



# PUBLIC NOTICE

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## MEDIA BUREAU CLARIFIES 2009 BIENNIAL FILING REQUIREMENTS FOR OWNERSHIP REPORT (FORM 323)

MB Docket No. 07-294

On April 8, 2010, the Media Bureau released a Public Notice announcing the July 8, 2010 deadline to file the biennial Ownership Report for Commercial Broadcast Stations, FCC Form 323. *See* Public Notice, DA 10-613. For the July 8, 2010 filing, parties are required to provide information reflecting ownership interests existing as of November 1, 2009. The Bureau has received numerous inquiries with regard to filing requirements for stations that have been transferred or assigned after November 1, 2009. The current licensees have raised concerns that they may be unable to acquire the ownership information from the previous licensees necessary to file Form 323, and/or that they will be unable to certify as to the accuracy of the reported information.

Due to the amount of time that has elapsed since the November 1 “snapshot” date, the Bureau agrees that the public interest would best be served by considering requests for waiver of the biennial filing requirement for licensees and other entities required to file Form 323 for stations that have been assigned or transferred (with the exception of *pro forma* transfers of control) between November 1, 2009 and the date of this Public Notice. In addition, to ensure that the Commission obtains accurate and complete ownership data, we will require licensees with pending assignment and transfer of control applications and licensees of applications filed between June 23, 2010 and July 8, 2010, to file Form 323 on or before the July 8, 2010 deadline, as a condition to the grant of the pending application.

**Stations Assigned/Transferred Between November 1, 2009 and June 23, 2010.** For stations that (1) have been transferred or assigned between November 1, 2009 and the date of this Public Notice (other than in a *pro forma* transfer of control transaction), OR (2) that have obtained Commission consent to consummate proposed transfers or assignments but have not yet closed on these transactions as of the date of this Public Notice, the Commission will accept written requests for waiver<sup>1</sup> of the 2009 biennial filing requirement for licensees and other

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<sup>1</sup> *See* 47 C.F.R. § 1.3.

entities required to file Form 323. Written requests for waiver should include the station(s) call sign(s) and facility ID number(s) and the file number(s) of the granted assignment/transfer application(s), and should state that the assignee/transferee will be the licensee of record as of July 8 and will be unable to file the Form 323 because it either does not have and cannot obtain the required information from the prior owner or cannot certify to the accuracy of the information because it lacks the necessary information to support such a certification.<sup>2</sup> A courtesy copy of any waiver request should be served on Kristi Thompson, Media Bureau, Industry Analysis Division, Room 2-C124. Courtesy copies may be submitted via email to [Form323@fcc.gov](mailto:Form323@fcc.gov).

**Pending and New Applications for Assignment/Transfer of Control.** For any assignment or transfer of control application that is granted after the date of this Public Notice but on or before July 8, 2010, the Commission will include as a condition of grant of the application that the proposed assignor/transferor must file Form 323 either: (A) on or before consummation of the assignment/transfer; OR (B) by July 8, 2010, whichever is earlier. Ownership information should be reported as of November 1, 2009.

Filers are encouraged to refer to the Media Bureau's recently updated Frequently Asked Questions concerning Form 323, available at [http://www.fcc.gov/bureaus/mb/industry\\_analysis/form323faq.html](http://www.fcc.gov/bureaus/mb/industry_analysis/form323faq.html). For further information, please contact Kristi Thompson, Industry Analysis Division, (202) 418-2330. Press inquiries should be directed to Janice Wise, (202) 418-8165.

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<sup>2</sup> The Commission may waive a provision of its rules for "good cause shown." 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D. C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (Commission may take into account considerations of "hardship, equity, or more effective implementation of overall policy" on an individual basis). Until the transaction is consummated, the transferor/assignor will be the licensee of record. If the transferor/assignor is the licensee of record as of July 8, it must file the form by that date regardless of whether a waiver was granted on the assumption that the transaction would close before July 8.