

FCC Revises Reporting Requirements To Improve Minority and Female Ownership Data Collection



The FCC has revised its biennial ownership reporting requirements in an effort to improve the collection of data on minority and female broadcast ownership. The revisions, which respond to criticism that the FCC's existing reporting requirements failed to produce reliable gender, race and ethnicity ownership data, apply to all commercial broadcasters. The FCC separately seeks public comment on whether noncommercial broadcasters should likewise be required to report such data.

New Commercial Broadcaster Reporting Requirements

The FCC currently requires each full power AM, FM and TV commercial broadcast licensee to report its ownership information – including gender, race and ethnicity data – on a biennial (every other year) basis using FCC Form 323. Ownership reports will continue to be filed on a biennial basis using a modified version of the FCC Form 323. However, the FCC implemented the following changes to the ownership information reporting requirements:

- Requires that ownership reports be filed for low power television (“LPTV”) and Class A TV stations, as well as commercial broadcast stations licensed to sole proprietors and partnerships composed of natural persons.
- Broadens the scope of ownership interests that must be reported to include interests held by minority investors in a corporation that would be attributable but for the single majority shareholder exemption, and interests held in certain “eligible entities” that would be attributable but for the higher Equity/Debt Plus (“EDP”) threshold applicable to such entities.
- Sets November 1st as the uniform biennial ownership report filing date for all commercial broadcast stations, with the first reports due November 1, 2009. Ownership data must be current as of October 1st of the year in which the ownership report is filed.
- Revises the electronic reporting system so that ownership data can be searchable, aggregated and cross-referenced.
- Authorizes the Media Bureau to conduct random audits to ensure the accuracy of the ownership reports.

Proposed Noncommercial Broadcaster Reporting Requirements

In a simultaneously released Further Notice of Proposed Rule Making (“FNPRM”), the FCC seeks comment on its tentative conclusion that noncommercial licensees of AM, FM and TV broadcast stations should begin to report gender, race and ethnicity ownership data. The existing biennial ownership report for noncommercial broadcasters (FCC Form 323-E) does not request this information. The FCC also seeks public comment on whether noncommercial broadcasters should report minority and female ownership information on a revised FCC Form 323-E, as well as on:

- Whether low power FM broadcasters, which are currently exempt from filing FCC Form 323-E, should be required to file ownership reports.
- How to define minority and female ownership in the noncommercial context – in particular, in the context of noncommercial educational broadcast licensees that are non-profit, non-stock entities, or governmental organizations controlled by governing boards or trustees that do not have a financial stake in the licensee organization.
- Whether the uniform biennial filing date adopted for commercial filers of FCC Form 323 should be applied to noncommercial filers of FCC Form 323-E.
- How to minimize any potential reporting and recordkeeping burdens on noncommercial broadcasters that could occur through expanded reporting requirements.

Comments addressing the FCC’s proposed changes to the noncommercial ownership reporting requirements will be due 30 days after publication of the FNPRM in the Federal Register, with reply comments due 15 days thereafter. We will notify you when Federal Register publication occurs.

If you have questions regarding the changes to the ownership reporting requirements applicable to commercial broadcasters, or would like to submit comments in connection with the ownership reporting requirements applicable to noncommercial broadcasters, please contact any attorney in our office.

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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