

December 23, 2008

Kevin Neyland  
Deputy Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Neyland:

The Federal Communications Commission (FCC) requests approval under the Paperwork Reduction Act of 1995, and in accordance with OMB's emergency processing rules (5 CFR 1320.13), for a revision to an existing information collection (*see* OMB Control Number **3060-0386**, the revision will allow the filing of DTV notifications to the FCC via CDBS), in order to implement the Congressional mandate for the FCC to develop and implement a program by January 15, 2009, to encourage and permit TV broadcast stations to use this opportunity to provide public safety information and DTV transition information. Specifically, the Commission must establish a program that will allow full power television stations (at their option) to continue to provide analog service for a period of 30 days after the digital transition deadline of February 17, 2009 for the sole purposes of offering public safety and digital transition information.

We believe there is good cause for requesting emergency PRA approval from OMB because of the January 15, 2009 statutory deadline for implementing the Nightlight Act, which was enacted by Congress only this month, as well as the brief 30-day period during which the Act's provisions will be in force, circumstances which make the use of normal OMB clearance procedures reasonably likely to cause the Act's statutory deadlines to be missed. In addition, any delay in implementing this Congressional mandate can result in harm to TV stations, and, in turn, to their viewers. Due to the short time frame provided for us to act in the Analog Nightlight Act, and because PRA approval is needed to allow stations to make filings immediately (including during the NPRM comment period), we request OMB to waive Federal Register notice for this emergency request under the PRA. See 5 C.F.R. § 1320.13(d). We request OMB approval by December 31, 2008.

The Short-term Analog Flash and Emergency Readiness Act ("Analog Nightlight Act" or "Act"), which requires the Commission to develop and implement a program by January 15, 2009, to "encourage and permit" continued analog TV service after the February 17, 2009 DTV transition date, where technically feasible, for the purpose of providing "public safety information" and "DTV transition information" to viewers who may not obtain the necessary equipment to receive digital broadcasts after the transition date. The statute imposes a deadline of January 15, 2009, less than one month away, and the Commission has an extraordinarily short time period to meet this deadline. (The bill was sent to the President for his signature on December 12, 2008, and it was enacted into law on December 23, 2008.)

Stations that have been "pre-approved" to participate in the Analog Nightlight Program (i.e., listed on the Appendix A to the NPRM<sup>1</sup>) must file a notification with the Commission. These

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<sup>1</sup> The Commission expects the NPRM to be adopted on December 23, 2008 and released on December 24, 2008. The comment period is expected to be a total of 5 days for comments and 3 days for reply

stations must file a Legal STA electronically through the Commission's Consolidated Database System ("CDBS") using the Informal Application filing form. These notifications are necessary so that we can determine where the Analog Nightlight service will be available and also to establish the source of any unanticipated interference to a digital station in the area. Notifications should be filed as soon as possible and must be filed no later than February 10, 2009.

Stations not listed on the Appendix A to the NPRM may nonetheless request to participate in the Analog Nightlight Program by filing an Engineering STA notification electronically through CDBS using the Informal Application filing form. In addition, to hasten the process and expand the pool of eligible participants, broadcasters whose stations are not listed in Appendix A to this Notice that believe they are nevertheless eligible to participate may file comments in this proceeding demonstrating their eligibility to participate in the program. To ensure that these requests are properly recorded, stations filing comments should also file a notification through the Engineering STA process. If there are objections to these notifications, they can be filed as reply comments in this docket. In order to afford an opportunity for public consideration of these Engineering STA notifications, stations must file no later than February 3, 2009. This timing will allow the Commission, the public and other interested parties an opportunity to review and evaluate these requests. The Media Bureau will announce by Public Notice those stations that have filed a request to participate in the program. Before February 17, 2009, stations with requests that are not subject to any pending objection will be considered eligible to participate in the program. Nevertheless, participating stations must immediately stop broadcasting Analog Nightlight operations upon any valid complaints of interference to DTV stations or other statutorily protected operations.

The FCC also requests approval under the Paperwork Reduction Act of 1995, and in accordance with OMB's emergency processing rules (5 CFR 1320.13), for a revision to an existing information collection (*see* OMB Control Numbers **3060-1086**, the revision will allow full power DTV stations to use a new replacement digital television translator service to provide TV service). The stations will file an attachment to FCC Form 346 when filing for a replacement digital television translator. The attachment must demonstrate that a portion of its analog service area will not be served by its full, post-transition digital facility and that the service area of the replacement digital television translator is limited to the demonstrated loss area. Use of the replacement digital television translator service by DTV stations is voluntary, but for some stations may offer the only option for continuing to provide over-the-air service to current analog viewers after the statutory DTV transition deadline of February 17, 2009. The Commission would like the replacement digital television translator filings filed by early January 2009. Due to the short time frame, PRA approval is needed to allow stations to make these filings, we also request OMB to waive Federal Register notice for this emergency request under the PRA. See 5 C.F.R. § 1320.13(d). We also request OMB approval for this collection of information by December 31, 2008.

The DTV transition affects virtually every segment of the television industry and every American who watches television. Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only digital signals and may no longer transmit analog signals. The Commission has no discretion to waive or change this statutory deadline. Stations that are not ready to commence digital operations upon expiration of the statutory transition deadline may be forced to go dark, potentially resulting in significant loss of television service to the American public and significant harm to the broadcast TV industry and the U.S. economy. In addition, the DTV transition

will enable the recovery of spectrum for critically important public safety needs and new wireless services.

In the Notice of Proposed Rulemaking, FCC 08-253 (adopted December 22, 2008 and released December 23, 2008),<sup>2</sup> the Commission adopted proposed rules to permit DTV stations to use the replacement digital television translator service. Enclosed with this letter for your reference is Appendix A to the Replacement Digital Television Translator Service Notice of Proposed Rulemaking describing the rule added by this NPRM, to be codified at 47 C.F.R. § 73.787. The information collection requirement is in § 73.787(a)(5)(i). Please note that only stations that voluntarily choose to use the replacement digital television translator service will be subject to these requirements.

Emergency OMB approval is necessary for these collections to allow full power television stations to use the replacement digital translator service to meet their statutory responsibilities and begin operations on their final, post-transition (digital) channels by their construction deadlines. Unlike conventional DTV broadcast stations that use a single transmitter, the replacement digital television translator service will allow stations to use multiple transmitters to spread service around a station's authorized service area. Because any delay can result in harm to television stations that need such flexibility, and, in turn, to their viewers, we find that there is good cause to expedite the effective date of these rules and obtain emergency PRA approval from OMB for these collections. The replacement digital television translator service will provide broadcasters with an important tool for providing optimum signal coverage for their viewers. For some broadcasters that are changing channels or transmitting locations for their digital service, the replacement digital television translator service may offer the only option for continuing to provide over-the-air service to current analog viewers, as well as for reaching viewers that have historically been unable to receive a good signal due to terrain or other interference.

FCC staff is ready to work with your PRA Desk Officer to immediately provide any additional information needed to assure OMB's approval of these emergency requests by December 31, 2008.

Sincerely,

Mindy Ginsburg  
Deputy Managing Director  
Federal Communications Commission

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<sup>2</sup> The NPRM is attached for your review.