

SUPPORTING STATEMENT

A. Justification:

1. The Commission is requesting an extension of the currently approved collection for disclosure and labeling requirements relating to wireless microphones, as more fully explained below.

With the completion of the Digital Television (DTV) transition in 2009, all full-power television stations that were operating in the 700 MHz Band (698-806 MHz) transitioned out of the band, making it available for use by public safety entities such as police, fire, and emergency services, as well as by commercial licensees such as wireless broadband providers. Wireless microphones and other devices are certified as low power auxiliary stations (“wireless microphones”), and a number of them were operating in the 700 MHz Band at the time of the transition. Although some of the operators of these devices were licensed under Part 74 of the Commission’s rules, most were not eligible for a Commission license and were operating on an unauthorized basis. There were a wide variety of users that operated wireless microphones on an unauthorized basis, including theaters, churches, schools, sports facilities, entertainment venues, and meeting and conference facilities.

The operation of wireless microphones in the 700 MHz Band has the potential to cause harmful interference to new public safety and commercial licensees in the band. In light of this, the Commission took steps to clear wireless microphones from the 700 MHz Band, while providing entities operating wireless microphones with an opportunity to relocate and provide them a home in the core TV spectrum (television channels 2-51, excluding channel 37), where many wireless microphones already operate.

To effectuate the Commission’s plan to clear wireless microphones from the 700 MHz Band, the Commission in January 2010 released a Report and Order¹ that required all wireless microphones to cease operations in the 700 MHz Band no later than June 12, 2010. The Report and Order also provided an early clearing mechanism for the 700 MHz Band. In addition, the Report and Order provided that any person who manufactures wireless microphones or sells, leases, or offers them for sale or lease must display a disclosure at the point of sale or lease that informs consumers of the conditions that apply to the operation of wireless microphones that vacate the 700 MHz Band and relocate to the core TV spectrum. This consumer disclosure also must be displayed on the website

¹ Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition; Amendment of Parts 15, 74 and 90 of the Commission’s Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24, *Report and Order and Further Notice of Proposed Rulemaking*, 25 FCC Rcd 643 (2010).

of wireless microphone manufacturers and of dealers, distributors, retailers, and anyone else selling or leasing the devices. The disclosure informs consumers of the conditions that apply to operation in the core TV spectrum, such as the applicable power limit, the fact that the device must not cause harmful interference and must accept interference, and the fact that the rules for unlicensed use of wireless microphones may change as the FCC continues to evaluate them. One way to fulfill the disclosure requirement is to display the consumer advisory on the product box by using a label, sticker, or other means. The Commission required manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone devices for operation in the core TV bands to comply with the disclosure requirements no later than February 28, 2010.

In a related order,² the Wireless Telecommunications Bureau and Consumer and Governmental Affairs Bureau of the Federal Communications Commission adopted the following specific text that must be used in the consumer disclosure:

CONSUMER ALERT

Most users do not need a license to operate this wireless microphone system. Nevertheless, operating this microphone system without a license is subject to certain restrictions: the system may not cause harmful interference; it must operate at a low power level (not in excess of 50 milliwatts); and it has no protection from interference received from any other device. Purchasers should also be aware that the FCC is currently evaluating use of wireless microphone systems, and these rules are subject to change. For more information, call the FCC at 1-888-CALL-FCC (TTY: 1-888-TELL-FCC) or visit the FCC's wireless microphone website at www.fcc.gov/cgb/wirelessmicrophones.

In addition, the Report and Order prohibits the manufacture, import, sale, or lease of wireless microphones capable of operating in the 700 MHz Band in the United States. Manufacturers are not prohibited from manufacturing wireless microphones for export. The Commission provides that any person who manufactures, sells, or leases wireless microphones in the U.S. that are destined for non-U.S. markets and that are capable of operating in the 700 MHz Band must include labeling in all sales, marketing, and packaging materials, including online materials, related to such devices. The labeling must make clear that the devices cannot be used in the United States.

The reporting and third party disclosure requirements for the three aforementioned requirements of the Report and Order were approved by OMB on February 17, 2010 on an emergency basis as collection number 3060-1135. Subsequently, the Commission requested a revision of this collection due to the elimination of the early clearing requirement burden after June 12, 2010, but requested that the revised collection keep the

² Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition; Amendment of Parts 15, 74 and 90 of the Commission's Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24, *Order*, 25 FCC Rcd 367 (2010).

disclosure and labeling requirements. The revised collection was approved by OMB on August 27, 2010 and has an expiration date of August 31, 2013. The Commission is requesting that OMB extend this collection for another three years in order to keep the 700 MHz band clear of wireless microphones and to provide them a home in the core TV spectrum, where many wireless microphones operate. The extension will also preserve the disclosure and labeling requirements.

The Commission determined that the point-of-sale disclosure requirement is essential for a successful transition of wireless microphones out of the 700 MHz Band, and to address concerns regarding the lack of consumer awareness of the Commission's rules to best ensure the operation of wireless microphones in the core TV spectrum in conformance with the rules. The point-of-sale disclosure requirement will help consumers make an educated decision as they obtain new microphones that are capable of operating in the core TV spectrum, and help them operate in the core TV spectrum without causing interference to other services in that spectrum.

The requirement that there be a label on 700 MHz wireless microphones bound for export is also important because it will help to ensure that these wireless microphones do not continue to be made available for use in the United States, in contravention of the Commission's efforts to remove them from the band.

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 151, 152, 154(i), 154(j), 301, 302a, 303, 304, 307, 308, 309, 316, 332, 336, and 337.

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

2. The information in the point-of-sale disclosure will be used by consumers to help them make educated decisions about the purchase or lease of wireless microphone devices, and it will help them to operate in the core TV spectrum without causing interference to other services in that spectrum. The information in the label for 700 MHz wireless microphones bound for export will be used by consumers and will help to ensure that these microphones do not continue to be used or made available for use in the United States, in contravention of our efforts to remove them from the 700 MHz Band.

3. These are disclosure and labeling requirements. The use of information technology is feasible in this situation.

4. This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. The point-of-sale disclosure and export labeling requirements apply to large and small entities alike. The Commission believes whatever burdens small entities may incur in complying with these requirements are warranted by the overall benefit to the public from accomplishing the clearing of the 700 MHz Band for use by public safety entities such as police, fire, and emergency services, as well as by commercial licensees

such as wireless broadband providers. These benefits include enhanced public safety; job creation; economic growth; stimulation of new technology in this country; and the shift of spectrum from television broadcasting to other uses such as new wireless services and public safety and homeland security applications. An additional benefit is the ability of wireless microphones to be operated in the core TV band as provided in the Report and Order.

6. The information collection is essential to the responsible and effective implementation of the Commission's mission, and the avoidance of public harm resulting from a less than successful transition of wireless microphones out of the 700 MHz frequency band. The Commission anticipated that many wireless microphone users operating in the 700 MHz Band would have to purchase or lease new equipment capable of operating in the core TV spectrum. The point-of-sale disclosure requirement will help consumers make an educated decision as they obtain new microphones, and it will help entities that operate wireless microphones in the core TV spectrum to do so without causing interference to other services in that spectrum. The labeling requirement for 700 MHz wireless microphones bound for export will help to assure that these microphones do not continue to be used or made available for use in the United States, in contravention of the Commission's efforts to remove them from the band.

7. There are no special circumstances associated with this collection of information.

8. The 60-day notice soliciting comments on this collection was published in the *Federal Register* as required under 5 CFR 1320.8(d) on March 26, 2013 (78 FR 18338). No PRA comments were received as a result of the Notice.

9. Respondents will not receive any payments.

10. There is no need for confidentiality.

11. None of the reporting burdens address any private matters or questions of a sensitive nature.

12. There are two (2) parts to this collection: Part A covers the disclosure at the point of sale or lease; and Part B covers the labeling requirement for devices bound for export.

Part A: Disclosure at the Point of Sale or Lease.

We estimate 5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment will label or display disclosures for twenty-five (25) pieces each of wireless microphone equipment that is subject to the disclosure requirement and is displayed on the sales floor or via direct mail, in a catalog, online or other electronic means. We estimate this activity will require 0.25 hours for each piece of wireless equipment that is displayed.

Total Number of Annual Respondents: 5,000

5,000 Manufacturers, Dealers, Distributors, and Other Entities.

Total Number of Annual Responses: 125,000

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment = 125,000 Annual Responses

Total Annual Burden Hours: 31,250 hrs.

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment x 0.25 hrs./piece of equipment = 31,250 hrs.

Total Annual “In-House” Cost for Part B: \$312,500

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour.

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment x 0.25 hrs./piece of equipment x \$10.00/hr.= \$312,500

Part B: Labeling Requirement.

We estimate 100 manufactures, sellers, or entities that lease wireless microphone equipment in the U.S. that is destined for non-U.S. markets and that is capable of operating in the 700 MHz Band will label twenty-five (25) pieces each of wireless microphone equipment that operate in the 700 MHz Band in all sales, marketing, and packaging materials, including online materials, related to such devices. We estimate this activity will require 0.25 hours for each piece of wireless equipment that operates in the 700 MHz Band that is labeled.

Total Number of Annual Respondents: 100

100 Manufacturers, Sellers, or Entities That Lease.

Total Number of Annual Responses: 2,500

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band = **2,500 Annual Responses**

Total Annual Burden Hours: 625 hrs.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment = 625 hrs.

Total Annual “In-House” Cost for Part C: \$6250

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment x \$10.00/hr.= \$6250

Total Number of Annual Respondents for the entire collection: Part A (5,000) + Part B (100) = 5,100

Total Number of Annual Responses for the entire collection: Part A (125,000) + Part B (2,500) = 127,500

Total Number of Annual Burden Hours for the entire collection: Part A (31,250) + Part B (625) = 31,875

Total Annual “In-House” Cost for the entire collection: Part A (\$312,500) + Part B (\$6250) = \$318,750

13. Part A: Disclosure at the Point of Sale or Lease.

(a) **Total Annualized Capital/Startup Cost: \$1,562,500**

Annual Capital/Startup Cost: 5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 1,250 pieces of wireless microphone equipment that are subject to the disclosure requirement x \$0.25 /piece of equipment = \$1,562,500

(b) Total annual costs (O&M): None

(c) Total annualized cost requested: \$1,562,500

Part B: Labeling Requirement.

(a) **Total Annualized Capital/Startup Cost: \$62,500**

Annual Capital/Startup Cost: 100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 2500 pieces each of wireless microphone equipment that operate in the 700 MHz Band x \$0.25 /piece of equipment = \$62,500

(b) Total annual costs (O&M): None

(c) Total annualized cost requested: \$62,500

Total Number of Annualized Capital/Startup Costs Requested for the entire collection: Part A (\$1,562,500) + Part B (\$62,500) = \$1,625,000

Total Number of Annual Costs (O&M) Requested for the entire collection: Part A (\$0) + Part B (\$0) = \$0

Total Number of Annualized Cost Requested for the entire collection: Part A (\$1,562,500) + Part B (\$62,500) = \$1,625,000

14. Part A: Disclosure at the Point of Sale or Lease.

There is no cost to the Federal Government. Disclosures will not be actively monitored in the absence of consumer complaints.

Part B: Labeling Requirement.

There is no cost to the Federal Government. Consumer labeling will not be actively monitored in the absence of consumer complaints.

Total cost to the Federal Government from parts A and B of the collection:

Part A (\$0.00) + Part B (\$0.00) = \$0.00

15. There is no change in the Commission's burden estimates.

16. The data will not be published for statistical use.

17. The Commission is requesting a waiver to not display the OMB expiration date of the information collection. The Commission publishes a list of all OMB-approved information collection under 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the "Certification Statement" in Item 19.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.