

INSTRUCTIONS FOR FCC 314

APPLICATION FOR CONSENT TO ASSIGNMENT OF BROADCAST STATION CONSTRUCTION PERMIT OR LICENSE

GENERAL INSTRUCTIONS

- A. This FCC Form is to be used to apply for authority to assign a broadcast station construction permit or license. It consists of the following sections:

- I. General Information (assignor, assignee, and contact representatives, if any)
- II. Assignor
- III. Assignee

The assignor must complete Items 1, 2, 6 and 7 of Section I and all of Section II; the assignee must complete Items 3-5 of Section I and all of Section III.

- B. This application form makes many references to FCC rules. Applicants should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (C.F.R.):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"
- (4) Part 74 "Experimental Radio, Auxiliary, and Special Broadcast and Other Program Distributional Services"

FCC Rules may be purchased from the Government Printing Office. Current prices may be obtained from the GPO Customer Service Desk at (202) 512-1803. For payment by credit card, call (202) 512-1800, M-F, 8 a.m. to 4 p.m. e.s.t; facsimile orders may be placed by dialing (202) 518-2233, 24 hours a day. Payment by check may be made to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954.

- C. Electronic Filing of Application Forms. The Commission is currently developing electronic versions of various broadcast station application and reporting forms, such as this application form. As each application form and report goes online, the Commission will by Public Notice announce its availability and the procedures to be followed for accessing and filing the application form or report electronically via the Internet. For a six-month period following the issuance of the Public Notice, the subject application form or report can be filed with the Commission either electronically or in a paper format. Electronic filing will become mandatory, on a form-by-

form basis, six months after each application form or report becomes available for filing electronically.

- D. Mandatory electronic filing of FCC Form 314 commenced on February 15, 2001. *See* 16 FCC Rcd 3989 (2001). Paper versions of FCC Form 314 will not be accepted for filing, unless accompanied by an appropriate request for waiver of the electronic filing requirement. Applicants can access the electronic filing system via the Internet from the Media Bureau's Web site at: <http://www.fcc.gov/mb>.

- E. Public Notice Requirements:

- (1) 47 C.F.R. Section 73.3580 requires that applicants for consent to assignment of a construction permit or license for an AM, FM, or TV broadcast station give local notice in a newspaper of general circulation in the community to which the station is licensed. Local notice is also required to be broadcast over the station, if operating. However, if the station is the only operating station in its broadcast service licensed to the community involved, publication of the notice in a newspaper is not required. (Noncommercial educational FM and TV stations are classified as a "different service" from commercial FM and TV stations for purposes of this policy.) The publication requirement also applies with respect to major amendments to applications as defined in 47 C.F.R. Section 73.3578(b). Low Power FM Stations are exempt from this requirement.
- (2) Completion of publication may occur within 30 days before or after the tender of the application to the Commission. Compliance or intent to comply with the public notice requirements must be certified by the Assignor in Item 7 of Section II of this application. The required content of the local notice is described in Paragraph (f) of 47 C.F.R. Section 73.3580. Worksheet #1 attached to these instructions provides additional guidance. Proof of publication need not be filed with this application.
- (3) Local notice in a newspaper of general circulation in the community or area to be served is also required for assignments of license that involve FM and TV booster authorizations. Compliance or intent to

comply with the public notice requirements must be certified by the Assignor in Item 7 of Section II of this application. The required content of the local notice is described in Paragraph (g) of 47 C.F.R. Section 73.3580. Worksheet #1 attached to these instructions provides additional guidance. Proof of publication need not be filed with this application.

- F. A copy of the completed application and all related documents shall be made available for inspection by the public in the station's public inspection file pursuant to 47 C.F.R. Section 73.3526 for commercial stations and Section 73.3527 for noncommercial educational stations.
- G. Applicants should provide all information called for by this application. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** Inadvertently accepted applications are subject to dismissal. See 47 C.F.R. Section 73.3564(b).
- H. In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.
- I. This application requires applicants to certify compliance with many statutory and regulatory requirements. Detailed instructions and worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions and worksheets, they are not required to complete or retain any documentation created or collected to complete the application. See Section II, Item 1 and Section III, Item 1.
- J. This application is presented primarily in a "Yes/No" certification format. However, it contains places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. Thus, a "No" response to any of the certification items **will not** cause the immediate dismissal of the application provided that an

appropriate exhibit is submitted.

- K. **Both parties to the transaction must sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; if an unincorporated association, by a member who is an officer; for a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. When an application is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998).

INSTRUCTIONS FOR SECTION I -- GENERAL INFORMATION

- A. **Items 1-4: Names/Addresses.** In Section I, applicants should use only those state abbreviations approved by the U.S. Postal Service.

The name of the assignor must be stated in Item 1 exactly as it appears in the authorization to be assigned.

The exact and complete name of the assignee must be stated in Item 3: if the assignee is a corporation, the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

FCC Registration Number (FRN). To comply with the Debt Collection Improvement Act of 1996, the applicant must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html> or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at <http://www.CORES@fcc.gov> or by calling 1-877-480-3201.

Facility ID Number. Radio and TV Facility ID Numbers can be obtained at the FCC's Internet Website at www.fcc.gov/mb. Once at this website, scroll down and select CDBS Public Access. You can also obtain your Facility ID Number by calling: Radio (202) 418-2700, TV

(202) 418-1600. Further, the Facility ID Number is now included on all Radio and TV authorizations and postcards.

If the assignor and/or assignee is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address may be specified in Items 2 (for assignor) and 4 (for assignee).

- B. **Item 5: Fees.** The Commission is statutorily required to collect charges for certain regulatory services to the public. Generally, applicants seeking to assign licenses or permits of AM, FM, or TV broadcast stations are required to submit a fee with the filing of FCC Form 314. Government entities, however, are exempt from this fee requirement. Exempt entities include possessions, states, cities, counties, towns, villages, municipal organizations, and political organizations or subparts thereof governed by elected or appointed officials exercising sovereign direction over communities or governmental programs. Also exempt are full-service noncommercial educational radio, noncommercial educational TV, and LPFM licensees and permittees, **provided** that the AM station(s) being acquired will continue to operate noncommercially. See 47 C.F.R. Section 1.1114.

When electronically filing a fee-exempt application, an applicant must complete Item 5 and provide an explanation as appropriate. Paper versions of applications **NOT** subject to a fee may be hand-delivered or mailed to the FCC at its Washington, D.C. offices. See 47 C.F.R. Section 0.401(a). Fee-exempt applications should not be sent to the Mellon Bank Lockbox; so doing will result in a delay in processing the application.

The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing. Prior to the institution of electronic filing procedures, all FCC Form 314 applications requiring the remittance of a fee, or for which a waiver or deferral from the fee requirement is requested, must be submitted to the appropriate post office box address. See 47 C.F.R. Section 0.401(b). A listing of the fees required for the assignment of various types of broadcast station construction permits and licenses and the addresses to which FCC Form 314 should be mailed or otherwise delivered are also set forth in the "Media Bureau Fee Filing Guide." This document can be obtained either by writing to the Commission's Form Distribution Center, 9300 E. Hampton Drive, Capitol Heights, Maryland 20743, or by calling 1-800-418-FORM. See also 47 C.F.R. Section 1.1104. The Fee Filing Guide also contains a list of the Fee Type Codes needed to complete this application.

A separate fee payment must be submitted for each FCC Form 314 filed. Where multiple stations are being assigned

on one FCC 314, a single payment covering the total required fee, calculated according to the number of AM, FM, or TV station permits or licenses covered by that FCC Form 314, must be made.

Payment of any required fee must be made by check, bank draft, money order, or credit card. If payment is by check, bank draft, or money order, the remittance must be denominated in U.S. dollars, drawn upon a U.S. institution, and made payable to the "Federal Communications Commission." No postdated, altered, or third-party checks will be accepted. **DO NOT SEND CASH.** Additionally, checks dated six months or older will not be accepted.

Applicants who wish to pay for **more than one application in the same lockbox with a single payment** may also submit a single FCC Form 159. When paying for multiple filings in the same lockbox with a single payment instrument, applicants must list each filing as a separate item on FCC Form 159 (Remittance Advice). If additional entries are necessary, applicants should use FCC Form 159C (Continuation Sheet).

Procedures for payment of application fees when applications are filed electronically will be announced by subsequent Public Notice. See General Instruction C above. Payment of application fees may be made by Electronic Payment **prior to** the institution of electronic filing procedures, provided that prior approval has been obtained from the Commission. Licensees/Permittees interested in this option must first contact the Credit and Debt Management Center at (202) 418-1995 to make the necessary arrangements.

Applicants hand-delivering FCC Forms 314 may receive a dated receipt copy by presenting a complete copy of the filing to the acceptance clerk at the time of delivery. For mailed-in applications, a "return copy" of the application should be furnished and clearly marked as a "return copy." The applicant should attach this copy to a stamped, self-addressed envelope. Only one piece of paper per application will be stamped for receipt purposes.

For further information regarding fees and payment procedures, applicants should consult the "Media Bureau Fee Filing Guide."

- C. **Item 7: Auction Authorization.** Under the Commission's competitive bidding licensing procedures, applicants seeking to assign a broadcast construction permit or license within three years of receipt of the original construction permit by means of competitive bidding must inform the Commission that the permit or license was obtained through competitive bidding. See 47 C.F.R. Section 1.2111(a). Item 7 requires the applicant to identify those authorizations that were obtained through competitive bidding, and for which FCC consent to assignment is

sought in this application.

The Commission's auction rules also require an applicant seeking approval of an assignment of a license or construction permit within three years of receipt of such authorization by means of competitive bidding to file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the consideration that the applicant will receive in return for the assignment of its license or permit. See 47 C.F.R. Sections 1.2111(a), 73.5009(a). **If applicable, this information should be submitted as an exhibit to Item 7.**

D. Item 8: Noncommercial Educational Holding Period.

Under the Commission's licensing procedures for stations operating on channels reserved for noncommercial educational use, applicants seeking to assign a noncommercial educational TV, FM, or FM translator station received as a result of evaluation in a point system are subject to certain restrictions if the station has not after the point system operated for four years with a minimum operating schedule.

Item 8(a) requires the applicant to indicate whether any authorizations were obtained through a point system. Answer "yes" if any of the reserved channel noncommercial educational stations involved in the transaction were authorized pursuant to a point system selection procedure, regardless of whether authorization was to issued to the applicant or to a predecessor. Applicants operating only on non-reserved "commercial" channels should answer "no." Applicants operating on reserved channels should answer "no" if all stations were authorized before May 2000 and no major modifications have occurred, or if all stations authorized from May 2000 onward were authorized using a method other than point system [such as award to a single applicant, authorization pursuant to a settlement agreement among all mutually exclusive parties, or selection of an applicant based on comparison pursuant to 47 U.S.C. Section 307(b) (fair distribution) only.]

Item 8(b) applies only to applicants who answered "yes" to 8(a). It asks whether all stations awarded by point system have satisfied the four-year holding period on such stations. Applicants should answer "yes" to 8(b) if, between the time of point system authorization and the time of the present application, the station has operated pursuant to that authorization for four years (48 months) on-air, pursuant to the Commission's minimum operating schedule. Applicants with stations not yet meeting the four-year holding period should answer "no" and provide an exhibit identifying the stations that have not met the holding period, and demonstrating that the transaction is consistent with 47 C.F.R. Section 73.7005(a). Pursuant to that rule section, the applicant must demonstrate the

following: (1) that the proposed assignee would qualify for points equal to or greater than those of the party that prevailed in the point system; **and** (2) that consideration received and/or promised does not exceed the assignor's legitimate and prudent expenses in applying for and constructing the station.

INSTRUCTIONS FOR SECTION II -- ASSIGNOR

A. **Item 1: Certification.** Each applicant is responsible for the information that the application instructions and worksheets convey. As a key element in the Commission's streamlined licensing process, a certification that these materials have been reviewed and that each question response is based on the applicant's review is required.

B. **Item 2: Authorizations to be Assigned.** Unless specifically enumerated as excluded authorizations, the licenses for all subsidiary communications services (SCAs), FM and TV booster stations, and all auxiliary service stations authorized under Subparts D, E, F, and H of 47 C.F.R. Part 74 will be included in the assignment of the license or permit of the primary station(s). Applicants should complete the table. If preparing this application in paper form, attach a separate page using the table format when additional space is needed.

NOTE: Applications for transactions involving only the assignment of a permit or license for a TV or FM translator station or a low power television station must be filed on **FCC Form 345**. The submission of a separate filing fee with the filing of FCC Form 345 may also be required.

C. **Item 3: Agreements for Sale of Station.** All applicants must submit to the Commission with this application and place in the public inspection file of each subject station a complete and final copy of the unredacted contract for the assignment of the authorizations that are the subject of this application, including all exhibits and attachments. The application and contracts must be retained in the public inspection file until **final** action is taken on this application, with the exception that any application granted pursuant to a waiver of any Commission rule must be retained in the public file for as long as the waiver is in effect. See 47 C.F.R. Sections 73.3526(e)(2) (for commercial stations) and 73.3527(e)(2) (for noncommercial educational stations). Applicants must certify their compliance with these requirements in Items 3a and 3b.

Item 3c asks applicants to certify that the agreements for assignment of the subject authorizations "comply fully with the Commission's rules and policies." In order to complete this certification, applicants must consider a broad range of issues. Worksheet #2 provides guidance on key

compliance issues to facilitate applicants' review of their proposed transactions, and to help applicants identify issues where additional explanatory exhibits may be required or helpful. If the applicant also holds a time brokerage agreement (also known as a local marketing agreement) pursuant to which the assignee will supply programming to a station in the market, or a radio joint sales agreement pursuant to which the assignee will sell commercial advertising time for a station in the market, prior to FCC approval, then applicants must review Worksheet #3D.

- D. **Item 4: Other Authorizations.** Instructions for Section III, Item 4 define "party to the application" and attributable interest" as used in this question.
- E. **Items 5 and 6: Character Issues/Adverse Findings.** These questions require an evaluation of any unresolved character issues involving the assignor or any of its principals, as well as any relevant adverse findings by a court or administrative body. Assignors must review the instructions for Section III, Items 4, 7 and 8, of this form before completing this item.
- F. **Item 8: Auction Authorization.** This question asks the assignor to certify that the proposed assignment will comply with the "unjust enrichment" provisions of the Commission's competitive bidding rules, 47 C.F.R. Section 1.2111(d)(1). Assignors must review the instructions for Section III, Item 12 before completing this item.
- G. **Item 9: Anti-Drug Abuse Act Certification.** This question requires the assignor to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. Assignors must review the instructions for Section III, Item 13, of this form before completing this item.

INSTRUCTIONS FOR SECTION III -- ASSIGNEE

- A. **Item 1: Certification.** Assignees must review the instructions for Section II, Item 1 before completing this item.
- B. **Item 2(a): Organization of Assignee.** This question asks the assignee to specify its organizational structure. If the assignee's structure fits none of the categories of business entities enumerated, the assignee must check the box marked "Other" and attach an exhibit describing in detail its organizational structure.
Item 2(b): If the station to be assigned in a noncommercial educational station, indicate whether the Commission has previously approved the applicant's educational qualifications and program and whether the applicant will use the proposed station to advance a similar program.

Applicants answering "Yes" should indicate the file number of the most recent application in which the Commission granted such approval, and need not provide an exhibit in Question 4(b).

Item 2(c): Applicants not previously approved or planning to advance a program dissimilar from the one previously approved must establish their qualifications. The applicant must provide an exhibit showing that it has an educational objective and that the station will be used for the advancement of an education program that will further that objective in accordance with 47 C.F.R. Sections 73.503. In considering these requirements, emphasis is placed on proposed station programs which are clearly educational in nature, i.e., actually involve teaching or instruction, whether for formal credit or not. However, it is not necessary that the proposed station's programming be exclusively educational in nature. Also, all programming on the station must be noncommercial in nature, with no advertisements, and no support for or opposition of a candidate for political office.

- C. **Item 3: Agreements for Sale of Station.** This question requires the assignee to certify that the written agreement submitted with the application and contained in the licensee/permittee's public inspection file embodies the complete and final agreement between the parties and that the agreement complies fully with the Commission's rules and policies regarding station sales contracts. The assignee must undertake an independent evaluation of the contract in order to make this certification. Worksheet #2 provides guidance on key compliance issues to facilitate applicants' review of their proposed transaction, and to help applicants identify issues where additional explanatory exhibits may be required or helpful. If the applicant has an attributable time brokerage or local marketing agreement, or an attributable radio joint sales agreement, for the stations subject to the application or for any other stations in the same market, then the applicant must review Worksheet #3D. Applicants who are required to demonstrate compliance with 47 C.F.R. § 73.3555(a) must file a copy of each such agreement for radio stations as an exhibit to the application.
- D. **Item 4: Parties to the Application.** This question requires the disclosure of information on the assignee and all parties to the application. As used in this application form, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. In responding to Item 4, applicants should review the Commission's multiple ownership attribution policies and standards which

are set forth in the Notes to 47 C.F.R. Section 73.3555, as revised pursuant to Report and Order in MB Dockets 02-277 and 03-130 and MM Dockets 00-244, 01-235 and 01-317, 18 FCC Rcd 13620 (2003), aff'd in part and remanded in part, Prometheus Radio Project, et. al. v. F.C.C., 373 F.3d 372 (3d Cir. 2004), stay modified, No. 03-3388 (Sept. 3, 2004), and/or as revised and explained in Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests, 14 FCC Rcd 12559 (1999), reconsideration granted in part, 16 FCC Rcd 1097 (2000) *2006 Quadrennial Regulatory Review- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Order on Reconsideration, MB Docket No. 06-121 et al., 23 FCC Rcd 2010 (2008) ("2006 Quadrennial Media Ownership Order").

Generally, insulated limited partners or members of a limited liability corporation, certain investors, and certain creditors are not considered parties to the application. However, as set forth in Worksheet #3E entitled, "Investor Insulation and Non-Party Influence over Assignee/Applicant," the holder of such an interest may be deemed a party to the application and, if so, must be listed in the table in Item 4a. In the event that the Investor Insulation and Non-Party Influence over Assignee/Applicant worksheet requires the submission of an explanatory exhibit, the transferee must respond "No" to Section III, Item 4b and complete this exhibit.

Certain interests held by substantial investors in, or creditors of, the applicant may also be attributable and the investor reportable as a party to the application, if the interest falls within the Commission's equity/debt plus (**EDP**) attribution standard. Under the **EDP** standard, the interest held, aggregating both equity and debt, must exceed 33% of the total asset value (all equity plus all debt) of the applicant, a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission's broadcast multiple ownership rules **AND** the interest holder must either also hold an attributable interest in a media outlet in the same market or supply over 15% of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of an insulated limited partner in a limited partnership applicant would normally not be considered attributable. However, under the **EDP** standard, that interest would be attributable if the limited partner's interest exceeded 33% of the applicant's total asset value **AND** the limited partner also held a 5% voting interest in a radio or television station licensee in the same market.

As used here, the term "assignee" is synonymous with the term "applicant." Additionally, "parties to the application"

includes the following with respect to each of the listed applicant entities:

INDIVIDUAL APPLICANT: The natural person seeking to hold in his or her own right the authorization specified in this application.

PARTNERSHIP APPLICANT: Each partner, including all limited partners. However, a limited partner in a limited partnership is **not** considered a party to the application **IF** the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the applicant so certifies in response to Section III, Item 4b. Sufficient insulation of a limited partner for purposes of this certification would be assured if the limited partnership arrangement:

- (1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;
- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;
- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in Sections 402 (4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the

media businesses of the partnership.

Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification cannot be made if the applicant has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the applicant cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a party to this application.

LIMITED LIABILITY COMPANY APPLICANT: The Commission treats an LLC as a limited partnership, each of whose members is considered to be a party to the application. However, where an LLC member is insulated in the manner specified above with respect to a limited partnership and where the relevant state statute authorizing the LLC permits an LLC member to insulate itself in accordance with the Commission's criteria, that LLC member is not considered a party to the application. In such a case, the applicant should certify "Yes" in response to Section III, Item 4b.

CORPORATE APPLICANT: Each officer, director and owner of stock accounting for 5% or more of the issued and outstanding voting stock of the applicant is considered a party to the applicant. Where the 5% stock owner is itself a corporation, each of its stockholders, directors and "executive" officers (president, vice-president, secretary, treasurer or their equivalents) is considered a party to this application **UNLESS** the applicant submits as an exhibit a statement establishing that an individual director or officer will not exercise authority or influence in areas that will affect the applicant or the station. In this statement, the applicant should identify the individual by name and title, describe the individual's duties and responsibilities, and explain the manner in which such individual is insulated from the corporate applicant and should not be attributed an interest in the corporate applicant or considered a party to this application. In addition, a person or entity holding an ownership interest in the corporate stockholder of the applicant is considered a party to this application **ONLY IF** that interest, when multiplied by the corporate stockholder's interest in the applicant, would account for 5% or more of the issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25% of the applicant's votes, only Corporation X shareholders holding 20 percent or more of the issued and outstanding voting stock of Corporation X have a 5% or more indirect interest in the applicant ($.25 \times .20 = .05$) and, therefore, are considered parties to this application. In applying the multiplier, any entity holding more than 50% of its subsidiary will be considered a 100% owner. Where the 5% stock owner is a partnership, each general partner and any limited partner that is not insulated, regardless of the partnership interest, is considered a party to the

application.

Stock subject to stockholder cooperative voting agreements accounting for 5% or more of the votes in a corporate applicant will be treated as if held by a single entity and any stockholder holding 5% or more of the stock in that block is considered a party to this application.

An investment company, insurance company or trust department of a bank is not considered a party to this application, and an applicant may properly certify that such entity's interest is non-attributable, **IF** its aggregated holding accounts for less than 20% of the outstanding votes in the applicant **AND IF**:

- (1) such entity exercises no influence or control over the corporation, directly or indirectly; and
- (2) such entity has no representatives among the officers and directors of the corporation.

ANY OTHER APPLICANT: Each executive officer, member of the governing board and owner or holder of 5% or more of the votes in the applicant is considered a party to the applicant.

- E. **Item 6: Multiple Ownership.** For radio applicants: This item requires that the assignee either certify compliance with, or request waiver of, the Commission's broadcast ownership rules, including restrictions on investor insulation and participation of non-party investors and creditors. In either case, applicants must submit an Exhibit; i.e., an Exhibit is required demonstrating compliance with the ownership rules or, if the applicant cannot certify compliance, requesting a waiver or exemption, with adequate justification. For all other applicants: This item requires that the assignee certify compliance with the Commission's broadcast ownership rules, including restrictions on investor insulation and participation of non-party investors and creditors.

In order to facilitate the evaluation of the transaction that is the subject of this FCC Form 314, assignees are directed to Worksheet #3, which is tailored to the individual inquiries in Item 6.

- F. **Items 7 and 8: Character Issues/Adverse Findings.** Item 7 requires the assignee to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. An assignee must disclose in response to Item 8 whether it or any party to the application has been the subject of a final adverse finding with respect to certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct

which violates the Communications Act or a Commission rule or policy, and on certain specified non-FCC misconduct. In responding to Items 7 and 8, applicants should review the Commission's character qualification policies, which are fully set forth in Character Qualifications, 102 FCC 2d 1179 (1985), reconsideration denied, 1 FCC Rcd 421 (1986), as modified, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

Where the response to Item 7 is "No," the assignee must submit an exhibit that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interest or connection, including relevant dates. The assignee should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

In responding to Item 8, the assignee should consider any relevant adverse finding that occurred within the past ten years. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application, found the adverse finding not to be disqualifying, it need not be reported again and the assignee may respond "Yes" to this item. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to Item 8 is "No," the assignee must provide in an exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 C.F.R. Section 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing. The assignee should also fully explain why the adverse finding is not an impediment to a grant of this application.

- G. Item 9: Alien Ownership and Control.** All applications must comply with Section 310 of the Communications Act, as amended. Specifically, Section 310 proscribes issuance of a construction permit or station license to an alien, a representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any entity of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative,

or an entity organized under the laws of a foreign country. The Commission may also deny a construction permit or station license to a licensee directly or indirectly controlled by another entity of which more than 25% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or another entity organized under the laws of a foreign country.

Compliance with Section 310 is determined by means of a two-prong analysis, one pertaining to voting interests and the second to ownership interests. See, e.g., BC License Subsidiary L.P., 10 FCC Rcd 10968 (1995). The voting interests held by aliens in a licensee through intervening domestically organized entities are determined in accordance with the multiplier guidelines for calculating indirect ownership interests in an applicant as set forth in the "Corporate Applicant" Instructions for Section III, Item 4. For example, if an alien held a 30-percent voting interest in Corporation A which, in turn, held a non-controlling 40-percent voting interest in Licensee Corporation B, the alien interest in Licensee Corporation B would be calculated by multiplying the alien's interest in Corporation A by that entity's voting interest in Licensee Corporation B. The resulting voting interest ($30\% \times 40\% = 12\%$) would not exceed the 25% statutory benchmark. However, if Corporation A held a controlling 60% voting interest in Corporation B, the multiplier would not be utilized and the full 30 percent alien voting interest in Corporation A would be treated as a 30 percent interest in Licensee Corporation B, *i.e.*, an impermissible 30% indirect alien voting interest in the licensee. If Partnership A held a 40% voting interest in Licensee Corporation B, that voting interest would be similarly impermissible if any general partner or any non-insulated limited partner of Partnership A was an alien, regardless of his or her partnership interest.

Assignees must also comply with the separate alien equity ownership benchmark restrictions of Section 310. Under the second prong of the analysis, an assignee must determine the pro rata equity holdings of any alien investor in a licensee entity or its parent. In calculating alien ownership, the same voting interest multiplier rules apply.

In order to complete this two-prong analysis, an assignee must determine the citizenship of each entity holding either a voting or equity interest, or explain how it determined the relevant percentages. Corporate applicants and licensees whose stock is publicly traded have employed a variety of practices, including sample surveys using a recognized statistical methodology, a separate restrictive class of stock for alien owners, and the compiling of citizenship information on each stockholder by the corporation's stock transfer agent, to ensure the accuracy and completeness of their citizenship disclosures and their continuing compliance with Section 310.

See 47 C.F.R Sections 1.2111(d), 73.5007, 73.5008.

- H. **Item 10: Financial Qualifications.** An assignee must certify that it is financially qualified to effectuate its proposal, with sufficient net liquid assets on hand or available from committed sources of funds to consummate the transaction and operate the facilities for three months without additional revenue. This certification includes all contractual requirements, if any, as to collateral, guarantees, and capital investments. See Financial Qualifications Standard, 87 FCC 2d 200 (1981).

Documentation supporting this certification need not be submitted with this application, but must be made available to the Commission upon request. Financial statements relied on to make this certification should be prepared in accordance with generally accepted accounting principles.

- I. **Item 11: Programming.** Assignees need no longer file a specific program service proposal. Nevertheless, prior to making this certification, the applicant should familiarize itself with its obligation to provide programming responsive to the needs and interests of the residents of its community of license. See Programming Information in Broadcast Applications, 3 FCC Rcd 5467 (1988).

- J. **Item 12: Auction Authorization.** The competitive bidding rules adopted by the Commission include certain provisions to prevent "unjust enrichment" by entities that acquire broadcast authorizations through the use of bidding credits or other special measures. Specifically, the holder of a broadcast license or construction permit, who successfully utilized a bidding credit to obtain the authorization, is required to reimburse the government for the total amount of the bidding credit, plus interest based on the rate for ten-year U.S. Treasury obligations applicable on the date the construction permit was granted, as a condition for Commission approval of any assignment or transfer of that license or construction permit, if the authorization will be acquired by an entity that does not meet the eligibility criteria for the bidding credit. See 47 C.F.R. Sections 1.2111(d)(1), 73.5007. The amount of this payment will be reduced over a five-year period. See 47 C.F.R. Sections 1.2111(d)(2), 73.5007. No payment is required if (1) the authorization is transferred or assigned more than five years after the initial issuance of the construction permit; or (2) the proposed transferee or assignee meets the eligibility criteria for the bidding credit.

In accordance with these provisions, Item 12 requires that the assignee certify that either (1) more than five years have passed since the assignor received its authorization(s) via the competitive bidding process; or (2) the proposed assignee meets the eligibility criteria for the bidding credit. If such certification cannot be made, then the assignee must answer "No" in Item 12 and tender the applicable reimbursement payment to the United States Government.

- K. **Item 13: Anti-Drug Abuse Act Certification.** This question requires the assignee to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A "Yes" response to Item 13 constitutes a certification that neither the assignee nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

With respect to this question only, the term "party to the application" includes if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership organization; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

- L. **Item 14. Assignee's Equal Employment Opportunity Program.** Applicants seeking authority to obtain assignment of the construction permit or license of a commercial, noncommercial or international broadcast station are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, an applicant who proposes to employ five or more full-time employees in its station employment unit must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives, and Hispanics). This is submitted to the Commission as the Model EEO Program on FCC Form 396-A, which should be filed as part of the application. If an applicant proposes to employ less than five full-time employees in its station employment unit, no EEO program for women or minorities need be filed.

General guidelines for developing an Equal Employment Opportunity program are set forth in FCC Form 396-A.

NOTE: This Broadcast Equal Employment Opportunity Model Program Report (FCC Form 396-A) is to be utilized

only by applicants for new construction permits and by assignees and transferees.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take 1 to 5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0031), Washington, DC 20554. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0031.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L.104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

WORKSHEET #1

LOCAL NOTICE CHECKLIST

Applicants must certify that they have complied with Section 73.3580 regarding publication of local notice of the subject application. This worksheet may be used in responding to Section II, Item 7 of Assignor's section of Form 314.

1. Newspaper notice.

(a) Dates of publication: (i) All within 30 days of tender of the application?

☐ Yes ☐ No

(b) Daily newspaper published in community?

☐ Yes ☐ No

(i) If "Yes," public notice must appear twice a week for two consecutive weeks.

(c) No such daily newspaper, weekly newspaper published in community?

☐ Yes ☐ No

(i) If "Yes," notice must appear once a week for three consecutive weeks.

(d) If no such daily or weekly newspaper, local notice must appear in daily newspaper with the greatest circulation in the community twice a week for two consecutive weeks.

2. Broadcast notice.

(a) Once daily for 4 days in the second week following the filing of the application?

☐ Yes ☐ No

M At least 2 announcements during "prime time" (6 p.m. - 11 p.m. for television) or "drive time" (7 a.m. - 9 a.m. and/or 4 p.m. - 6 p.m. for radio), as applicable?

☐ Yes ☐ No

3. Text: do the announcements contain the following information?

(a) Applicant name(s)

☐ Yes ☐ No

(b) Names of all officers, directors, 10% shareholders (if corporation), all non-insulated partners (if partnership)

☐ Yes ☐ No

(c) Purpose of application

☐ Yes ☐ No

(d) Date on which application was filed

☐ Yes ☐ No

(e) Call letters and frequency/channel of station

☐ Yes ☐ No

(f) Statement that copy of application is available in Public File

☐ Yes ☐ No

(g) Location of public file

☐ Yes ☐ No

WORKSHEET # 2

SALES CONTRACT EVALUATION WORKSHEET

This worksheet may be used by the assignor in responding to Section II, Item 3 of FCC Form 314; it may also be used by the assignee in responding to Section III, Item 3. The applicants must review these questions with respect to **all contractual documents**, agreements, and/or understandings between the assignor and the assignee. See Worksheet # 3D (Time Brokerage/Local for the subject station(s) or any other stations in the market prior to Commission approval of the proposed assignment.

1. Do the written contracts and/or agreements in the licensee/permittee's public inspection file embody the complete and final agreement for the sale of the station(s) which are to be assigned? ☐ Yes ☐ No

- (a) Are there any unwritten agreements between the assignor and the assignee which have not been referenced in the contract documents to be submitted with the application? ☐ Yes ☐ No

If "Yes," the terms of these agreements must be reduced to writing and submitted along with

- (b) Are there any written or oral agreements between the assignor and the assignee regarding **future** contractual arrangements arising out of this transaction? ☐ Yes ☐ No

If "Yes," the terms of these agreements must be reduced to writing and submitted along with the other contract documents.

- (c) Have there been any amendments to the contract? ☐ Yes ☐ No

If "Yes," the amendment (or its material terms, if the amendment is not in writing) must be submitted as an amendment to the application.

Note: The obligation to submit all amendments to the contract continues until Commission action on the subject application is no longer subject to administrative or judicial review.

2. Do these documents provide the assignee with ultimate control over and use of all necessary physical property without reservation? ☐ Yes ☐ No

3. Do these documents provide the assignee with ultimate control over station programming without reservation? ☐ Yes ☐ No

Note: The response to both Questions 2 and 3 must be "Yes" in order to certify that the contractual documents "comply fully with the Commission's rules and policies." If "No," the applicant must mark "No" and disclose all details of any restriction on the assignee's complete control of the station in an exhibit to the application.

4. Is there any provision in the agreements that provides for a reversion of the license(s) in the event of default or any right to reassignment of the license in the future? ☐ Yes ☐ No

Note: The response to Question 4 must be "No" in order to certify that the contractual documents comply fully with the Commission's rules and policies." If "Yes," the applicant may not make the appropriate certification.

5. Is there any provision in the agreements which provides for a security interest in the station license(s), permits or authorizations?

☐ Yes ☐ No

Note: The response to Question 5 must be "No" in order to certify that the contractual documents "comply fully with the Commission's rules and policies." Under existing precedent, it is permissible to grant a security interest in the proceeds of the sale of a station license, permit, or authorization, but not in the license, permit, or authorization itself.

6. Do the agreements contain a covenant not to compete?

☐ Yes ☐ No

(a) If "Yes," does the geographic scope of the covenant extend beyond the service contour of the station(s) to be assigned (Grade B for TV, 1.0 mV/m for AM and FM)?

☐ Yes ☐ No

(b) If "Yes," does the duration of the covenant extend beyond the length of a full license term?

☐ Yes ☐ No

Note: If the response to Question 6 is "Yes," the response to Questions 6(a) and 6(b) must be "No" in order to certify that the contractual documents "comply fully with the Commission's rules and policies." If not, the applicant may not make the appropriate certification.

7. Do the agreements contain a stock pledge?

☐ Yes ☐ No

(a) If "Yes," do the agreements expressly state that voting rights will remain with the assignee, even in the event of default?

☐ Yes ☐ No

(b) If "Yes," do the agreements indicate that, in the event of default, there will be either a public (i.e., auction) or private arm's length sale of the pledged interests?

☐ Yes ☐ No

(c) If "Yes," do the agreements provide that, prior to the exercise of stockholder rights by the purchaser at such public or private sale, consent of the Commission (pursuant to 47 U.S.C. § 310(d)) will be obtained?

☐ Yes ☐ No

Note: If the response to Question 7 is "Yes," the response to Questions 7(a), 7(b), and 7(c) must also be "Yes" in order to certify that the contractual documents "comply fully with the Commission's rules and policies." If not, the applicant may not make the appropriate certification.

WORKSHEET # 3

This Worksheet may be used in connection with Section III, Item 6 of FCC Form 314 regarding media ownership. For the convenience of the applicant, the various ownership restrictions are treated under the following separate headings:

A. Multiple Ownership and Cross-Ownership; B. Familial Relationships; C. Future Ownership Rights; D. Time Brokerage/Local Marketing/Joint Sales Agreements; and E. Investor Insulation/Non-party Influence.

A. MULTIPLE OWNERSHIP AND CROSS OWNERSHIP

This section of the worksheet may be used in connection with Section III, Item 6b of FCC Form 314 to determine the proposed assignee's compliance with the Commission's multiple ownership and cross-ownership rules set forth in 47 C.F.R. § 73.3555. Radio applicants: See also the Commission's *Report and Order* in MB Dockets 02-277 and 03-130 and MM Dockets 00-244, 01-235 and 01-317, ("Report and Order"), 18 FCC Red 13620 (2003), aff'd in part and remanded in part Prometheus Radio project, et al. v. F.C.C., 373 F.3d 372 (3d Cir. 2004), stay modified, No. 03-3388 (Sept. 3, 2004). The assignee must determine that it complies with all applicable rules in order to respond "YES" to the certification in Item 6b.

NOTE: Such a certification of compliance does not exempt radio applicants from submitting an Exhibit that demonstrates such compliance, including, if applicable, relevant contour maps.

Where the term "applicant or any party to the application" is used in this worksheet, it refers to the proposed assignee as applicant or any party to the assignee portion of the application.

I. LOCAL RADIO STATION OWNERSHIP

The local radio ownership rules place a numerical limit on the number of stations in which an entity in the local market may have a cognizable interest. See 47 C.F.R. § 73.3555(a). See also *Report and Order*, Section on "Local Radio Ownership Rule."

1. Will grant of this application result in the applicant or any party to this application having a cognizable interest in more than one commercial or noncommercial educational full-power radio station located in (i.e., having its community of license within) or "home" to the same metropolitan area (Metro), as defined by Arbitron and reported by BIA? ¹

☐ Yes

☐ No

If "Yes," provide in your Exhibit the name of the Arbitron Metro; proceed to Items 2 and 3, below. Use a separate worksheet for each applicable Arbitron Metro (see *supra* note 1) and provide in the Exhibit the relevant information for all applicable Metros. If "No," the transaction does not involve stations in an Arbitron Metro; proceed to Item 4.

2. (a) How many commercial and noncommercial educational radio full-power stations are located within or are reported by BIA as "home" to the Metro covered by this worksheet? ²

1. The applicant must demonstrate compliance with the local radio ownership rule in each applicable Metro. Use a separate worksheet for each Metro. Note that BIA may report a particular station as "home" to more than one Metro, including embedded or overlapping Metros. Note also that a station may be reported by BIA as "home" to one Metro and have its community of license in a separate Metro. Each such Metro is "applicable."

2. Include all stations whose community of license is inside the boundaries of the counties that make up the Arbitron Metro. Also include stations outside the counties that make up the Arbitron Metro if they are reported by BIA as "home" to that Metro. The BIA Database generally includes all of the stations in a Metro. See also *supra* note 1.

(b) How many full-power commercial AM stations in the Metro will be attributable to the applicant or any party to this application if the application is approved? _____

(c) How many full-power commercial FM stations in the Metro will be attributable to the applicant or any party to this application if the application is approved? _____

(d) Total number of commercial stations in the Metro that will be attributable to the applicant or any party to this application if the application is approved: ³ _____

If the applicant will own both commercial and noncommercial educational radio broadcast stations in the Metro, please also answer questions 2(e) through 2(g) and include this information in the Exhibit: _____

(e) How many full-power noncommercial educational AM stations in the Metro will be attributable to the applicant or any party to this application if the application is approved? _____

(f) How many full-power noncommercial educational FM stations in the Metro will be attributable to the applicant or any party to this application if the application is approved? _____

(g) How many commercial and noncommercial educational full-power AM and FM stations in the Metro in total will be attributable to the applicant or any party to this application if the application is approved? ⁴ _____

The following local radio ownership "tiers" have the stated limits on the number of stations in which a party (i.e., a person or single entity or entities under common control) may have a cognizable interest in a Metro: _____

- * In a Metro reported by BIA as having 45 or more "home" commercial and noncommercial educational full-power stations, a party may have a cognizable interest in up to 8 full-power commercial radio stations, not more than 5 of which are in the same service (AM or FM);
- * In a Metro reported by BIA as having between 30 and 44 (inclusive) "home" commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 7 commercial full-power radio stations, not more than 4 of which are in the same service (AM or FM);
- * In a Metro reported by BIA as having between 15 and 29 (inclusive) "home" commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 6 commercial full-power radio stations, not more than 4 of which are in the same service (AM or FM);

3. 2(d) should equal 2(b) plus 2(c).

4. 2(g) should equal 2(d) plus 2(e) plus 2(f).

- * In a Metro reported by BIA as having 14 or fewer "home" commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 5 commercial full-power radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not have a cognizable interest in more than 50 percent of the total number of full-power commercial and noncommercial educational stations in such a market; provided, however, that an attributable interest in one AM/FM combination in the Metro is permissible without regard to this 50 percent limitation.

If the transaction complies with the limits set forth above, it complies with the local radio ownership portion of the multiple ownership rules set forth in 47 C.F.R. Section 73.3555. As indicated above, all applicants must submit an Exhibit explaining their determination. Be sure to include a copy of the Exhibit with the copy of the application that is sent to the station's public inspection file.

3. To demonstrate compliance with the numerical limits in the local radio ownership rule, applicants may not rely on a change in a Metro's geographic boundaries that has occurred since September 3, 2004, unless such change has been in effect for at least two years. In addition, applicants may not rely on the inclusion of a radio station as "home" to a Metro unless (a) such station was listed by BIA as "home" to the Metro as of September 3, 2004, or (b) such "home" designation has been in effect for at least two years, or (c) such station's community of license is located within the Metro. Applicants also may not rely on the removal, after September 3, 2004, of their own stations from BIA's list of "home" stations in a Metro unless (i) such exclusion has been in effect for at least two years or (ii) the exclusion results from an FCC-approved change in the community of license of a station from within the Metro to outside the Metro. Applicants who wish to rely on such changes should explain in their Exhibit, taking into account the timing conditions set forth above in this paragraph, (1) any changes since September 3, 2004 to the geographic boundaries of the relevant Metros, (2) any changes since September 3, 2004 to the "home" designations of the applicant's stations in the relevant Metros, (3) whether one or more radio stations licensed to communities outside the Metro have been added to BIA's list of "home" stations for that Metro since September 3, 2004; and (4) whether any of the changes reported in (1) through (3) of this paragraph is necessary for the proposed transaction to comply with the local radio ownership rule.

4. Interim Contour-overlap Methodology. If any station subject to the application does not have its community of license located within the geographic boundaries of any Arbitron Metro, then the following guidelines should be used to determine compliance with the local radio ownership rule for any such station. These guidelines reflect the contour-overlap methodology ("Interim Methodology") that, for any station whose community of license is in a non-Metro area, is in effect until such time as the rule making proceeding in MB Docket 03-130 is completed and new rules are established for such radio stations. *See Report and Order*, Section VI.B., "Local Radio Ownership Rule," paragraphs 282-286, and Section IX, "Notice of Proposed Rule making." If a station is listed by BIA as "home" to a Metro but the station's community of license is not within the geographic boundaries of that Metro or any other Metro, the applicant must comply with the local radio ownership rule both under the Interim Methodology and under the Arbitron Metro methodology.

Under the Interim Methodology, a radio market is defined as the area encompassed by the principal community contours (predicted or measured 5 mV/m groundwave contour for AM; predicted 3.16 mV/m contour for FM) of the stations that are both mutually overlapping and proposed to be "commonly attributable" .) post-transaction. 6 The number of radio stations in this defined radio market (i.e., the numerator) cannot exceed the limits set forth in Section 73.3555(a) (see below). A commonly attributable station whose contour overlaps the contour of some but not all of the contours of the stations that define the radio market does not count toward the local radio ownership limits (i.e., is not counted in the numerator).

Under this same Methodology, the number of stations in the market (i.e., the denominator) is determined by counting the full-power, operating commercial and noncommercial educational stations whose principal community contours overlap or intersect at least one of the principal community contours that define the radio market as described above, subject to the following exception: such a station will be not be counted as being in the market (i.e., in the denominator) if (i) its transmitter site is located more than 92 km from the perimeter of the area of mutual overlap of the commonly attributable stations that define the radio market, or (ii) the applicant or any party to the application has a cognizable interest in the station and the station does not define the subject market (i.e., is not

5. For purposes of this worksheet, "commonly attributable" means stations in which the applicant (assignee) or any party to the application (assignee portion) will have a cognizable interest (see 47 C.F.R. § 73.3555, Notes) if the application is granted.

6. As long as at least one of the commonly attributable radio stations has a community of license that is located outside a Metro, applicants should count in the numerator every commonly attributable station that mutually overlaps such station(s), regardless of whether the other commonly attributable stations are listed as being in Metros.

in the numerator). Any radio station that meets this test should be included in the denominator, regardless of whether such station is in a Metro. A graphic example is provided further below.

The following local radio ownership "tiers" have the stated limits on the number of stations in which a party (i.e., a person or single entity or entities under common control) may have a cognizable interest in a non-Metro radio market:

- * In a radio market with 45 or more commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);
- * In a radio market with between 30 and 44 (inclusive) commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);
- * In a radio market with between 15 and 29 (inclusive) commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM);
- * In a radio market with 14 or fewer commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not have a cognizable interest in more than 50% of the total number of commercial and noncommercial educational full-power stations in such market; provided, however, that an attributable interest in one AM/FM combination in the Metro is permissible without regard to this 50% limitation.

If the transaction complies with the limits set forth above, it complies with the local radio ownership rule set forth in 47 C.F.R. Section 73.3555(a). The assignee should mark "Yes" to Section III, Item 6b of Form 314 and must submit an Exhibit providing information regarding the market(s), broadcast station(s), and other information demonstrating compliance with 47 C.F.R. § 73.3555 (a).

If the transaction does not comply with 47 C.F.R. § 73.3555(a), the assignee should mark "No" to Section 111, Item 6b to Form 314 and must submit as an Exhibit a detailed explanation in support of a waiver of 47 C.F.R. § 73.3555 (a).

See below for an illustration of the Interim Methodology.

5. AM Expanded Band Station. In Report and Order in MM Docket 87-627, 6 FCC Rcd 6273, 63120-21 (1991), the Commission modified the radio ownership rules to permit an existing AM licensee to own and operate another AM Station in the AM "Expanded Band" (1605-1705 KHz) during the transition period to full implementation of the expanded band, even if this were to result in dual ownership, licensees are not permitted to assign either the existing-band or the expanded-band authorization independently of the other. Accordingly, in order to evaluate the subject proposal's compliance with these policies, applicants should address the following questions.

- a. Does the assignee/applicant have either an application, a construction permit, or a license for a station in the expanded band AM band (1605-1705 KHz)?
- b. If "Yes," do the agreements for the sale of the station(s) to be assigned maintain the common ownership of the expanded-band and related existing-band authorization as required by 47 C.F.R. Section 73.1150(c)?

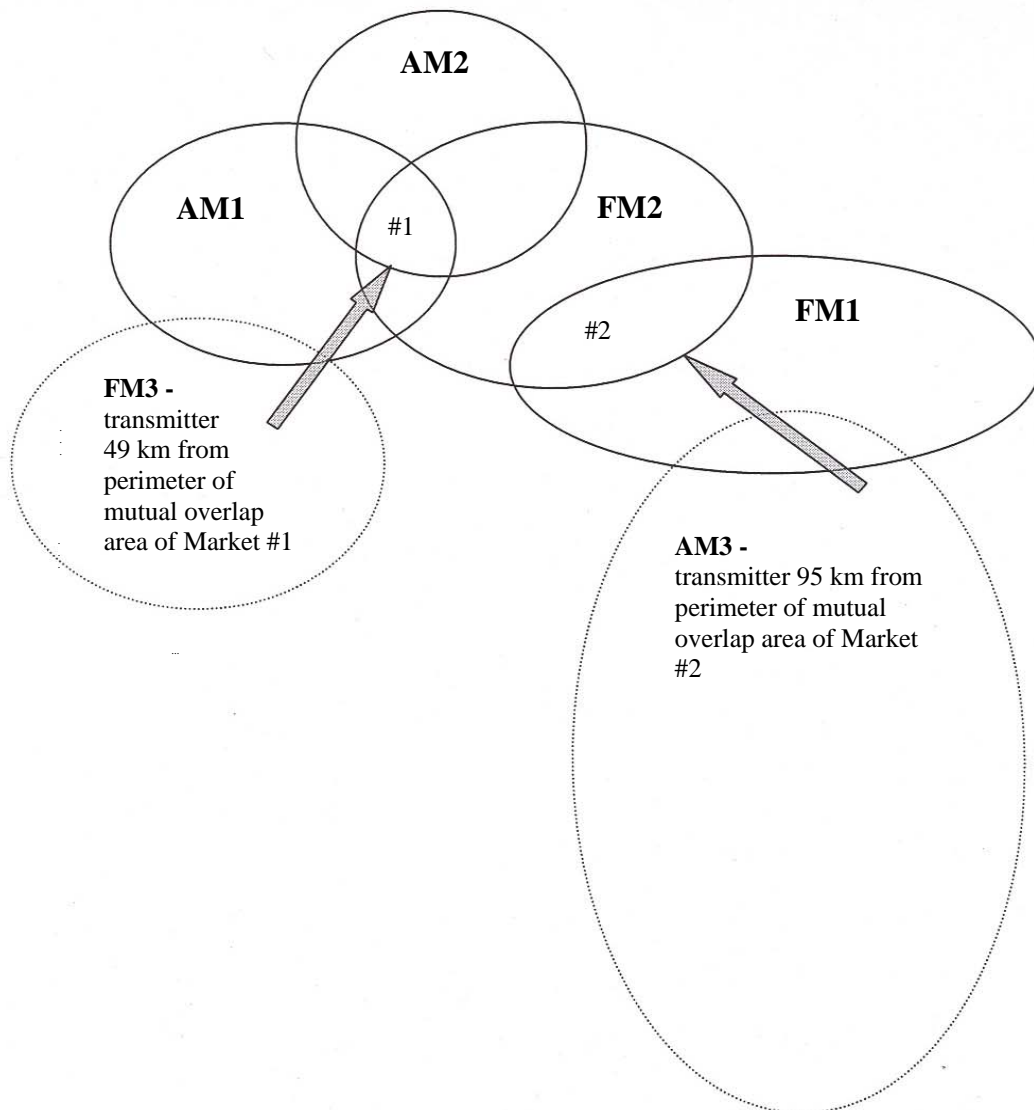
If the answer to Question 5b is "No," the proposed assignment may violate Section 73.1150(c). The applicant therefore must mark "No" to Section III, Item 6b, and submit an explanatory exhibit detailing how the proposed transaction complies with the rule or requesting and justifying a waiver.

In the simplified example below, Stations AM1, AM2, FM1 and FM2 are proposed to be commonly attributable. Stations AM1, AM2, and FM2 have mutually overlapping contours. They constitute a "radio market" -- in this example, Market #1 -- for purposes of the local radio ownership rules in a non-Metro area, and are thus counted against the local radio limit (*i.e.*, in the numerator) in Market # 1.

Because Station FM1's contour does not overlap the mutually overlapping contours of Stations AM1, AM2 and FM2, the proposed acquisition of Station FM1 would not count as being in Market #1 and therefore would not be counted toward the local ownership limit (*i.e.*, in the numerator) for purposes of Market #1. Rather, in a non-Metro area, Stations FM1 and FM2 would need to be analyzed as forming a separate "radio market" - in this example, Market #2. (Station FM2 would thus be counted as being in Market #1 as well as in Market #2.)

Station FM3 is not commonly attributable and it would be counted as "in " Market #1 (*i.e.*, in the denominator) because the transmitter of Station FM3 is not more than 92 km from the perimeter of Market #1's mutual overlap area. Station FM1 would not be counted as being "in" Market #1 (*i.e.*, in the denominator) because it is commonly attributable to the proposed assignee.

Station AM3 in this example is not commonly attributable. It would, nonetheless, not be counted as being "in" Market #2 (*i.e.*, in the denominator) because its transmitter is located more than 92 km from the perimeter of Market #2's mutual overlap area. Stations AM1 and AM2 also would not be counted as "in" Market #2 (*i.e.*, in the denominator) because they are commonly attributable.



II. TELEVISION OWNERSHIP

This section of the worksheet may be used in connection with Section III, Item 6a.1 for the proposed acquisition of a full-service television station. The television ownership rules place a numerical limit on the number of stations that can be owned by one entity in the local market and restrict the total national audience reach that can be attained by any one television station owner. See 47 C.F.R. Sections 73.3555(b); 73.3555(e).

1. **Local Ownership.** Will the acquisition of the commercial television station(s) being assigned result in the assignee or any party to this application having an attributable interest in another commercial television station which is located within the same Designated Market Area (DMA) as measured by Nielsen Media Research and whose Grade B contour overlaps the Grade B contour of the station(s) being assigned?

☐ Yes ☐ No

If "Yes" to Question 1, at the time of filing of this application:

- a. are both of the commercial television stations ranked among the top four stations in the DMA, based on the most recent all-day (9:00 a.m.-midnight) audience share as determined by Nielsen or a comparable professional survey organization?
- b. are there fewer than 8 independently-owned, operating, full-power commercial and noncommercial television stations in the DMA?

☐ Yes ☐ No

☐ Yes ☐ No

If "Yes" to Question 1 a or b, the applicant must mark "No" to Section III, Item 6a and submit an exhibit stating the reasons in support of an exemption from, or waiver of, the Commission's television ownership regulations.

2. **National Audience Reach.** Will the acquisition of the commercial television station(s) being assigned result in the assignee or any party to this application having an attributable interest in commercial television stations which have an aggregate national audience reach exceeding 35 percent?

☐ Yes ☐ No

If "Yes" to Question 2, the applicant must mark "No" to Section III, Item 6a and submit an exhibit stating the reasons in support of an exemption from, or waiver of, the Commission's television ownership regulations.

III. JOINT TELEVISION/RADIO OWNERSHIP

This section of the worksheet may be used in connection with Section III, Item 6a.1, when the assignee will have both full-service television and full-service radio interests in the same local market, as defined by 47 C.F.R. Section 73.3555(c)(3).

1. Will the acquisition of the station(s) being assigned result in the assignee or any party to this application having or maintaining an attributable interest in a commercial AM or FM station and a commercial television station where:

a. the 1 mV/m contour of the commercial FM station or the 2 mV/m contour of the commercial AM station encompasses the entire community (communities) of license of the commercial television station?

☐ Yes ☐ No

b. the Grade A contour of the commercial television station encompasses the entire community (communities) of license of the commercial AM or FM station?

☐ Yes ☐ No

If "Yes" to Question 1 a or b, proceed to Question

2

2. Will the applicant or any party to this application directly or indirectly own, operate or control more than 2 commercial television and 1 commercial radio station, as a result of this transaction?

☐ Yes ☐ No

If "Yes" to Question 2*

a. where there are 20 or more independently-owned media voices in the television and radio markets, as defined by 47 C.F.R. Section 73.3555(c)(3), at the time of the filing of this application,

i. would the applicant or any party to this application directly or indirectly own, operate or control more than 2 commercial television and 6 commercial radio stations?

☐ Yes ☐ No

ii. would the applicant or any party to this application directly or indirectly own, operate or control more than 1 commercial television and 7 commercial radio stations?

☐ Yes ☐ No

iii. if the applicant or any party to this application would control as a result of this transaction 1 commercial television and 7 commercial radio stations, is the television station located in a market in which the applicant or any party to this application could not directly or indirectly own, operate or control 2 commercial television stations pursuant to 47 C.F.R. Section 73.3555(b)?

☐ Yes ☐ No

b. where there are 10, but fewer than 20, independently-owned media voices in the television and radio markets, as defined by 47 C.F.R. Section 73.3555(c)(3), at the time of the filing of this application,

i. would the applicant or any party to this application directly or indirectly own, operate or control more than 2 commercial television and 4 commercial radio stations?

☐ Yes ☐ No

If "Yes" to Question 2(a), (i), (ii), or (iii) or to Question 2(b)(i), the applicant must mark "No" to Section III, Item 6a and submit an exhibit stating the reasons in support of an exemption from, or waiver of, the Commission's joint television and radio ownership regulations.

IV. CROSS-OWNERSHIP

This section of the worksheet may be used in connection with Section III, Item 6a.1 of FCC Form 314 when the assignee will have newspaper interests in the same local market as the station(s) it seeks to acquire.

- (A) Will the acquisition of the station(s) being assigned/grant of this application result in the assignee or any party to this application having or maintaining an attributable interest in a newspaper which: (1) is published four or more days per week, (2) is in the dominant language in the market, and (3) is published in a community entirely encompassed by:
- a. the 1 mV/m contour of one of the FM station(s)? ☐ Yes ☐ No
 - b. the 2 mV/m contour of one of the AM station(s)? ☐ Yes ☐ No
 - c. the Grade A contour of one of the commercial television station(s)? ☐ Yes ☐ No
- (B) If "Yes," to question (A), has the Commission made a presumptive finding pursuant to Section 310(d) of the Communications Act that the proposed newspaper/broadcast combination is in the public interest? ☐ Yes ☐ No

If the applicant answered "Yes" to Question A and "No" to Question B, then the applicant must mark "No" to Section III, Item 6a and submit an exhibit stating the reasons why a waiver of the Commission's newspaper /broadcast cross-ownership rule complies with the Commission's public interest standard and the criteria set out in 2006 Quadrennial Regulatory Review- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Report and Order and Order on Reconsideration, MB Docket No. 06-121 et al., 23 FCC Rcd 2010 (2008) ("2006 Quadrennial Media Ownership Order").

In making a public interest finding, the Commission shall presume that it is not inconsistent with the public interest for an entity to own a daily newspaper in a top 20 Nielsen Designated Market Area ("DMA") and one commercial AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published, provided that, with respect to a combination including a commercial TV station, (1) 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 (2) 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 the newspaper/broadcast cross-ownership rule, major media voices include full-power TV broadcast stations and major newspapers. 2006 Quadrennial Ownership Order, 23 FCC Rcd at 2042-46, 57-62.

In making a public interest finding, the Commission shall presume that it is inconsistent with the public interest for an entity to own a daily newspaper and an AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published in a DMA other than the top 20 Nielsen DMAs or in any circumstance not discussed above.

In order to overcome the negative presumption with respect to the combination of a major newspaper and a television station, the applicant must show 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. The following factors will inform this decision. The Commission shall consider (1) whether the combined entity will significantly increase the amount of local news in the market; (2) whether the newspaper and the broadcast outlets each will continue to employ its own staff and each will exercise its own independent news judgment; (3) the level of concentration in the DMA; and (4) 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. 2006 Quadrennial Ownership Order, 23 FCC Rcd at 2049-54, 68-75.

The negative presumption shall be reversed if the newspaper or broadcast station is failed or failing. In order to qualify as failed, the newspaper or broadcast outlet has to have stopped circulating or have been dark for at least four months immediately prior to the filing of the assignment or transfer of control application, or must be involved in court-supervised involuntary bankruptcy or involuntary insolvency proceedings. To qualify as failing, the applicant must show that (1) the broadcast station has had a low all-day audience share (i.e., 4 percent or lower), (2) the financial condition of the newspaper or broadcast station is poor (i.e., a negative cash flow for the previous three years), and (3) the combination will produce public interest benefits. In addition, in both instances, the applicant must show that the in-market buyer is the only reasonably available candidate willing and able to acquire and operate the failed or failing newspaper or station and that selling the newspaper or station to any out-of-market buyer would result in an artificially depressed price. 2006 Quadrennial Ownership Order, 23 FCC Rcd at 2047, 65.

The negative presumption shall also be reversed if 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. 2006 Quadrennial Ownership Order, 23 FCC Rcd at 2049, 67.

Applicants should refer to the 2006 Quadrennial Ownership Order, 23 FCC Rcd at 2040-54, 53-75.

B. FAMILY RELATIONSHIPS

This section of the worksheet may be used in connection with Section III, Item 6c.1 of FCC Form 314, which requires the assignee to certify that the proposed acquisition does not "present an issue" under the Commission's policies relating to media interests of immediate family members (i.e., husband, wife, father, mother, brother, sister, son or daughter).

The Commission does not prohibit, but rather considers relevant, media interests owned by immediate family members. Accordingly, the assignee should examine the media interests of its principals' immediate family members to determine whether or not those media interests will be independent and not subject to common influence or control. See Policy Statement, Clarification of Commission's Policies Regarding Spousal Attribution, 7 FCC Rcd 1920 (1992), Sevier Valley Broadcasting, Inc., 10 FCC Rcd 9795 (1995).

An assignee must review this worksheet if the answer to the following question is "Yes" Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son or daughter) of any party to the application have any interest in or connection with any other broadcast station, pending broadcast application or daily newspaper in the same market?

☐ Yes ☐ No

A broadcast station and a daily newspaper are considered to be in the same area if: (1) the predicted or measured 2 mV/m contour of an AM station encompasses the entire community in which such daily newspaper is published; (2) the predicted 1 mV/m contour of an FM station encompasses the entire community in which such daily newspaper is published, or (3) the Grade A contour of a TV station encompasses the entire community in which such daily newspaper is published. A daily newspaper is one that is published four or more days per week, is in the dominant language in the market, and is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally. See 47 C.F.R. § 73.3555(d) and 47 C.F.R. § 73.3555 Note 6.

Answer the following questions for each such relationship:

1. Has the family member who is not included as a party to the application been involved in negotiations with the licensee/permittee for the acquisition/construction of any of the station(s) to be assigned?
2. Has the family member who is not included as a party to the application provided financing or otherwise been involved in the process of making financial arrangements for the acquisition/construction of any of the station(s) to be assigned?
3. Is this the first broadcast ownership interest of the family member who is a party to the application?
4. Are the family members involved together in the management or operation of any other media interests located in other markets?
5. Are there any agreements, arrangements or understandings, either written or oral, between the family members with same-market media interests for the participation of one family member in the financial affairs, commercial practices, programming, or employment practices of the other family member's media entity? Consider, for example, joint sales agreements, local marketing agreements, and arrangements to share facilities or personnel.

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

If assignee answers "No" to all of the above questions, assignee may conclude that it complies with the Commission's policies relating to media interests of immediate family members. If assignee answers "Yes" to any one of the above questions, the assignee must mark "No" to Section III, Item 6c and should submit an exhibit giving full particulars, including the family relationship involved and a detailed account of the business or media relationship between family members.

C. FUTURE OWNERSHIP RIGHTS

This section of the worksheet may be used in connection with Section III, Item 6c, which requires the assignee to certify that the proposed acquisition complies with the Communications Act and the Commission's regulations and policies concerning future ownership rights in broadcast stations.

Section 310(d) of the Communications Act of 1934, as amended, prohibits assignment, transfer or any disposition of a broadcast license without first applying to the Commission and receiving approval. Similarly, Commission precedent currently prohibits (1) pledge of a broadcast license as collateral for a loan, or (2) grant of a security interest (or any similar encumbrance) in a broadcast license. These inquiries are directed to current and prospective third-party interests in the assignee.

In order to certify compliance with Item 6c of Section III of FCC Form 314, the Assignee must review the following questions:

1. Are there any documents, instruments, contracts, or understandings relating to future ownership rights in the assignee or any party to the application including, but not limited to: (1) stock pledges; (2) security agreements; (3) non-voting stock interests; (4) beneficial stock ownership interests; (5) options; (6) warrants; or (7) debentures?

☐ Yes ☐ No

If "No," Assignee may certify compliance with the future ownership inquiry.
If "Yes," proceed to the questions below.

2. Is there any provision in the agreements which provides for a security interest in the station license(s), permits or authorizations?

☐ Yes ☐ No

Note: The response to Question 2 must be "No" in order to certify that the contractual documents "comply fully with the Commission's rules and policies." Under existing precedent, it is permissible to grant a security interest in the **proceeds of the sale** of a station license, permit, or authorization, but not in the license, permit, or authorization itself.

3. Do the agreements contain a stock pledge?

☐ Yes ☐ No

(a) If "Yes," do the agreements expressly state that voting rights will remain with the assignee, even in the event of default?

☐ Yes ☐ No

(b) If "Yes," do the agreements indicate that, in the event of default, there will be either a public (i.e., auction) or private arm's-length sale of the pledged interests?

☐ Yes ☐ No

(c) If "Yes," do the agreements provide that, prior to the exercise of stockholder rights by the purchaser at such public or private sale, prior consent of the Commission (pursuant to 47 U.S.C. Section 310(d)) will be obtained?

☐ Yes ☐ No

If the answer to (a), (b), or (c) is "No," the assignee must mark "No" to Section III, Item 6c and submit an exhibit providing all details of the stock pledge agreement and demonstrating how the agreement is not violative of Section 73.1150 and Commission precedent.

4. If the agreements contain provisions relating to the acquisition of non-voting stock interests, beneficial stock interests, warrants, or debentures convertible into voting or non-voting stock, would the exercise of those interests, individually or in the aggregate, effectuate a positive or negative transfer of control of the assignee/applicant?

☐ Yes ☐ No

If "Yes," the agreements must clearly indicate that, prior to the acquisition, exercise, or conversion of any future interest into equity that would effectuate a positive or negative transfer of control, Commission approval will be sought and received. If they do not, the applicant must mark "No" to Section III, Item 6c, and submit an exhibit providing all details and explaining how the agreements do not violate Commission policy or precedent.

D. TIME BROKERAGE/LOCAL MARKETING AGREEMENTS /JOINT SALES AGREEMENTS

This worksheet should be reviewed in connection with several different certifications. These include Section II, Item 3 and Section III, Item 3 (certifications by assignor and assignee relating to agreements for sale of station) and Section III, Items 6a and 6b.

1. Does or, as a result of this transaction, will the applicant or any party to this application, supply more than 15 percent of another, same-market station's weekly program hours?

☐ Yes ☐ No

If "Yes," that interest is attributable to the assignee and must be considered in certifying compliance with the Commission's multiple ownership rules.

2. Does the assignee hold a time brokerage agreement, local marketing agreement or radio joint sales agreement pursuant to which the assignee provides radio or television programming or (if a radio station) sells commercial advertising time for the subject station(s) or any other stations in the market?

☐ Yes ☐ No

If "Yes," proceed to Question 3.

3. Has the licensee retained sufficient rights and obligations over the station's personnel, programming, and finances such that it retains control of the station under applicable Commission precedent, i.e., does the licensee/permittee:

(a) retain the right to reject/substitute programming (including commercial advertising) without excessive fee or penalty?

☐ Yes ☐ No

(b) retain the right to terminate the agreement without excessive fee or penalty?

☐ Yes ☐ No

(c) retain responsibility for broadcasting programming to meet local needs?

☐ Yes ☐ No

(d) retain the obligation to prepare and file the quarterly issues/programs list?

☐ Yes ☐ No

(e) retain the responsibility to comply with the Commission's political programming rules?

☐ Yes ☐ No

(f) retain the obligation to pay station expenses?

☐ Yes ☐ No

(g) retain the obligation to maintain the station's main studio and staff that studio with at least one management-level and one staff-level employee, Monday through Friday during regular business hours?

☐ Yes ☐ No

If the response to any of these questions is "No," the agreement may not comport with existing Commission precedent. The applicant should therefore mark "No" in the appropriate certification and supply an exhibit explaining how the agreement does not amount to a premature assumption of control by the assignee.

4. Does the programming agreement or radio joint sales agreement extend beyond one full license term (i.e., eight years)?

☐ Yes ☐ No

If "Yes," the agreement may exceed the length allowable under Commission precedent. The applicant must therefore mark "No" to Section 111, Item 6b, and submit an exhibit containing the complete agreement (with all attachments) and discussing how its operation complies with precedent.

NOTE: ALL applicants required to demonstrate compliance with 47 C.F.R. Section 73.3555(a) must submit, with this application, complete copies of all attributable radio time brokerage/local marketing and radio joint sales agreements for the subject stations or any other stations in the same market as the subject stations.

E. INVESTOR INSULATION AND NON-PARTY INFLUENCE OVER ASSIGNEE/APPLICANT

This section of the worksheet may be used in connection with Section III, Item 6c, which requires the assignee to certify that it complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors. See e.g., Report and Order in MM Docket Nos. 94-150, 92-5 1, and 87-154, FCC 99-207, released August 6, 1999. It indicates the kinds of contractual relationships that may, in the Commission's view, exceed the authority of a properly insulated investor or demonstrate some indicia of de facto control by a creditor.

I. Investor Insulation

If an assignee is a limited partnership or a limited liability company ("LLC") that seeks to insulate partners or members in accordance with the Commission's attribution rules, the assignee shall ensure that each such limited partner or LLC member is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership or LLC. To ensure that each such limited partner or LLC member is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership or LLC, the applicant must answer the following inquiries. Do the limited partnership or LLC enabling documents:

- | | | |
|----|---|--|
| a. | specify that any exempt limited partner/LLC member (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership/LLC member if his or her functions, directly or indirectly, relate to the media enterprises of such entity? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| b. | bar any exempt limited partner/LLC from serving, in any material capacity, as an independent contractor or agent with respect to the partnership/LLC's media enterprises? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c. | restrict any exempt limited partner/LLC member from communicating with the limited partnership/LLC, the general partner, or any LLC management committee on matters pertaining to the day-to-day operations of its business? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| d. | empower the general partner/LLC management committee to veto any admissions of additional general partners/LLC members admitted by vote of the exempt limited partners/LLC members? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| e. | prohibit any exempt limited partner/LLC member from voting on the removal of a general partner/LLC member or limit this right to situations where the general partner/LLC member is (i) subject to bankruptcy proceedings, as described in Section 402(4)-(5) of the Revised Uniform Limited Partnership Act, (ii) is adjudicated incompetent by a court of competent jurisdiction, or (iii) is removed for cause, as determined by an independent party? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| f. | bar any exempt limited partner/LLC member from performing any services to the limited partnership/LLC materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| g. | state, in express terms, that any exempt limited partner/LLC member is prohibited from becoming actively involved in the management or operation of the media businesses of the limited partnership/LLC? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

If the answer is "Yes" to **each** of these conditions with regard to every limited partner and LLC member that the applicant seeks to insulate and the relevant state statute authorizing the LLC permits a LLC member to insulate itself in accordance with the Commission's criteria, the applicant may certify that it complies with the Commission's restrictions regarding insulation of non-party investors. If "No" to the foregoing, the applicant must submit an exhibit detailing the rights of any non-party investor and setting forth the applicant's reasons for not treating the investor as a party to the application.

II. Non-Party Influence Over Assignee

A. Non-party investors, i.e., investors with nonattributable interests, may have very limited powers over the operations of a licensee. Accordingly, with respect to any agreement, arrangement or understanding involving insulated parties or other investors with nonattributable interests, including creditors, secured parties, program suppliers, and any other persons not disclosed as parties to this application, does such agreement:

1. give any non-party investor the right to vote on any matters decided by the assignee's board of directors, partnership committee or other management group? ☐ Yes ☐ No
2. give any non-party investor the right to attend, or appoint an observer to attend, assignee board, partnership or other management meetings? ☐ Yes ☐ No
3. place any limitation on assignee programming discretion? ☐ Yes ☐ No
4. give any non-party investor the right to vote on, approve or restrict assignee's actions on any matter relating to programming, personnel or finances? ☐ Yes ☐ No
5. give any non-party creditor or any bond, debenture or warrant holder the right to vote on, approve or restrict the assignee's actions on any matter relating to programming, personnel or finances? ☐ Yes ☐ No
6. give any non-party creditor or any bond, debenture or warrant holder the right to share in the profits of the assignee? ☐ Yes ☐ No
7. give any non interest and acquire control of the assignee based on the assignee's actions relating to programming, personnel and finances? ☐ Yes ☐ No
8. give any non-party investor, creditor, or bond, debenture or warrant holder the right to vote on, approve or deny the selection or removal of a general partner of an assignee partnership or a member of the assignee's governing body? ☐ Yes ☐ No
9. give any non-party investor, creditor, or bond, debenture or warrant holder the right to convert, tender or require the tendering of stock pursuant to a put-or-call agreement based on the actions of the assignee relating to programming, personnel or financing? ☐ Yes ☐ No

If the answer to all of these conditions is "No" with regard to every non-party investor and creditor, **and there are no other provisions that cede de facto control to a non-party**, applicant may certify that it complies with the Commission's restrictions regarding non-participation of non-party investors and creditors. If the answer to any of these inquiries is "Yes," the applicant must submit an exhibit detailing the rights of any non-party investor and setting forth fully the applicant's reasons for not treating the investor as a party to the application.

B. With respect to any loan agreement, has the assignee ensured that such agreement:

1. includes an unconditional promise by the assignee to pay on demand or on a specific date a sum certain? ☐ Yes ☐ No
2. contains a fixed or defined variable rate of interest on the loan? ☐ Yes ☐ No
3. does not prohibit the redemption of the loan by the assignee, or permit redemption at the option of the lender only? ☐ Yes ☐ No

If the answer to each of these inquiries is "Yes," and if there are no other provisions that may give non-party investors control, the applicant may conclude that it complies with the Commission's restrictions regarding non-participation of non-party investors and creditors. If not, the applicant must submit an exhibit detailing the rights of the lender and the obligations of the assignee for each loan agreement.

FCC 314

**APPLICATION FOR CONSENT TO
ASSIGNMENT OF BROADCAST STATION
CONSTRUCTION PERMIT OR LICENSE**

FOR
FCC
USE
ONLY

FOR COMMISSION USE ONLY
FILE NO.

Section I - General Information

1.	Legal Name of the Licensee/Permittee		
	Mailing Address		
	City	State or Country (if foreign address)	ZIP Code
	Telephone Number (include area code)		E-Mail Address (if available)
	FCC Registration Number	Call Sign	Facility ID Number

2.	Contact Representative (if other than licensee/permittee)		Firm or Company Name
	Mailing Address		
	City	State or Country (if foreign address)	ZIP Code
	Telephone Number (include area code)		E-Mail Address (if available)

3.	Legal Name of the Assignee		
	Mailing Address		
	City	State or Country (if foreign address)	ZIP Code
	FCC Registration Number	Telephone Number (include area code)	E-Mail Address (if available)

4.	Contact Representative (if other than assignee)		Firm or Company Name
	Mailing Address		
	City	State or Country (if foreign address)	ZIP Code
	Telephone Number (include area code)		E-Mail Address (if available)

5. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):

<input type="checkbox"/> Governmental Entity	<input type="checkbox"/> Noncommercial Educational Licensee/Permitte e	<input type="checkbox"/> Other _____
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6. **Purpose of Application:**

<input type="checkbox"/>	Assignment of license
<input type="checkbox"/>	Assignment of construction permit
<input type="checkbox"/>	Amendment to pending application

File Number of pending application: _____

If an amendment, **submit as an Exhibit** a listing by Section and Question Number of the portions of the pending application that are being revised.

Exhibit No.

7. Were any of the authorizations that are the subject of this application obtained through the Commission's competitive bidding procedures (see 47 C.F.R. Sections 1.2111(a) and 73.5001)

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Exhibit No.

If yes, list pertinent authorizations in an Exhibit.

8. a. Were any of the authorizations that are the subject of this application obtained through the Commission's point system for reserved channel noncommercial educational stations (see 47 C.F.R. Sections 73.7001 and 73.7003)?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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b. If yes to 8(a), have all such stations operated for at least 4 years with a minimum operating schedule since grant pursuant to the point system?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If no, list pertinent authorizations in an Exhibit and include in the Exhibit a showing that the transaction is consistent with the holding period requirements of 47 C.F.R. Section 73.7005(a).

Exhibit No.

c. LPFM Licenses Only: Has the assignor held the station license and operated the station for at least three years?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
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Section II - Assignor

1. **Certification.** Licensee/permittee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Licensee further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. ☐ Yes ☐ No
2. **Authorizations to be Assigned.** List the authorized stations and construction permits to be assigned. Provide the Facility Identification Number and the Call Sign, or the Facility Identification Number and the File Number of the Construction Permit, and the location, for each station to be assigned. Include main stations, LPFM stations, FM and/or TV translator stations, LPTV stations, SCA, FM and/or TV booster stations, and associated auxiliary service stations.

Facility ID Number	Call Sign	or	Construction Permit File Number	City	State

3. **Agreements for Sale of Station.** Licensee/permittee certifies that:
 - a. it has placed in its public inspection file(s) and submitted to the Commission as an Exhibit to this application copies of all agreements for the sale of the station(s);
 - b. these documents embody the complete and final understanding between licensee/permittee and assignee; and
 - c. these agreements comply fully with the Commission's rules and policies.

☐ Yes ☐ No

Exhibit No.

See Explanation in Exhibit No.
4. **Other Authorizations.** List call signs, locations and facility identifiers of all other broadcast stations in which licensee/permittee or any party to the application has an attributable interest.

Exhibit No.

☐ N/A
5. **Character Issues.** Licensee/permittee certifies that neither licensee/permittee nor any party to the application has or has had any interest in, or connection with:
 - a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or any party to the application; or
 - b. any pending broadcast application in which character issues have been raised.

☐ Yes ☐ No

See Explanation in Exhibit No.
6. **Adverse Findings.** Licensee/permittee certifies that, with respect to the licensee/permittee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media- related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.

☐ Yes ☐ No

See Explanation in Exhibit No.
7. **Local Public Notice.** Licensee/permittee certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.

☐ Yes ☐ No ☐ N/A

8. **Auction Authorization.** Licensee/permittee certifies that more than five years have passed since the issuance of the construction permit for the station being assigned, where that permit was acquired in an auction through the use of a bidding credit or other special measure. ☐ Yes ☐ No ☐ N/A

See Explanation in Exhibit No.
9. **Anti-Drug Abuse Act Certification.** Licensee/permittee certifies that neither licensee/permittee nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☐ Yes ☐ No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III - Assignee

1. **Certification.** Assignee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Assignee further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.

☐ Yes ☐ No

2. Assignee is:

<input type="checkbox"/> an individual	<input type="checkbox"/> a general partnership	<input type="checkbox"/> a for-profit corporation a limited liability
<input type="checkbox"/> a limited partnership	<input type="checkbox"/> a not-for-profit corporation	<input type="checkbox"/> company (LLC/LC)
<input type="checkbox"/> a not-for-profit educational institution	<input type="checkbox"/> a noncommercial public radio service to protect the safety of life, health, or property	<input type="checkbox"/> a government entity other than a school
<input type="checkbox"/> a not-for-profit educational organization		<input type="checkbox"/> other

 - a. If "other", describe nature of applicant in an Exhibit.
 - b. Radio Station applicants only: If the station(s) being assigned is noncommercial educational or LPFM, the assignee certifies that the Commission had previously granted a broadcast application, identified here by file number, that found this assignee qualified as a noncommercial educational entity with a qualifying educational program, and that the assignee will use the station(s) to advance a program similar to that the Commission has found qualifying in the assignee's previous application.

☐ Yes ☐ No
 - c. Radio Station applicants only: Proposed assignees of noncommercial educational or LPFM stations that aswered "No" to Question 2(b) must include an exhibit that describes the assignee's educational objective and how the station will be used to advance an educational program that will further that objective according to 47 C.F.R. Section 73.503 (for radio applicants), 47 C.F.R. Section 853 (for LPFM applicants).

☐ Yes ☐ No

3. **Agreements for Sale of Station.** Assignee certifies that:

☐ Yes ☐ No

 - a. the written agreements in the licensee/permittee's public inspection file and submitted to the Commission embody the complete and final agreement for the sale of the station(s) which are to be assigned; and
 - b. these agreements comply fully with the Commission's rules and policies.

4. **Parties to the Application.**
 - a. List the assignee, and, if other than a natural person, its officers, directors, stockholders and other entities with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the assignee, list separately its officers, directors, stockholders and other entities with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.

(1) Name and address of the assignee and each party to the application holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the assignee first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.	(2) Citizenship. (3) Positional Interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's equity/debt plus standard., etc. (4) Percentage of votes. (5) Percentage of total assets (debt plus equity).
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(1)	(2)	(3)	(4)	(5)

Question 4 Continuation Sheet

(1)	(2)	(3)	(4)	(5)

b. Assignee certifies that equity and financial interests not set forth above are non-attributable.

☐ Yes ☐ No

See Explanation
in Exhibit No.

☐ N/A

5. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which assignee or any party to the application has an attributable interest.

Exhibit No.

☐ N/A

6. **Multiple Ownership.**

- a. Is the assignee or any party to the application the holder of an attributable radio joint sales agreement or an attributable radio or television time brokerage agreement with the station(s) subject to this application or with any other station in the same market as the station(s) subject to this application?

☐ Yes ☐ No

See Explanation
in Exhibit No.

If "Yes," radio applicants must submit as an Exhibit a copy of each such agreement for radio stations.

- b. Assignee certifies that the proposed assignment complies with the Commission's multiple ownership rules and cross-ownership rules.

☐ Yes ☐ No

See Explanation
in Exhibit No.

AM and/or FM Radio applicants only: If "Yes," submit an Exhibit providing information regarding the market, broadcast station(s), and other information necessary to demonstrate compliance with 47 C.F.R. § 73.3555(a).

All applicants: If "No," submit as an Exhibit a detailed explanation in support of an exemption from, or waiver of, 47 C.F.R. § 73.3555.

- c. Assignee certifies that the proposed assignment:
1. does not present an issue under the Commission's policies relating to media interests of immediate family members;
 2. complies with the Commission's policies relating to future ownership interests; and
 3. complies with the Commission's restrictions relating to the insulation and nonparticipation of non-party investors and creditors.

☐ Yes ☐ No

See Explanation
in Exhibit No.

7. **Character Issues.** Assignee certifies that neither assignee nor any party to the application has or has had any interest in, or connection with:

☐ Yes ☐ No

See Explanation
in Exhibit No.

- a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or any party to the application; or
- b. any pending broadcast application in which character issues have been raised.

8. **Adverse Findings.** Assignee certifies that, with respect to the assignee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination. ☐ Yes ☐ No

See Explanation in Exhibit No.

9. **Alien Ownership and Control.** Assignee certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. ☐ Yes ☐ No

See Explanation in Exhibit No.

10. **Financial Qualifications.** Assignee certifies that sufficient net liquid assets are on hand or are available from committed sources to consummate the transaction and operate the station(s) for three months. ☐ Yes ☐ No

See Explanation in Exhibit No.

11. **Program Service Certification.** Assignee certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area. ☐ Yes ☐ No
12. **Auction Authorization.** Assignee certifies that where less than five years have passed since the issuance of the construction permit and the permit had been acquired in an auction through the use of a bidding credit or other special measure, it would qualify for such credit or other special measure. ☐ Yes ☐ No

See Explanation in Exhibit No.

☐ N/A
13. **Anti-Drug Abuse Act Certification.** Assignee certifies that neither assignee nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☐ Yes ☐ No
14. **Equal Employment Opportunity (EEO).** If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A. ☐ Yes ☐ No ☐ N/A

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).