed Markey (D-MA) have asked the FCC to use its authority to

# News briefs

\*Corey Sorenson has been appointed general manager of Rocking M Radio’s Liberal stations – KYUU AM and KSLs FM. Sorenson previously was radio instructor at Colby Community College for four years.

\*Wayne Grabbe is retiring from a 38-year career at KRSL/ KCAY, Russell on June 1. He started as a sports announcer and sales person and became general manager in 1983. He served on the KAB Board of Directors in the mid-1980s. Larry Calvery will take over management of the stations, now owned by Fred and Barbara White.

\*Bruce Jones, chief meteorologist for KSNT TV, Topeka, has been named one of 18 recipients of the Mark Trail Award from the National Oceanic and Atmospheric Administration. The annual award program in its 11<sup>th</sup> year, honors groups and individuals who use or provide NOAA Weather Radio All Hazards receivers or transmitters in an effort to save lives and protect property. Jones and the other recipients will be recognized June 21 at a ceremony in Washington DC.

\*Paul Cooper, long-time BMI regional manager, has left BMI. Dan Spears, assistant vice president of licensing, will become the BMI contact for Kansas broadcasters. His telephone number is (410) 527-1076 and e-mail is [dspears@bmi.com](mailto:dspears@bmi.com).

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**compel the broadcast and cable industries to immediately begin the consumer education campaign for the transition to digital television.** They have requested the FCC to report by June 11 with a plan for consumer education and the role of the FCC in overseeing the plan, as well as a detailed accounting of how the FCC will spend the \$1.5 million in consumer-education money it asked for and received in its budget. The broadcast, cable and consumer-electronics industries have planned a coordinated consumer education campaign to begin in 2008.

\*The recording industry is pursuing a change in the law which would impose a “performance tax” on local broadcasters to pay for the use of recorded music when it is aired on the radio.

## Other

\*The Copyright Royalty Board, a panel of three judges that significantly increased the fees for sound recordings on the Internet, has delayed for two months, the payment of the higher royalties, to July 15. 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. The NAB Radio Board adopted a resolution which states “...the new streaming rates established by the Copyright Royalty Board will cause significant harm to broadcasters that stream over the Internet. The radio board supports a comprehensive approach to addressing the CRB rate determination, including legislation that vacates the CRB decision and establishes an interim royalty rate structure.”

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# Bob Hapgood

Robert Byron “Bob” Hapgood, 65 of McPherson, died unexpectedly May 1 at Wesley Medical Center, Wichita.

He was an announcer and salesman for McPherson stations KNGL/KBBE. He started in 1968. Bob was a founder, drummer and current member of the King Midas Band and he served on the board of directors for the Kansas Music Hall of Fame.

Bob was raised in McPherson and attended Hutchinson Junior College and McPherson College. He was a member of Grace Lutheran Church in McPherson.

He married A. Jeanne Esau in 1963 and she survives. Bob also is survived by two sons – Tony Hapgood of Kansas City and Bobby Hapgood of Lawrence – and two sisters.

Funeral services were held on May 5 and he is buried in McPherson Cemetery. Memorial contributions may be made to Trinity Lutheran Church, McPherson or Kansas Music Hall of Fame and sent in care of Glidden-Ediger Funeral Home, 222 W. Euclid, McPherson KS 67460.

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# Recent FCC enforcement actions

\*The FCC recently fined a Texas daytime-only AM station \$21,000 for violating the FCC’s antenna structure rules and for operating outside of the terms of its station authorization. An Enforcement Bureau agent inspected the station due to a complaint that the station was operating after sunset. Violations included impermissible nighttime operations, station’s tower not properly enclosed because the gate latching mechanism on the fence had separated from the gate, and the tower’s red obstruction lighting was not operational.

\*A Tennessee AM station was fined \$2,400 for violating the requirement that all antenna structures over 200 feet tall be registered with the Commission. An Enforcement Bureau agent inspecting the station found that the licensee had not registered a 305-foot tower.

\*An Alabama radio licensee recently was fined \$12,000 for public inspection file violations by three of its stations. An Enforcement bureau agent attempted to inspect the stations’ public inspection files during normal business hours. A single file was produced for all three stations which contained only one document – Issue/Programs from March 2003. Each station was fined \$4,000.

\*A North Carolina radio station was fined \$11,200 for failing to make its public inspection file available, as well as for operating at power levels in excess of those specified in its station authorization. (Source: Pillsbury Winthrop Shaw Pittman LLP).

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