

SUPPORTING STATEMENT

A. Justification

Revised Information Collection Requirements:

1. On April 15, 2014, the Commission released a Report and Order that adopted changes to 47 C.F.R. § 73.3613 and the FCC's attribution rules. *2014 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*, MB Docket No. 14-50, Further Notice of Proposed Rulemaking and Report and Order, FCC 14-28 (rel. Apr. 15, 2014). As a result, pursuant to an amendment to § 73.3613(d)(2), television stations must now file agreements for the sale of advertising time (*i.e.*, "Joint Sales Agreements" or "JSAs") that result in attribution under the Commission's multiple ownership rules.

The revised Section 73.3613(d)(2) is as follows:

(2) *Joint sales agreements*: Joint sales agreements involving radio stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee; joint sales agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local television multiple ownership rule contained in § 73.3555(b), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that license. Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

The following information collection requirements have not change since they were last approved by the Office of Management and Budget:

47 CFR Section 73.3613 currently requires each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by §73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be resubmitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d)(1) *Time brokerage agreements (also known as local marketing agreements)*: Time brokerage agreements involving radio stations where the licensee (including all parties under common ownership) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in §73.3555(a), and more than 15 percent of the time of the brokered station, on a weekly basis is brokered by that licensee; time brokerage agreements involving television stations where the licensee (including all parties under common control) is the brokering

entity, the brokering and brokered stations are both licensed to the same market as defined in the local television multiple ownership rule contained in §73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under §73.3555 Note 2, paragraph (i). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

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

2. The contracts filed are used by FCC staff to assure that a licensee maintains full control over the operation and maintenance of the station.
3. The use of information technology is not feasible in this situation.
4. This agency does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents.
6. The frequency for this collection of information is determined by respondents, as necessary.
7. This collection of information is consistent with the guidelines in 5 CFR §1320.5(d)(2) in that it requires that a contract be retained so long as it is in effect.
8. The Commission published a notice in the *Federal Register* on July 1, 2014 (79 FR 37318) to begin the initial 60 day public comment period which seeks comment from the public on the information collection requirements contained in this supporting statement. No comments were received from the public.
9. No payment or gift was provided to respondents.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matters of a sensitive nature.

12. The following is estimated for public burden for Section 73.3613:

<u>Contracts Filed</u>	<u>Number of Contracts</u>	<u>Respondent Burden</u>
With FCC	900	0.25 hrs.
In station file	1,500	0.5 hrs

Total Number of Respondents: 900 licensees/permittees filing contracts with the FCC
1,500 licensees/permittees filing contracts w/ broadcast station files
2,400 respondents filing contracts annually

Total Number of Responses: 2,400 respondents x 1 contract/annum = **2,400 contracts (responses)**

We assume that the licensee/permittee will use an attorney to file contracts with the Commission. The licensee/permittee will spend 0.25 hours in consultation with the attorney. Also, it will take the licensee/permittee 0.5 hours to prepare in station contract files.

Annual Burden Hours:

900 contracts x 0.25 hours/contract =	225 hours
1,500 contracts x 0.5 hours/contract =	<u>750 hours</u>
Total Annual Burden Hours:	975 hours

We estimate that the station licensee/permittee will have an average salary of \$100,000/year (\$48.08/hour). It will take the licensee/permittee 0.25 hours per contract file to provide information to the outside attorney. This information will be used when the attorney is preparing requisite contracts to be submitted to the Commission. In addition, we assume that the station will use the equivalent of a GS-5/Step 5 clerical person to maintain the station contract files at \$18.69/hour. Maintaining station contract files is estimated to take clerical staff 0.5 hours per contract file.

Annual "In-House Cost":

900 contracts x 0.25 hours x \$48.08/hour =	\$10,818.00
1,500 contracts x 0.5 hours x \$18.69/hour =	<u>\$14,017.50</u>
Total Annual "In House" Cost:	\$24,835.50

13. Annual Cost Burden: We assume that the respondent would use an attorney to file the requisite contracts. We estimate that the average cost for an attorney is \$300/hour.

Total Annual Cost Burden:

900 contracts x 0.5 hours/contract x \$300/hour = **\$135,000**

14. Cost to the Federal Government: The Commission will use paraprofessional staff at the GS-11/Step 5 level (\$34.26/hour) and clerical staff at the GS-5/Step 5 level (\$18.69/hour) to process the contracts filed with the Commission. It will take the GS-11 staff 0.5 hours and the GS-5 staff 0.25 hours to process each contract.

900 contracts x \$34.26/hour/contract x 0.5 hours = \$15,417.00
900 contracts x \$18.69/hour/contract x 0.25 hours = \$ 4,205.25
Total Cost to the Federal Government = \$19,622.25

15. As a result of this Report and Order, FCC 14-28, the annual burden hours increased (+25), the number of respondents increased (+100), the number of annual responses increased (+100) and the annual burden cost increased (+\$15,000). The FCC expects that these JSA filings and the associated costs and burdens will be substantially reduced at our next request for extension. We anticipate that the vast majority of television JSAs executed in the future will not be attributable and therefore exempt from the filing requirement.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.