



Federal Communications Commission
Washington, D.C. 20554

May 19, 2010

DA 10-811

Small Entity Compliance Guide

Diversity in Broadcast Licensing, Form 323

FCC 09-92

FCC 09-33

Released: October 16, 2009

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 1-866-418-0232

fccinfo@fcc.gov

Compliance Requirements

General Responsibility

The Commission requires commercial broadcast station licensees to file FCC Form 323 Ownership Reports biennially and in connection with the transfer of control or assignment of a broadcast station. Permittees are required to file Ownership Reports within 30 days of the grant of a construction permit grant ("Permittee Report") or upon the filing of a license application.

The Commission's Decisions:

Promoting Diversification of Ownership in the Broadcasting Services, Memorandum Opinion & Order and Fifth Further Notice of Proposed Rulemaking, FCC No. 09-92, 2009 WL 3332968 (rel. Oct. 16, 2009) ("Memorandum Opinion & Order")

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-92A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-92A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-92A1.txt

Promoting Diversification of Ownership in the Broadcasting Services, Order, DA 09-2165, 2009 WL 3172697 (rel. Oct. 2, 2009).

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2165A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2165A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2165A1.txt

Promoting Diversification of Ownership in the Broadcasting Services, Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC No. 09-33, 24 FCC Rcd. 5896 (rel. May 5, 2009) ("Report and Order").

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-33A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-33A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-33A1.txt

Commission Forms:

Form 323 and Filing Instructions for Ownership Report

<http://www.fcc.gov/Forms/Form323/323.pdf>

Rules that the Commission Reviewed: The Commission reviewed its rules pertaining to the filing requirements of Form 323 Ownership Reports under Part 73 and Part 74 of the Commission's rules and regulations. Amendments were adopted for the following rules: 47 C.F.R. § 73.3615 (Ownership reports); § 73.6026 (Broadcast regulations applicable to Class A television stations); and § 74.797 (Biennial Ownership Reports). These amendments to the reporting requirements of FCC Form 323 will enable the Commission to improve data collection, obtain a comprehensive assessment of minority and female broadcast ownership in the United States, and conduct studies of trends in minority and female broadcast ownership.

Enlarging the Class of Stations Required to File Biennially: The Report and Order broadens the category of commercial broadcast licensees required to file Form 323 biennially to include not only all full power commercial AM, FM, and TV stations, who were previously required to file the form biennially, but also low-power television stations and Class A TV stations. Broadening the class of biennial filers will help make the data more comprehensive.

The Report and Order also eliminates the filing exemption that previously applied to sole proprietorships and partnerships of natural persons that are licensees of commercial broadcast stations. Excluding sole proprietors and natural persons from Form 323 filing requirements precluded the Commission from obtaining accurate ownership data and prevented the collection of data resulting from ownership changes that do not require prior Commission approval.

Uniform Biennial Filing Date: Previously, the filing date was tied to each station's renewal cycle. The uniform filing date for all licensees will enable the Commission to study trends in minority and female ownership over time.

Recordkeeping and Other Compliance Requirements: Licensees are required to file the revised form biennially. The Report and Order adopts a uniform filing date of November 1 for all biennial filers. The initial filing date has been extended to July 8, 2010, but the next filing date will be November 1, 2011, and every two years thereafter. The reported ownership information must be current as of October 1 of the year in which the filing is being made, except that for the initial July 8, 2010 filing, the "as of" date is November 1, 2009. Instructions to the Form detail the information that must be completed on the form.