

**SUPPORTING STATEMENT****A. Justification:**

1. **Circumstances Necessitating Change to Information Collection** – This submission is being made as a revision to an existing information collection pursuant to 44 U.S.C. § 3507. This submission contains revised rule 47 CFR § 73.3555 and FCC Form 301 and its accompanying instructions and worksheets.

FCC Form 301 is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station, to make changes in existing facilities of such a station, and may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists which would comply with allotment standards with respect to minimum distance separation and principal community coverage and which would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach to FCC Form 301 an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b).

Similarly, to receive authorization for commencement of Digital Television ("DTV") operation, commercial broadcast licensees must file FCC Form 301 for a construction permit. This application may be filed anytime after receiving the initial DTV allotment but must be filed before mid-point in a particular applicant's required construction period. The Commission will consider these applications as minor changes in facilities. Applications will not have to supply full legal or financial qualification information.

This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major changes in facilities and AM and non-reserved band FM minor change applications to change a station's community of license. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

**Revised Information Collection Requirements Which Require OMB Approval:**

On December 18, 2007, the Commission adopted a Report and Order and Order on Reconsideration in its 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 06-121, FCC 07-216. Section 202 requires the Commission to review its broadcast ownership rules every four years and determine whether any of such rules are necessary in the public interest. Further, Section 202 requires the Commission to repeal or modify any regulation it determines to be no longer in the public interest.

Consistent with actions taken by the Commission in the 2006 Quadrennial Regulatory Review, the following changes are made to Form 301. The instructions to Form 301 are revised to include a reference to the 2006 Quadrennial Regulatory Review as a source of information regarding the Commission's multiple ownership attribution policies and standards. Also, the language in Section A, IV of Worksheet #2 in Form 301 is changed. This worksheet is used in connection with Section II, Item 4 of

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Form 301 to determine the applicant's compliance with the Commission's multiple ownership rules and cross-ownership rules set forth in 47 C.F.R. § 73.3555. The revisions to the worksheet account for changes made by the Commission in the 2006 Quadrennial Review to 47 C.F.R. § 73.3555(d), the Daily Newspaper Cross-Ownership Rule. The revised rule changes the circumstances under which an entity may own a daily newspaper and a radio station or television station in the same designated market area. In conjunction with this same rule change, language from 47 C.F.R. § 73.3555(d) is added to Section B of Worksheet # 2 to assist applicants in their determination of compliance with the Daily Newspaper Cross-Ownership Rule.

Therefore, 47 CFR 73.3555(d) (daily newspaper cross-ownership rule) states:

(1) No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in:

(i) The predicted or measured 2 mV/m contour of an AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published; or (ii) The predicted 1 mV/m contour for an FM station, computed in accordance with § 73.313, encompassing the entire community in which such newspaper is published; or (iii) The Grade A contour of a TV station, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

(2) Paragraph (1) shall not apply in cases where the Commission makes a finding pursuant to Section 310(d) of the Communications Act that the public interest, convenience, and necessity would be served by permitting an entity that owns, operates or controls a daily newspaper to own, operate or control an AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1).

(3) In making a finding under paragraph (2), there shall be a presumption that it is not inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper in a top 20 Nielsen DMA and one commercial AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1), provided that, with respect to a combination including a commercial TV station,

(i) The station is not ranked among the top four TV stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and (ii) At least 8 independently owned and operating major media voices would remain in the DMA in which the community of license of the TV station in question is located (for purposes of this provision major media voices include full-power TV broadcast stations and major newspapers).

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(4) In making a finding under paragraph (2), there shall be a presumption that it is inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper and an AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1) in a DMA other than the top 20 Nielsen DMAs or in any circumstance not covered under paragraph (3).

(5) In making a finding under paragraph (2), the Commission shall consider:

(i) whether the combined entity will significantly increase the amount of local news in the market; (ii) whether the newspaper and the broadcast outlets each will continue to employ its own staff and each will exercise its own independent news judgment; (iii) the level of concentration in the Nielsen Designated Market Area (DMA); and (iv) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

(6) In order to overcome the negative presumption set forth in paragraph (4) with respect to the combination of a major newspaper and a television station, the applicant must show<sup>1</sup> by clear and convincing evidence that the co-owned major newspaper and station will increase the diversity of independent news outlets and increase competition among independent news sources in the market, and the factors set forth above in paragraph (5) will inform this decision.

(7) The negative presumption set forth in paragraph (4) shall be reversed under the following two circumstances:

(i) the newspaper or broadcast station is failed or failing; or  
(ii) the combination is with a broadcast station that was not offering local newscasts prior to the combination, and the station will initiate at least seven hours per week of local news programming after the combination.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** The data is used by FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

3. **Consideration Given to Information Technology:** The Commission requires applicants to file FCC Form 301 electronically.

4. **Effort to Identify Duplication and Use Similar Information:** This agency does not impose a similar information collection on the respondents. There are no similar data available.

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<sup>1</sup> These showings are done via waiver showings/filings with the Commission.

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5. **Effort to Reduce Small Business Burden:** In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission has limited the information requirements to those that are absolutely necessary for evaluating and processing the amendments to determine the community having the greater need and to deter possible abuses of the processes. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

6. **Less Frequent Data Collection:** The frequency for filing the DTV station application will vary depending on the market. For all other uses of FCC Form 301, the frequency of filing is determined by the respondents. However, no new or modified AM, FM, TV or DTV facilities can be obtained without using FCC Form 301.

7. **Information Collection Circumstances:** This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. **Consultations with Persons Outside the FCC:** Opportunity for public comment on this information collection requirement has been published in the *Federal Register* at 73 FR 22946 on April 28, 2008. The Commission did not receive any comments from the public for this information collection.

9. **Payment or Gift:** No payment or gift was provided to respondents.

10. **Confidentiality of Information:** There is no need for confidentiality with this information collection.

11. **Justification for Sensitive Questions:** This information collection does not address any private matters of a sensitive nature.

12. **Estimate of Burden and Burden Hour Cost:** The following estimates are provided for public burden for this information collection:

<u>Services</u>	<u>Number of Applicants</u>
AM New & Major	451
AM Minor Change	250
With AM Multiple	
Ownership Showings	275
AM Community of License Minor Change	
Applications	70
FM New & Major	288
FM Minor Change	1,200
With FM Multiple	
Ownership Showings	264
FM Community of License Minor Change	
Applications	50
TV Minor Change	200

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DTV	1,210
With TV Multiple Ownership Showings	<u>20</u>
<b>Total Number of Respondents:</b>	<b>4,278 Licensees/Permittees</b>

<u>Number of Services</u>	<u>Respondent's Applications</u>	<u>Annual Hrly. Burden<sup>2</sup></u>	<u>Burden Hours</u>
AM New & Major	451	3 hours	1,353 hours
AM Minor Change	250	2 hours	500 hours
With AM Multiple Ownership Showings	275	5 hours <i>(Revised)</i>	1,375 hours
AM Community of License Minor Change Applications	70	3 hours	210 hours
FM New & Major	288	3 hours	864 hours
FM Minor Change	1,200	2 hours	2,400 hours
With FM Multiple Ownership Showings	264	5 hours <i>(Revised)</i>	1,320 hours
FM Community of License Minor Change Applications	50	3 hours	150 hours
TV Minor Change	200	2 hours	400 hours
DTV	1,210	2 hours	2,420 hours
With TV Multiple Ownership Showings	<u>20</u>	4 hours <i>(Revised)</i>	<u>80 hours</u>
<b>Totals:</b>	<b>4,278</b>		<b>11,072 hours</b>
	<b>(responses)</b>		

**Total Number of Responses: 4,278 FCC Form 301 Filings**

**Total Annual Burden Hours: 11,072 hours**

We assume that the respondent would consult with an outside attorney and a consulting engineer to complete an FCC Form 301. The time spent in consultation with these attorneys and consulting engineer will vary depending upon the application type.

We also estimate that the respondent would spend 2 hours in consultation with a consulting engineer in the preparation of a multiple ownership analysis in connection with an application, or a waiver of the multiple ownership rules and cross-ownership rules.

We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/hour)

<u>Number of</u>	<u>Respondent's</u>	<u>Hrly. Wage</u>	<u>Annual In-</u>
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<sup>2</sup> The additional one hour of burden that is added to each of the revised hourly burdens is due to extra time that is needed in order for the respondent to complete revised FCC Form 301 and also to attach waiver showings/filings to the form/application.

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<u>Services</u>	<u>Applications</u>	<u>Hrly. Burden</u>	<u>of Respondent</u>	<u>House Cost</u>
AM New & Major	451	3 hours	\$48.08	\$ 65,052.24
AM Minor Change	250	2 hours	\$48.08	\$ 24,040.00
AM Ownership Showings	275	5 hours <i>(Revised)</i>	\$48.08	\$ 66,110.00
AM Community of License Change	70	3 hours	\$48.08	\$ 10,096.80
FM New & Major	288	3 hours	\$48.08	\$ 41,541.12
FM Minor Change	1,200	2 hours	\$48.08	\$115,392.00
FM Ownership Showings	264	5 hours <i>(Revised)</i>	\$48.08	\$ 63,465.60
FM Community of License Change	50	3 hours	\$48.08	\$ 7,212.00
TV Minor Change	200	2 hours	\$48.08	\$ 19,232.00
DTV	1,210	2 hours	\$48.08	\$115,392.00
TV Multiple Ownership Showings	20	4 hours <i>(Revised)</i>	\$48.08	\$ 3,846.40
<b>Total Annual "In House" Cost:</b>				<b>\$531,380.16</b>

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. **Cost to Respondents:** We assume that the applicant would use an attorney (\$200/hour) and a consulting engineer (\$150/hour) to complete the FCC Form 301.

All applicants must complete Item 4 regarding the multiple ownership rules and cross-ownership rules, and submit at least a textual explanation in response.

We expect that the vast majority (90% or more) of applicants will need to submit a very brief narrative response explaining rule compliance, and such explanations will require insignificant amounts of additional attorney and engineering time. The remainder will need to submit an expansive "showing" of compliance under our rules, including a contour overlap study where applicable.

We estimate that applications that require expansive multiple ownership showings will require two additional hours of an engineer's time and ten additional hours of an attorney's time.

An AM, FM, or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25.

<u>Services</u>	<u>Hrly. Wage of Consultant</u>	<u>Consultant's Hrly. Burden</u>	<u>Number of Applications</u>	<u>Annual Cost Burden</u>
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AM:

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New & Major	\$200	6 hours	451	\$ 541,200
	\$150	89 hours	451	\$6,020,850
Minor Change	\$200	1 hour	250	\$ 50,000
	\$150	88 hours	250	\$3,300,000
Multiple Ownership	\$200	17 hours ( <i>Revised</i> )	275	\$ 935,000
Showings	\$150	92 hours ( <i>Revised</i> )	275	\$3,795,000
Community of License	\$200	7 hours	70	\$ 98,000
Change	\$150	90 hours	70	\$ 945,000

**FM:**

New & Major	\$200	6 hours	288	\$ 345,600
	\$150	71 hours	308	\$3,280,200
Minor Change	\$200	1 hour	1,200	\$ 240,000
	\$150	69 hours	1,200	\$12,420,000
Multiple Ownership	\$200	27 hours ( <i>Revised</i> )	264	\$ 1,425,600
Showings	\$150	73 hours ( <i>Revised</i> )	264	\$ 2,890,800
Community of License	\$200	1 hour	50	\$ 10,000
Change	\$150	70 hours	50	\$ 525,000

**TV:**

Minor Change	\$200	1 hour	200	\$ 40,000
	\$150	45 hours	200	\$1,350,000

**DTV:**

	\$200	1 hour	1,210	\$ 242,000
	\$150	34 hours	1,210	\$6,171,000
Multiple Ownership	\$200	12 hours ( <i>Revised</i> )	20	\$ 48,000
Showings	\$150	48 hours ( <i>Revised</i> )	20	<u>\$ 144,000</u>

**Total AM/FM TV and DTV: \$44,817,250**

<b>Fees:</b>	<b>Number of Applications</b>	<b>Fee Cost</b>	<b>Total Fee Cost</b>
AM New & Major	451	\$3,310	\$1,492,810
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	275	\$3,310	\$ 910,250
AM Community of License Change	70	\$ 830	\$ 58,100

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FM New & Major	288	\$2,980	\$ 858,240
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	264	\$2,980	\$ 786,720
FM Community of License Change	50	\$ 830	\$ 41,500
TV Minor Change	200	\$ 830	\$ 166,000
DTV	1,210	\$ 830	\$ 1,004,300
TV Multiple Ownership Showings	20	\$3,720	\$ 74,400
<b>Fee Total:</b>			<b>\$6,595,820</b>

859<sup>3</sup> new/major/community of license change applications x 4 x \$113.25 = **\$389,127** in publication costs  
(Revised)

**Total Annual Cost Burden:** \$44,817,250 + \$6,595,820 + \$389,127 = **\$51,802,197**

**14. Cost to Federal Government:** The Commission will use legal and engineering staff at the GS-14/Step 5 level (\$53.24/hour), paraprofessional staff at the GS-11/Step 5 level (\$31.61/hour), and clerical staff at the GS-5 level/Step 5 level (\$17.24/hour) to process these applications.

New & Major Change AM/FM/TV Applications = 739<sup>4</sup>

739 applications x \$53.24/hour x 40 hours =	\$1,573,774.40
739 applications x \$53.24/hour x 20 hours =	\$ 786,887.20
739 applications x \$31.61/hour x 1 hour =	\$ 23,359.79
739 applications x \$17.24/hour x 2 hours =	<u>\$ 25,480.72</u>
	<b>\$2,409,502.11</b>

Minor AM Applications = 250

AM Multiple Ownership Showings = 275

AM Community of License Change Minor Applications = 70

(No GS-14 Step-5 legal review required)	
595 applications x \$53.24/hour x 30 hours =	\$ 950,334.00
(No GS-11 Step-5 paraprofessional review required)	
595 applications x \$17.24/hour x 2 hours =	<u>\$ 20,515.60</u>
	<b>\$ 970,849.60</b>

<sup>3</sup> This number was calculated as follows: 451 AM New & Major Applications + 288 FM New & Major Applications + 70 AM Community of License Change Applications + 50 FM Community of License Change Applications = 859 Applications.

<sup>4</sup> This number was calculated as follows: 451 AM New & Major Applications + 288 FM New & Major Applications = 739 Applications.



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Minor FM Applications = 1,200  
 FM Multiple Ownership Showings = 264  
 FM Community of License Change Minor Applications = 50

(No GS-14 Step 5 legal review required)	
1,514 applications x \$53.24/hour x 20 hours =	\$1,612,107.20
(No GS-11 Step 5 paraprofessional review required)	
1,514 applications x \$17.24/hour x 2 hours =	<u>\$ 52,202.72</u>
	<b>\$1,664,309.92</b>

Minor TV Applications = 200  
 DTV Applications = 1210  
 TV Multiple Ownership Showings = 20

(No GS-14 Step 5 legal review required)	
1,430 applications x \$53.24/hour x 20 hours =	\$1,522,664.00
1,430 applications x \$31.61/hour x 6 hours =	\$ 271,213.80
1,430 applications x \$17.24/hour x 2 hours =	<u>\$ 49,306.40</u>
	<b>\$1,843,184.20</b>

**Total Cost to the Federal Government: \$6,887,854.83**

15. **Reason for Changes in Burden or Cost:** We made modifications to the Cross Ownership and Family Relationship Sections (Instructions, Section A, IV, and Section B of Worksheet #2) of Forms 301 and revisions to 47 CFR § 73.3555(d). These modifications/revisions are based on the adoption of a *Report and Order and Order on Reconsideration* in its 2006 Quadrennial Regulatory Review of the Commission’s Broadcast Ownership Rules pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 06-121, FCC 07-216. Therefore, the Commission had program changes of +559 hours and +\$451,850 cost burden for this information collection.

16. **Plans for Publication:** The data will not be published.

17. **Display of OMB Approval Date:** We request extension of the waiver not to publish the expiration date on the form. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR § 0.408.

18. **Exceptions to the Certification Statement:** There are no exceptions to the Certification Statement in Item 19 of the OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

This information collection does not employ any statistical methods.