

§ 73.3615 Ownership reports.

(a) The Ownership Report for Commercial Broadcast Stations (FCC Form 323) must be electronically filed every two years by each licensee of a commercial AM, FM, or TV broadcast station (a "Licensee"); and each entity that holds an interest in the licensee that is attributable for purposes of determining compliance with the Commission's multiple ownership rules (see Notes 1–3 to 47 CFR 73.3555) (a "Respondent"). The initial filing deadline shall be set by Public Notice issued by the Media Bureau. Thereafter, the Form shall be filed biennially by November 1, 2011, and every two years thereafter. A Licensee or Respondent with a current and unamended Report on file at the Commission, which was filed on or by the initial filing date or thereafter, using the Form revised pursuant to the Commission's Orders in MB Docket Nos. 07–294, *et al.*, 24 FCC Rcd 5896 (2009) (FCC 09–92, rel. Oct. 16, 2009), and which is still accurate, may electronically validate and resubmit its previously filed Form 323. Ownership Reports shall provide the following information as of October 1 of the year in which the Report is filed, except that the Form filed by the initial filing date shall provide the following information as of November 1, 2009:

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 07–294, 06–121, 02–277, 04–228; MM Docket Nos. 01–235, 01–317, 00–244; FCC 09–92]

Promoting Diversification of Ownership in Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection, FCC Form 323, associated with 47 CFR 73.3615. Therefore, this rule and FCC Form 323 will take effect on October 30, 2009. A summary document of the Memorandum Opinion and Order, *In the Matter of Promoting Diversification of Ownership in the Broadcasting Services* in MB Docket Nos. 07–294, 06–

121, 02–277, 04–228; MM Docket Nos. 01–235, 01–317, 00–244; FCC 09–92 is published elsewhere in this issue of the **Federal Register**. The summary document of the *Memorandum Opinion and Order* states that the information collection requirements have been approved by OMB and that the Commission will publish a notice in the **Federal Register** announcing the effective date. This notification is consistent with the statement in that document, published elsewhere in this issue of the **Federal Register**.

DATES: The amendments to 47 CFR 73.3615 and FCC Form 323, published May 27, 2009, 74 FR 25163, are effective on October 30, 2009.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Cathy Williams, cathy.williams@fcc.gov or on (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 19, 2009, OMB approved, for a period of three years, the information collection, FCC Form 323, associated with Section 73.3615 of the FCC rules. The Commission publishes this notice to announce the effective date of these rules and Form 323.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on October 19, 2009, for the information collection, FCC Form 323, associated with 47 CFR 73.3615.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number.

The OMB Control Number is 3060–0010 and the total annual reporting burdens for respondents for this information collection are as follows:
OMB Control Number: 3060–0010.
OMB Approval Date: October 19, 2009.

Expiration Date: October 31, 2012.

Title: Ownership Report for Commercial Broadcast Stations.

Form Number: FCC Form 323.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents/Responses: 9,250 respondents; 9,250 responses.

Estimated Time per Response: 2.5 hours to 4.5 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; biennial reporting requirement.

Total Annual Burden: 38,125 hours.

Total Annual Costs: \$26,940,000.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303 and 310 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: Form 323 collects two types of information (among others) from respondents: (a) Personal information in the form of names, addresses, job titles and demographic information; and (b) FCC Registration Numbers (FRNs).

Confidentiality is an issue to the extent that individuals provide personally identifiable information which will be covered under the FCC's pending system of records (SORN), FCC/MB–1, "Ownership Report for Commercial Broadcast Stations." FRNs are covered under FCC's system of records (SORN), FCC/OMD–9, "Commission Registration System (CORES)."

Privacy Act Impact Assessment: This information collection contains personally identifiable information on individuals ("PII").

(a) As noted above, the FCC is in the process of establishing a System of Records, FCC/MB–1, "Ownership Report for Commercial Broadcast Stations," to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 323.

(b) The SORN will be published in the **Federal Register** at a subsequent date.

Needs and Uses: On April 8, 2009, the Commission adopted a *Report and Order and Fourth Further Notice of Proposed Rulemaking* in MB Docket Nos. 07–294, 06–121, 02–277, 01–235, 01–317, 00–244, 04–228; FCC 09–33; 24 FCC Rcd 5896 (2009). The 323 *Order* directs the Commission to revise Form 323 to improve the quality of the data collected in order to obtain an accurate, reliable, and comprehensive assessment of minority and female broadcast ownership in the United States. Specifically, the Commission changed the biennial reporting requirements on Form 323 so that there is a uniform filing date; broadened the biennial reporting requirements to include commercial broadcast licensees that are sole proprietorships and partnerships comprised of natural persons; expanded the class of persons and entities that must file to include low power

television stations ("LPTV") licensees, including Class A stations; and provided that the form should be electronically searchable and that there should be edit checks built in. The Commission also adopted changes requiring certain non-attributable interests to be reported on biennially-filed Form 323s.

On October 16, 2009, the Commission adopted a *Reconsideration Order* in response to a Petition for Reconsideration filed by the National Association of Broadcasters. *In re Promoting Diversification of Ownership in the Broadcasting Services*, Memorandum Opinion and Order and Fifth Further Notice of Proposed Rulemaking in MB Docket Nos. 07-294, 06-121, 02-277, 01-235, 01-317, 00-244, 04-228; FCC 09-92 (Rel. Oct. 16, 2009). The *Reconsideration Order* eliminates the requirement that certain non-attributable interests (voting stock interests that would be attributable but for the operation of the single majority shareholder attribution exemption and equity and/or debt interests that would be attributable but for the exemption for certain investments in eligible entities) must be reported on biennially-filed Form 323s. The Commission agreed that it was advisable to invite additional comment from the public on requiring reporting of these nonattributable interests and issued a *Fifth Further Notice of Proposed Rulemaking* inviting such further comment.

Consistent with actions taken by the Commission described above, the following changes are made to Form 323: The Instructions and questions in all sections of the form have been significantly revised. The instructions to Form 323 have been revised to incorporate a definition of "eligible entity," which will apply to the Commission's existing Equity Debt Plus ("EDP") standard, one of the standards used to determine whether interests in a media entity are attributable. The instructions to Form 323 have also been revised slightly to provide updated citations to the Commission's applicable rules governing media ownership. The instructions for Section I have been revised to state the Commission's revised biennial filing requirements adopted in the 323 Order. Many questions on the form have been reworked or reordered in order to (1) clarify the information sought in the form; (2) simplify completion of the form by giving respondents menu-style or checkbox-style options to select rather than submit a separate narrative exhibit; and (3) make the data collected on the form more adaptable for use in database programs used to prepare

economic and policy studies relating to media ownership. The instructions to the Form have been revised to make them clearer and easier to follow by going question-by-question and having each instruction correspond to a relevant question. In addition, portions of the Form that relate only to non-biennial or to biennial filings separately have been placed into separate subsections of the Form. Respondents using the Commission's electronic filing system will be required to launch only the portions of the form that are applicable depending on the purpose of the filing (i.e., whether it is a biennial filing or a non-biennial filing) and complete only those sections.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[**MB Docket Nos. 07-294, 06-121, 02-277, 04-228; MM Docket Nos. 01-235, 01-317, 00-244; FCC 09-33**]

Promoting Diversification of Ownership in Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection, FCC Form 323, associated with 47 CFR Sections 73.6026 and 74.797. Therefore, these rules and FCC Form 323 will take effect on October 30, 2009. The Commission published summary documents of *Report and Order, In the Matter of Promoting Diversification of Ownership in the Broadcasting Services* in MB Docket Nos. 07-294, 06-121, 02-277, 04-228; MM Docket Nos. 01-235, 01-317, 00-244; FCC 09-33 on May 27, 2009. The published summary document of the *Report and Order* stated that the information collection requirements required approval by OMB and that the FCC will publish a document in the **Federal Register** announcing the effective date. The Commission subsequently received OMB approval. This notification is consistent with that statement in the summary document, published May 27, 2009. 47 CFR 73.3615 was also included

in the Report and Order. However, the Commission issued a Memorandum Opinion and Order which revised that rule section. A notice announcing the effective date of that rule section is published elsewhere in this issue of the **Federal Register**.

DATES: The amendments to 47 CFR 73.6026 and 74.797 and FCC Form 323 published May 27, 2009, 74 FR 25163, are effective on October 30, 2009.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Cathy Williams, cathy.williams@fcc.gov or on (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 19, 2009, OMB approved, for a period of three years, the information collection, FCC Form 323, associated with Sections 73.6026 and 74.797 of the FCC rules. The Commission publishes this notice to announce the effective date of these rules and Form 323.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on October 19, 2009, for the information collection, FCC Form 323, associated with 47 CFR Sections 73.6026 and 74.797. Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number. The OMB Control Number is 3060-0010 and the total annual reporting burdens for respondents for this information collection are as follows:

OMB Control Number: 3060-0010.
OMB Approval Date: October 19, 2009.

Expiration Date: October 31, 2012.

Title: Ownership Report for Commercial Broadcast Stations.
Form Number: FCC Form 323.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents/Responses: 9,250 respondents; 9,250 responses.

Estimated Time per Response: 2.5 hours to 4.5 hours.

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