

## INSTRUCTIONS FOR FCC FORM 2100

### APPLICATION FOR MEDIA BUREAU VIDEO SERVICE AUTHORIZATION

#### GENERAL INSTRUCTIONS

**A.** We have estimated that each response to this collection of information will take on average 3.5 hours for different Schedules attached to this form. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERF, Washington, DC 20554, Paperwork Reduction Project (3060-0798). We will also accept your comments via the Internet at PRA@fcc.gov. Please do not send completed application forms to this address.

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 with this notice.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. § 552a(e)(3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

**B. Purpose of Form.** FCC Form 2100 is a multi-purpose form. It is used to apply for authority to construct a new commercial TV broadcast station, for a new or a modification of an existing broadcast station license, and to perform a variety of other miscellaneous transactions in the Media Bureau (MB).

The purpose of this form is to collect data pertaining to the proposed request. This data is used by the FCC to determine whether the public interest would be

served by a grant of the request.

**C. Introduction.** FCC Form 2100 is a multi-part form comprising a Main Form and several optional schedules. Each application, amendment, modification, or other request must contain only one Main Form but may contain as few or as many of the optional schedules as necessary.

**D. Main Form.** The Main Form contains questions and certifications applicable to all FCC Form 2100 filers. The Main Form is required for every application filed on FCC Form 2100, including Modifications and Amendments.

**E. Schedules**

The purposes of the optional schedules are as follows:

**(1) Schedule A**

The Schedule to apply for authority to construct a new commercial TV broadcast station or to make changes in the existing facilities of such a station. In the case of new station and major modification proposals, this Schedule is filed by either the successful bidder at a broadcast frequency auction or by an applicant proposing facilities that are not mutually exclusive with any other application filed during the same window and thus not subject to the Commission's comparative bidding procedures. All proposals for minor changes to authorized commercial stations are also to be filed using this Schedule. Approved by OMB control number: 3060-0027.

**(2) Schedule B**

The Schedule for applying for a new or modified noncommercial educational or commercial digital television (DTV) broadcast license. The Schedule

may be used to cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit and to implement modifications to existing licenses as permitted by 47 C.F.R. §§ 73.1675(c), 73.1690(e). Approved by OMB control number: 3060-0837

**F. Schedules Required**

**Applicable Schedules Required for TV Broadcast Stations**

Service	Licensing Modernization Form/Schedule Title
TV Broadcast Stations	FCC 2100 Main Form – Application for Media Bureau Audio and Video Service Authorization Schedule A – Schedule for a Construction Permit for a Commercial Broadcast Station Approved by OMB: 3060-0027
TV Broadcast Stations	FCC 2100 Main Form – Application for Media Bureau Audio and Video Service Authorization Schedule B – Schedule for a Digital Television Broadcast Station License Approved By OMB: 3060-0837

**GENERAL FILING INSTRUCTIONS**

- A. Provide All Information Requested:** Applicants should provide all information requested by the application. If any portion of an application is not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** Inadvertently accepted applications are also subject to dismissal. See 47 C.F.R. § 73.3564(b).
- B. Information Current and Complete:** Information filed with the FCC must be kept current and complete. The Applicant must notify the FCC regarding any substantial and significant changes in the information furnished in the application(s). See 47 C.F.R. § 1.65.
- C. Applicable Rules and Regulations:** Applicants should obtain the relevant parts of the FCC’s rules in Title 47 of the Code of Federal Regulations. Copies of Title 47 may be purchased from the Superintendent of Documents; Government Printing Office; Washington, DC 20402; (202) 512- 1800. Refer also to the Government Printing Office’s website at <http://www.access.gpo.gov>. Some FCC rules require the Applicant to attach one or more exhibits to an application in addition to the information requested in the application form.

**INSTRUCTIONS FOR SECTION I: GENERAL INFORMATION**

Upon grant of a license application, the Licensee may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements may result in termination of the license. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of license requested in this application.

- A. Electronic Filing**  
FCC Form 2100 must be filed electronically.
- B. Exhibits**  
Each document required to be filed as an exhibit should be current as of the date of filing. Each page of every exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. If material is to be incorporated by reference, see the instruction on incorporation by reference. If interference studies are required by rule, attach these as an exhibit.
- C. Incorporation by Reference**  
You may incorporate by reference documents, exhibits, or other lengthy showings already on file with the FCC only if the information previously filed is more than one 8½” by 11” page in length, and all information therein is current and accurate in all significant respects; the reference states specifically where the previously filed information can be found (*i.e.*, station call sign and application file number, title of proceeding, docket number and legal citations), including exhibit and page references. Use the relevant item number followed by ‘A’. Items that call for numbers, or which can be answered ‘Y’ or ‘N’ or other short answers must be answered directly without reference to a previous filing.
- D. Station Public Inspection File**  
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. §73.3526 for commercial stations and 47 C.F.R. § 73.3527 for noncommercial educational stations.
- E. Certifying Compliance**  
This application requires applicants to certify compliance with many statutory and regulatory requirements. Each response contained within the application constitutes a certification. Furthermore, 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.

F. Detailed instructions and worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria that 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. Each applicant is responsible for the information that the application instructions and worksheets convey. Applicants are required to review all application instructions and worksheets.

G. 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.

#### H. Authorization to Sign the Application

The applicant and the applicant's authorized representative, if any, 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; for an unincorporated association, by a member who is an officer; if 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. *See* 47 C.F.R. § 73.3513. The signature of an electronically filed application 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).

#### I. 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](http://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.

#### For Assistance

For assistance with this application, contact the Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245, call (877) 480-3201 (TTY 717-338-2824), or visit <http://esupport.fcc.gov>.

### INSTRUCTIONS FOR FCC 2100 MAIN FORM

#### A. Fees, Waivers, and Exemptions

The Commission is statutorily required to collect charges for certain regulatory services to the public. Applications requiring a fee, as well as the corresponding fee, are listed in the "Media Bureau Fee Filing Guide," which can be found on the Commission's website, [www.fcc.gov](http://www.fcc.gov). 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 and TV broadcast licensees and permittees, provided that the proposed facility will be operated noncommercially. *See* 47 C.F.R. § 1.1116.

When filing a fee-exempt application, an applicant must indicate the reason for the fee exemption and provide an explanation as appropriate.

#### Applicants have the option of paying by credit card or by FCC Form 159 when submitting the application.

For further information regarding the applicability of a fee, the amount of the fee, or the payment of the fee; applicants should consult the "Media Bureau Fee Filing Guide," which can be found on Commission's website, [www.fcc.gov](http://www.fcc.gov).

#### B. Applicant Information

**Applicant Name, Type, and Contact Information:** The name of the applicant must be stated exactly. If the applicant 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.

Applicants should use only those state abbreviations approved by the U.S. Postal Service.

**C. Contact Representatives.** If the applicant is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address must be specified.

**D. Alien Ownership.** All applications must comply with Section 310 of the Communications Act, as amended. Specifically, Section 310 proscribes the holding and transfer of a broadcast 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 broadcast 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., BBC 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 example, if an alien held a 30% voting interest in Corporation A which, in turn, held a non-controlling 40% 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% x 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% 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.

Applicants must also comply with the separate alien equity ownership benchmark restrictions of Section 310.

Under the second prong of the analysis, an applicant 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 applicant 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.

Finally, Applicants are directed to review the policies and clarifications set forth in *Commission Policies and Procedures Under Section 310(b)(4) of the Communications Act, Foreign Investment in Broadcast Licensees*, Declaratory Ruling, MB Docket No. 13-50, 28 FCC Rcd. 16244 (2013).

**E. Parties to the Application.** This section requires the disclosure of information on the applicant 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, applicants should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 C.F.R. §73.3555, as revised pursuant to Report and Order in MB Dockets 02- 277 and 03-130, and MM Dockets 01-235, 01-317, and 00- 244, 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 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 #2E entitled, "Investor Insulation and Non-Party Influence over Applicant," the holder of such an interest may be deemed a party to the application and, if so, must be listed. In the event that the Investor Insulation and Non-Party Influence over Applicant worksheet requires the submission of an explanatory exhibit, the applicant must respond "No" to the Equity and Financial Interest certification located in the Attributable Interest Section of the application and complete this exhibit.

**F. Equity/Debt Plus Attribution Standard.** 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 is attributable if, aggregating both equity and debt, it exceeds 33 percent 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 or cross-ownership rules – AND the interest holder also holds (1) an attributable interest in a media outlet in the same market, or (2) supplies over 15 percent 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 limited partnership applicant would normally not be considered attributable, but, under the EDP standard, that interest would be attributable if the limited partner's interest exceeded 33 percent of the applicant's total asset value AND the limited partner also held a 5 percent voting interest in a radio or television station licensee in the same market.

The interest holder may, however, exceed the 33 percent threshold without triggering attribution where such investment would enable an eligible entity to acquire a broadcast station provided that: (1) the combined equity and debt of the interest holder in the eligible entity is less than 50 percent, or (2) the total debt of the interest holder in the eligible entity does not exceed 80 percent of the asset value of the station being acquired by the eligible entity and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity. *See In re Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rule Making, 23 FCC Rcd 5922 (Mar. 5, 2008).

**G.** The Commission defines an “eligible entity” as any entity that qualifies as a small business under the Small Business Administration’s size standards for its industry grouping, as set forth in 13C.F.R. §§ 121-201, and holds (1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (3) more than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company. In the event the Applicant claims status as an eligible entity, the Applicant must submit an explanatory exhibit demonstrating compliance. The Applicant must retain and provide on request, material documentation, including, for example, annual financial statements or tax returns, etc., used to establish the basis for the applicant’s response.

**H.** 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 the Equity and Financial Interest certification. 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 art 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 limited partner's interest is attributable under the Commission's EDP attribution standard described below; or **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 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 the Equity and Financial Interests Certification.

**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 in this context, 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 noninsulated, regardless of the partnership interest, is considered a party to the application.

Stock subject to stockholder cooperative voting agreements accounting for 50% 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.

**And 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.

- I. **Equity and Financial Interests.** Applicants are directed to review compliance with the Commission's broadcast attribution rules and policies, as discussed in the instructions to the Parties to the Application Section.

**J. Multiple Ownership.** These items require that the applicant 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. An Exhibit is required only if requesting a waiver demonstrating compliance with 47 C.F.R. § 73.3555(a) or, if the applicant cannot certify compliance, requesting a waiver or exemption, with adequate justification. In order to facilitate the evaluation of the transaction that is the subject of FCC Form 2100, applicants are directed to Worksheet #2, which is tailored to the individual inquiries.

**K. Eligible Entities:** The Commission defines an "eligible entity" as any entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping, as set forth in 13 C.F.R. §§ 121- 201, and holds (1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (3) more than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company.

In the event the Applicant claims status as an eligible entity, the Applicant must select "Yes" to the Multiple Ownership Question and submit an explanatory exhibit demonstrating compliance. The Applicant must retain and provide on request, material documentation, including, for example, annual financial statements or tax returns, etc., used to establish the basis for the applicant's response.

## INSTRUCTIONS FOR SCHEDULE A - SCHEDULE FOR CONSTRUCTION PERMIT FOR A COMMERCIAL BROADCAST STATION

### GENERAL APPLICATION INSTRUCTIONS

**A. Financial Qualifications.** Applicants are not required to certify as to their financial qualifications in Schedule A. See *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Fixed Service Licenses*, 13 FCC Rcd 15920, 15989 (1998) ("Auctions Order"). Nevertheless, the Commission's substantive financial qualification requirements are unchanged. All applicants for new broadcast facilities must have reasonable assurance of committed financing sufficient to construct the proposed facility and operate it for three months without revenue **at the time they file Schedule A**. See *Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166, 167 (1980); *Liberty Productions*, 7 FCC Rcd 7581, 7584

(1992).

**B. Channel and Facility Information and Antenna Location and Technical Data.** The applicant must ensure that the facility specifications are accurate. Conflicting data found elsewhere in the application will be disregarded. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted.

**C. Notifications.** All applicants must comply with the requirements of Section 73.1030. Specifically, applicants must notify United States Government radio astronomy installations, radio receiving installations, and FCC monitoring stations of the proposed facility and its possible impact on their operations. The Commission need not be informed of the date of such notification.

**D. Antenna Structure Registration.** For information when an Antenna Structure Registration ("ASR") number is required and how to acquire an ASR number, please review the information posted on the Commission's website at <http://www.fcc.gov/category/help/wireless-telecommunications-bureau/asr-overview>.

**E. Transmitter Make and Model.** An indication as to the specific transmitter make and model is not required by Schedule A. Rather, any permit authorizing construction will require installation of a type- accepted transmitter or one complying with the provisions of 47 C.F.R. Section 73.1660.

**F. Coordinates.** Applicant should use NAD 83 for the geographic coordinates of the transmitter site in their applications.

### CONSTRUCTION PERMIT CERTIFICATIONS

**A. Environmental Effects.** The National Environmental Policy Act of 1969 requires all federal agencies to ensure that the human environment is given consideration in all agency decision-making. Since January 1, 1986, applications for new broadcast stations and modifications of existing stations must contain either an environmental assessment that will serve as the basis for further Commission review and action, or an indication that operation of the station will not have a significant environmental impact. See 47 C.F.R. §1.1307(b). In this regard, applicants are required to look at eight environmental factors. These factors are relatively self-explanatory, except for the evaluation of whether the station adequately protects the public and workers from potentially harmful radiofrequency (RF) electromagnetic fields. Worksheet #3 includes both a general environmental evaluation and specific sub-sections for RF exposure analysis. These pages are designed to facilitate and substantiate the Environmental Effects certification. Their



use is voluntary, but strongly encouraged.

**B. New RF Exposure Requirements.** In 1996, the Commission adopted new guidelines and procedures for evaluating environmental effects of RF emissions. All applications subject to environmental processing filed on or after October 15, 1997 must demonstrate compliance with the new requirements. These new guidelines incorporate two tiers of exposure limits:

General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Members of the general public are always considered under this category when exposure is not employment-related.

Occupational/controlled exposure limits apply to human exposure to RF fields when persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. These limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above the general populations/uncontrolled limits as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or some other appropriate means.

The new guidelines are explained in more detail in OET Bulletin 65, entitled Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, Edition 97-01, released August, 1997, and Supplement A: Additional Information for Radio and Television Broadcast Stations (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <http://www.fcc.gov/oet/rfsafety>. Copies can also be purchased from the Commission's duplicating/research contractor, BCPI, 7851-E Beechcroft Avenue, Gaithersburg, MD 20879 (telephone: (301) 857-3800; fax: (202) 857-3805) or 445 12th Street SW, Rm CY-C401, Washington, DC 20554. Additional information may be obtained from the RF Safety Group at [rfsafety@fcc.gov](mailto:rfsafety@fcc.gov) or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

The RF worksheets and tables appended to Worksheet 3 below will enable certain categories of stations to determine whether or not the proposed facility will have a significant environmental impact as defined by Section 1.1307. All applicants can use the General

Environmental Worksheet. Some, but not all, stations will be able to use the RF worksheets. Generally, the RF worksheets can only be used in the following situations: (1) single use tower; (2) single tower with several FM/FM translators; or (3) a multiple tower AM array with no other user co-located within the array. Additionally, the RF worksheets can be used in regard to an AM station only if access to the AM station is restricted by a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs are posted at appropriate intervals describing the potential for RF exposure. See "RF Exposure Compliance Worksheet Instructions" for more detail on eligibility.

If after using the worksheets the applicant finds that levels will exceed the RF guidelines, levels may still be acceptable based on a more detailed evaluation of a number of variables (e.g., antenna radiation patterns or measurement data). In that case, the applicant must submit an exhibit to the application that explains why the proposed facility does not exceed the RF radiation exposure guidelines at locations where humans are likely to be present or that describes measures or circumstances, which will prevent or discourage humans from entering those areas where the RF exposure exceeds the guidelines (e.g., fencing or remote location). The guidelines are explained in more detail in OET Bulletin 65.

If the applicant is not eligible to use the worksheets, it is not an indication that the proposed facility will cause excessive exposure. Generally, applicants that are not able to use the worksheets will need to utilize more complex calculations or measurements to demonstrate compliance. For this reason, applicants who are not eligible to use the worksheets should consider seeking the assistance of a qualified consulting engineer in determining whether the proposed facility will meet the RF exposure guidelines

Should the applicant be unable to conclude that its proposal will have no significant impact on the quality of the human environment, it must submit an Environmental Assessment containing the following information:

- (1) A description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high-intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.
- (2) A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) by zoning, planning, environmental and other local, state, or federal authorities on matters relating to environmental effects.



- (3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.
- (4) A discussion of environmental and other considerations that led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects; and any alternative sites or facilities that have been or reasonably might be considered.
- (5) If relevant, a statement why the site cannot meet the FCC guidelines for RF exposure with respect to the public and workers.

**BROADCAST FACILITY**

**A. Section 73.616: DTV Station Interference Protection.**

The applicant must certify that the proposal will not cause or increase interference to any other DTV broadcast application, DTV allotment, or analog TV broadcast authorization. Interference is to be predicted in accordance with the procedure set forth in the *Third DTV Periodic Report and Order* in MB Docket No. 07-91. See 47 C.F.R. § 73.616. If applicant cannot certify "Yes," the applicant must demonstrate that the proposal will not cause or increase interference to any other DTV broadcast application, DTV allotment, or analog TV broadcast authorization.

**B. Section 73.622(i): DTV Table of Allotments.** The applicant must certify compliance with the digital television channel allotment and operational requirements contained in 47 C.F.R. § 73.622(i). Specifically, this question requires that the applicant certify that the application specifies a channel and community in accordance with the Commission's Table of Television Allotments, 47 C.F.R. § 73.622(i), that it will operate a facilities that does not expand the noise-limited service contour in any direction beyond that established by Appendix B of the *Seventh Report and Order* in MB Docket No. 87-268 establishing the new DTV Table of Allotments in 47 C.F.R. § 73.622(i), and that it will operate at post-transition facilities that match or reduce by no more than five percent with respect to predicted population from those defined in the new DTV Table Appendix B.

**C. Section 73.623(e): Protection of land mobile operations on channels 14–20.** The Commission will not accept petitions to amend the DTV Table of Allotments, applications for new DTV stations, or applications to change the channel or location of authorized DTV stations that would use channels 14–20 where the distance between the DTV reference point as defined in 47 C.F.R. § 73.622(d), would be located less than 250 km from the city center of a co-channel land mobile operation or 176 km from the city center of an adjacent channel land mobile operation. Petitions to amend the DTV Table,

applications for new DTV stations, or requests to modify the DTV Table that do not meet the minimum DTV-to-land mobile spacing standards will, however, be considered where all affected land mobile licensees consent to the requested action. For the markets and channels that Land mobile operations are authorized in see 47 C.F.R. § 73.623(e).

**D. Section 73.625: Community Coverage.** The applicant must certify that the proposed facility complies with the Commission's community coverage requirements. The principal community contour is as follows for digital television stations:

Channels 2-6:	28 dBμ
Channels 7-13:	36 dBμ
Channels 14-69:	41 dBμ

To determine if the proposed facility complies with the requirements of section 73.625(a) and (b), the predicted distance to the pertinent signal-strength contour must be calculated using the standard methodology in 47 C.F.R. § 73.625(b)

**E. Section 73.1030: Notifications Concerning Interference to Radio Astronomy, Research, and Receiving Installations.** All applicants must comply with the requirements of section 73.1030. Applicants must notify United States Government radio astronomy installations, radio receiving installations, and FCC monitoring stations of the proposed facility and its possible impact on their operations. The Commission need not be informed of the date of such notification.

**F. Section 73.1125: Main Studio Location.** The applicant must certify that its proposed main studio location complies with the requirements of 47 C.F.R. Section 73.1125. In order to answer "Yes" to this question, the applicant's proposed main studio must be **either** (1) within the principal community contour of **any station** licensed to that community; **or** (2) within 25 miles from the reference coordinates of the center of its community of license. A community's reference coordinates are generally the coordinates listed in the United States Department of the Interior publication entitled *Index to the National Atlas of the United States*. An alternative reference point, if none is listed in the Atlas, is the coordinates of the community's main Post Office.

In order to qualify as a "main studio," the proposed location must be equipped with type-accepted equipment and capable of originating programming at any time. Additionally, the studio must be staffed by **at least** one management-level employee **and** one staff-level employee at all times during regular business hours. See *Jones, Eastern of the Outer Banks, Inc.*, 6 FCC Rcd 3615

(1991), *clarified*, 7 FCC Rcd 6800 (1992), *aff'd* 10 FCC Rcd 3759 (1995). Additionally, each TV broadcast station must at all times maintain a toll-free telephone line from its community of license to its main studio, wherever located.

## LEGAL CERTIFICATIONS

**A. Character Issues and Adverse Findings.** The Character Issues Section requires the applicant 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 applicant must disclose in the Adverse Finding Section whether the applicant 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 these Sections, applicants should review the Commission's character qualifications 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 either Character issue question is "Yes," the applicant 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 applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

In responding to the Adverse Finding Section, the applicant 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 applicant may respond "No" 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 "Yes" response.

Where the response to the Adverse Finding question is "Yes," the applicant 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. §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 applicant should also fully explain why the adverse finding is not an impediment to a grant of this application.

**B. Program Service Certification.** Applicants for broadcast construction permits need no longer file a specific program service proposal. Nevertheless, prior to making the 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).

**C. Local Public Notice.**

(1) 47 C.F.R. § 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 C.F.R. §73.3572(a)(1)) give local notice in a newspaper of general circulation in the community to which the station is licensed. This publication requirement also applies with respect to major amendments as defined in 47 C.F.R. §73.3772(b). 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.

(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 applicant in Item 9 of Section II of this application. The required content of the local notice is described in Paragraph (f) of 47 C.F.R. § 73.3580. Worksheet #1 attached to these instructions provides additional guidance. Proof of publication need not be filed with this application.

**D. Auction Authorization.** The Commission's Part 1 auction rules require all winning bidders for construction permits or licenses to include certain exhibits with their long-form applications. **If this application is being submitted to obtain a construction permit for which the applicant was a winning bidder in an auction**, then the applicant must, pursuant to 47 C.F.R. Section 73.5005(a), include an exhibit containing the information required by the following Part 1 auction rules, if applicable. (1) Section

1.2107(d) requires the applicant to provide a detailed explanation of the terms, conditions, and parties involved in any bidding consortium, joint venture, partnership, or other agreement or arrangement it had entered into relating to the competitive bidding process. *See* 47 C.F.R. Section 1.2107(d). (2) Section 1.2110(j) requires applicants claiming designated entity status to describe how they satisfy the requirements for eligibility for such status, and to list and summarize all agreements that affect designated entity status, such as partnership agreements, shareholder agreements, management agreements, and any other agreements, including oral agreements, which establish that the designated entity will have both de facto and de jure control of the entity. *See* 47 C.F.R. Section 1.2110(j). (3) Section 1.2112(a) requires that each long-form application fully disclose the real party or parties in interest and disclose specified ownership information, including identifying any party holding a 10 percent or greater interest in the applicant. *See* 47 C.F.R. Section 1.2112(a). (4) Section 1.2112(b) requires each applicant claiming status as a "small business" to disclose specified gross revenue information; to list and summarize all agreements or instruments that support the applicant's eligibility as a small business, including the establishment of de facto and de jure control; and to list and summarize any investor protection agreements. *See* 47 C.F.R. Section 1.2112(b).

**E. Equal Employment Opportunity (EEO)**

Applicants seeking authority to construct a new commercial 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. § 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 program is submitted to the Commission as the Model EEO Program on FCC Form 396-A, which should be filed simultaneously with this 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.

**F. Anti-Drug Abuse Act Certification.** This question requires the applicant 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. § 862.

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 constitutes a certification that neither the applicant 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 association; 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.

**INSTRUCTIONS FOR SCHEDULE B –SCHEDULE FOR DIGITAL TELEVISION BROADCAST STATION LICENSE**

**A. Channel and Facility Information and Antenna Location and Technical Data.** The applicant must ensure that the facility specifications are accurate. Conflicting data found elsewhere in the application will be disregarded. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted.

**LICENSE APPLICATION CERTIFICATIONS**

**B. Constructed Facility.** The applicant must certify that the facility was constructed as authorized in the underlying construction permit. If there are any differences between the facilities constructed compared with those authorized in the construction permit, the applicant may need to seek approval for the change on FCC Form 2100 Schedule A.

**C. Special Operating Conditions:** The special operating conditions are located on the final pages of the construction permit. Attach exhibits, if required, to document compliance with the special operating conditions.

**NOTE:** Special operating conditions may prohibit automatic program test authority.

**D. Transmitter.** A permittee or licensee installing as a main transmitter one that is not included on the FCC's "Radio Equipment List, Equipment Acceptable for Licensing," must have first obtained authority to use such a transmitter through the filing and grant of FCC Form

Section 5301 of the Anti-Drug Abuse Act of 1988

**CHANGING TRANSMITTER POWER OUTPUT.**

Applicants proposing to replace an omnidirectional antenna with another omnidirectional antenna or change transmitter output power as a result of modifying the transmission line system must check "Yes". **NOTE:** If the applicant is proposing to replace an omnidirectional antenna with another omnidirectional antenna, the new antenna must be mounted not more than two meters above nor four meters below the authorized values. See 47 C.F.R. Section 73.1690(c)(1). If the applicant is proposing to change transmitter output power by replacing its transmission line, the station's effective radiated power must not change. See 47 C.F.R. Section 73.1690(c)(10). If the proposal meets these requirements, program test operations may commence at full power pursuant to Section 73.1620(a)(1).

**A. Replacing a directional antenna.**

This question is to be answered by applicants replacing a directional antenna with another directional antenna. See 47 C.F.R. Section 73.1690(c)(3). It requires the applicant to certify and provide an exhibit demonstrating that: (1) the proposed theoretical antenna pattern will not exceed the licensed directional pattern at any azimuth and no change in effective radiated power will result; and (2) the requested modification of license complies with 47 C.F.R. Section 73.685(f).

**NOTE:** The new antenna must be mounted not more than two meters above nor four meters below the authorized values.

**B. Use a formerly licensed main facility as an auxiliary facility.**

This question set forth a series of certifications for applicants proposing the use of a formerly licensed main facility as an auxiliary facility. This question requires the applicant to certify and submit an exhibit showing that the proposed auxiliary facilities will not extend beyond the Grade B coverage area of the main antenna after the change in ERP has been effectuated. See 47 C.F.R. Section 73.1675(a).

**C. Change the license status.**

Applicants may change their license status from commercial to noncommercial or from noncommercial to commercial. However, if changing from commercial to noncommercial educational status, the applicant must submit as an exhibit a completed Section II of FCC Form 340, establishing its qualifications to operate the subject facility as a noncommercial educational station. See 47 C.F.R. Section 73.1690(c)(9).

information will take from 3 to 6.25 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](mailto:pra@fcc.gov) or send them to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0027), 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 3060-0027.

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

**FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

We have estimated that each response to this collection of

**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 9 of FCC Form 301.

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?

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

Yes  No

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

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

Yes  No

(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

(b) 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

For FCC Form 301 applicants only:

(h) Facilities sought: type and class of station

Yes  No

(i) Power sought

Yes  No

(j) Antenna height

Yes  No

(k) Transmitter site

Yes  No

(l) Location of studios

Yes  No

## WORKSHEET #2

This Worksheet may be used in connection with Section 11, Item 4 of FCC Form 301 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 II, Item 4 of FCC Form 301 to determine the applicant's compliance with the Commission's multiple ownership rules and cross-ownership rules set forth in 47 C.F.R. § 73.3555. 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, 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) ("Report and Order"). The applicant must determine that it complies with all applicable rules in order to respond "YES" to the certification in Item 4b.

**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.

### **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. Sec. 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: <sup>3</sup> \_\_\_\_\_

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? <sup>4</sup> \_\_\_\_\_

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);

<sup>3</sup> 2(d) should equal 2(b) plus 2(c).

<sup>4</sup> 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 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 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 application 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 interim 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 rulemaking 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," 282-286, and Section IX, "Notice of Proposed Rulemaking." 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. 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). A graphic example is provided further below.

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5. For purposes of this worksheet, "commonly attributable" means stations in which the applicant or any party to the application 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.

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 (1) its transmitter 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 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 application 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 applicant should mark "Yes" to Section 11, Item 4b of Form 301 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 application does not comply with 47 C.F.R. § 73.3555(a), the applicant should mark "No" to Section 11, Item 4b to Form 301 and must submit as an Exhibit a detailed explanation in support of a waiver of 47 C.F.R. § 73.3555 (a).

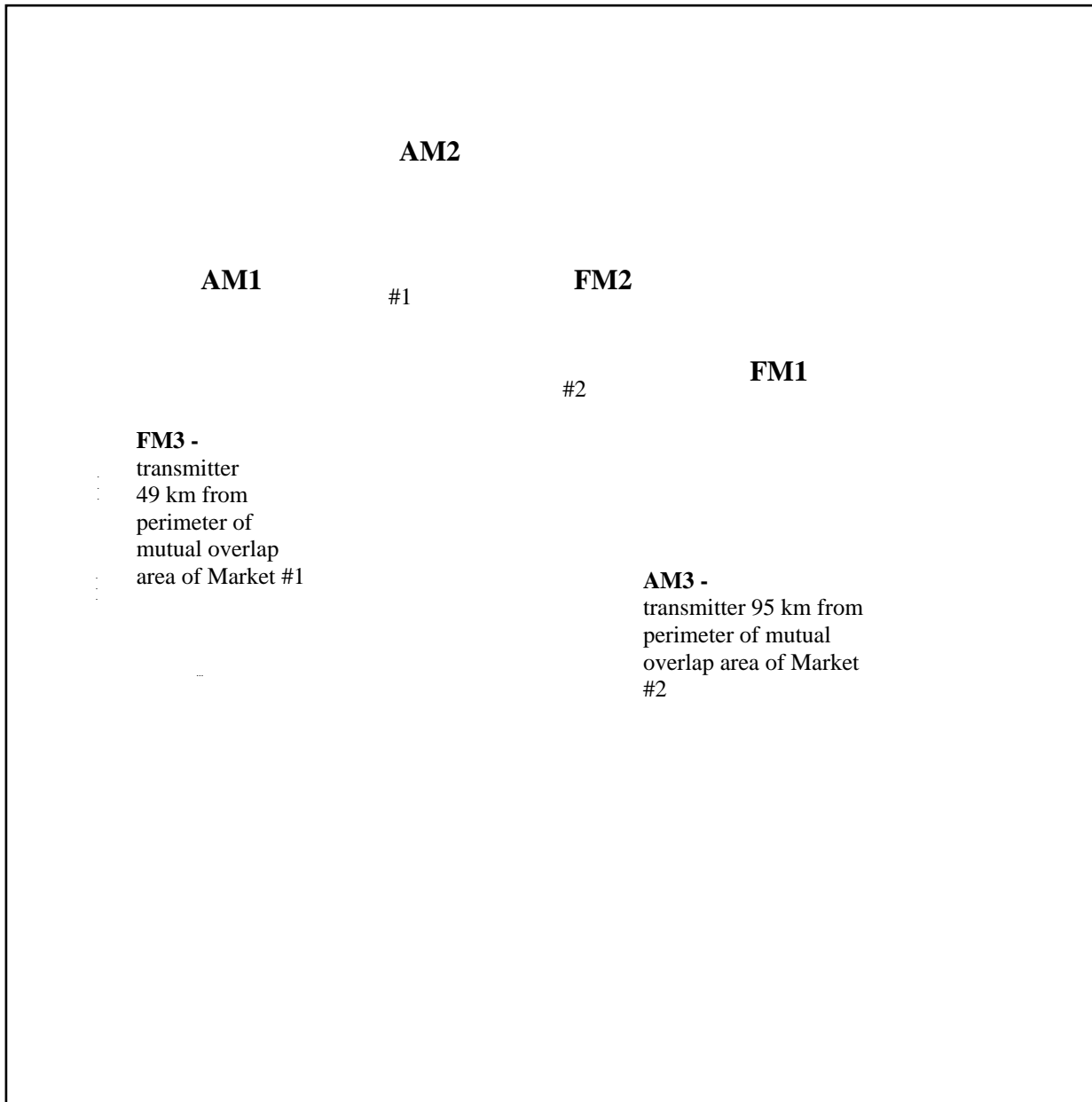
See the following page for an illustration of the Interim Methodology.

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 permittee.

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 II, Item 4b for the proposed construction 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), and Notes.

1. **Local Ownership.** Will grant of this application for a commercial television station result in the applicant 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 proposed station?  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?  Yes  No
- b. are there fewer than 8 independently-owned, operating, full-power commercial and noncommercial television stations in the DMA?  Yes  No

If "Yes" to Question 1 a or b, the applicant must mark "No" to Section II, Item 4a 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 grant of this application for a commercial television station result in the applicant 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 II, Item 4a 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 II, Item 4b, when the applicant 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 grant of this application result in the applicant 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 \_\_\_\_\_ commercial television and 7 commercial radio stations, is the television station located in a market 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)?

applicant

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 11, Item 4a 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 II, Item 4b of FCC Form 301 when the applicant will have newspaper interests in the same local market as the station(s) it seeks to acquire.

- (A) Will the grant of this application result in the applicant 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 II, Item 4b 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 Media Ownership Order 23 FCC Rcd 2010.

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 2042-47, 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 2049-55, 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 2047-48, 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 II, Item 4c.1 of FCC Form 301, which requires the applicant 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 applicant 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 applicant should 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 for the construction of the station?

Yes  No

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 construction of the station?

Yes  No

3. Is this the first broadcast ownership interest of the family member who is a party to the application?

Yes  No

4. Are the family members involved together in the management or operation of any other media

Yes  No

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

If applicant answers "No" to all of the above questions, applicant may conclude that it complies with the Commission's policies relating to media interests of immediate family members. If applicant answers "Yes" to any one of the above questions, the applicant must mark "No" to Section II, Item 4c 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 II, Item 4c.2, which requires the applicant 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 prior to any disposition of the license. 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 applicant.

In order to certify compliance with Section II, Item 4c.2 of FCC Form 301, the applicant should review the following questions:

1. Are there any documents, instruments, contracts, or understandings relating to future ownership rights in the applicant 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," applicant 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

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."

**Note:** 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 applicant, 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. §310(d)) will be obtained?  Yes  No

If the answer to (a), (b), or (c) is "No," the applicant must mark "No" to Section II, Item 4c 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, 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 applicant/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, prior Commission approval will be sought and received. If they do not, the applicant must mark "No" to Section II, Item 4c, and submit an explanatory 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 may be used in connection with the certification in Section II, Item 4a of FCC Form 301. It is intended for use when the applicant's agreements with lenders, potential investors, or other third parties include a "time brokerage agreement," "local marketing agreement," any other document pursuant to which that party will provide programming for the subject station, or a joint sales agreement.

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 applicant and must be considered in certifying compliance with the Commission's multiple ownership rules.

2. Does the applicant hold a time brokerage agreement, local marketing agreement or joint sales agreement pursuant to which an entity with an attributable interest in another broadcast station in the market supplies programming or sells commercial advertising time comprising more than 15% of the proposed station's weekly program hours?  Yes  No

3. Has the applicant retained sufficient rights and obligations over the station's proposed personnel, programming, and finances such that it would retain control of the station under applicable Commission precedent, i.e., does the applicant:

(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 would not amount to a premature assumption of control.

4. Does the programming agreement or 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 II, Item 4a, and submit an exhibit containing the complete agreement (with all attachments) and discussing how its operation would comply 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 station or any other stations in the same market as the subject station.

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

This section of the worksheet may be used in connection with Section II, Item 4c.3, which requires the applicant 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 applicant 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?  Yes  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?  Yes  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?  Yes  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?  Yes  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?  Yes  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?  Yes  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?  Yes  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 Applicant

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 applicant'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, applicant board, partnership or other management meetings;  Yes  No
3. place any limitation on applicant programming discretion;  Yes  No
4. give any non-party investor the right to vote on, approve or restrict applicant'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 applicant'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 applicant;  Yes  No
7. give any non-party investor that holds a non-voting convertible interest the right to convert such an interest and acquire control of the applicant based on the applicant'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 applicant partnership or a member of the applicant's governing body; and  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 applicant 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 the applicant's reasons for not treating the investor as a party to the application.

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

1. includes an unconditional promise by the applicant 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; and  Yes  No
3. does not prohibit the redemption of the loan by the applicant, 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 applicant for each loan agreement.

# New DTV Station Construction Permit Application

Facility ID: | Status: | Status Date: | FRN:

## General Information

Section	Question	Response
<b>Application Description</b>	Description of the application (255 characters max.) is visible only to you and is not part of the submitted application. It will be displayed in your Applications workspace.	
<b>Attachments</b>	Are attachments (other than associated schedules) being filed with this application?	

## Fees, Waivers, and Exemptions

Section	Question	Response
<b>Fees</b>	Is the applicant exempt from FCC application Fees?	
	Indicate reason for fee exemption:	
	Is the applicant exempt from FCC regulatory Fees?	
<b>Waivers</b>	Does this filing request a waiver of the Commission's rule(s)?	
	Total number of rule sections involved in this waiver request:	
	Are the frequencies or parameters requested in this filing covered by grandfathered privileges, previously approved by waiver, or functionally integrated with an existing station?	

# Applicant Information

## Applicant Name, Type, and Contact Information

Applicant	Address	Phone	Email	Applicant Type
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### Authorization Holder Name

Check box if the Authorization Holder name is being updated because of the sale (or transfer of control) of the Authorization(s) to another party and for which proper Commission approval has not been received or proper notification provided.

**Contact  
Representatives**

## Alien Ownership

Question	Response
1) Is the applicant a foreign government or the representative of any foreign government as specified in Section 310(a) of the Communications Act?	
2) Is this application, as provided for under Section 310(b) of the Communications Act, for a broadcast, common carrier, aeronautical en route, or aeronautical fixed radio station Authorization?	
3) Is the applicant an alien or the representative of an alien? (Section 310(b)(1))	
4) Is the applicant a corporation, or non-corporate entity, that is organized under the laws of any foreign government? (Section 310(b)(2))	
5) Is the applicant an entity of which more than one-fifth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country? (Section 310(b)(3))	
6) Is the applicant directly or indirectly controlled by any other entity of which more than one-fourth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any entity organized under the laws of a foreign country? (Section 310(b)(4))	
7) Has the applicant received a ruling(s) under Section 310(b)(4) of the Communications Act with respect to the same radio service involved in this application?	
8) Has there been any change in the applicant's foreign ownership since issuance of the declaratory ruling(s) cited in response to Question 7?	
8a) Enter the File or Docket Number of the Petition for Declaratory Ruling that the applicant has filed for its foreign ownership in connection with this application pursuant to Section 310(b)(4) of the Communications Act. It is not necessary to file a request for a foreign ownership declaratory ruling if the applicant attaches a showing that the requested authorization(s) is exempt from the provisions of Section 310(b)(4).	
9) Does the applicant's foreign ownership comply with the declaratory ruling(s) cited in response to Question 7?	

## Basic Qualifying Questions

Section	Question	Response
<b>Revoked Application</b>	Has the Applicant or any party to this application had any FCC station Authorization revoked or had any application for an initial, modification or renewal of FCC station Authorization denied by the Commission?	
<b>State or Federal Convictions</b>	Has the Applicant or any party to this application, or any party directly or indirectly controlling the Applicant, ever been convicted of a felony by any state or federal court?	

## Channel and Facility Information

Section	Question	Response
<b>Proposed Community of License</b>	Facility ID	
	State	
	City	
	DTV Channel	
<b>Facility Type</b>	Facility Type	
	Station Type	
<b>Zone</b>	Zone	

## Antenna Location Data

Section	Question	Response
<b>Antenna Structure Registration</b>	Do you have an FCC Antenna Structure Registration (ASR) Number?	
	ASR Number	
<b>Coordinates (NAD83)</b>	Latitude	--
	Longitude	--
	Structure Type	
	Overall Structure Height	
	Support Structure Height	
	Ground Elevation (AMSL)	
<b>Antenna Data</b>	Height of Radiation Center Above Ground Level	
	Height of Radiation Center Above Average Terrain	
	Height of Radiation Center Above Mean Sea Level	
	Effective Radiated Power	

## Antenna Technical Data

Section	Question	Response
<b>Antenna Type</b>	Antenna Type	
	Do you have an Antenna ID?	
	Antenna ID	
<b>Antenna Manufacturer and Model</b>	Manufacturer:	
	Model	
	Electrical Beam Tilt	
	Mechanical Beam Tilt	
	toward azimuth	
	Polarization	
<b>DTV and DTS: Elevation Pattern</b>	Does the proposed antenna propose elevation radiation patterns that vary with azimuth for reasons other than the use of mechanical beam tilt?	
	Rotation	
	Uploaded file for elevation antenna (or radiation) pattern data	

**Parties to the  
Application**



## Attributable Interest

Section	Question	Response
<b>Equity and Financial Interests</b>	Applicant certifies that equity and financial interests not set forth by the applicant parties are non-attributable.	
<b>Multiple Ownership</b>	<p data-bbox="871 340 1579 493">Is the applicant or any party to the application the holder of an attributable radio joint sales agreement or an attributable radio or television time brokerage agreement in the same market as the station subject to this application?</p> <p data-bbox="871 542 1579 646">Applicant certifies that the proposed facility complies with the Commission's multiple ownership rules and cross-ownership rules.</p> <p data-bbox="871 695 1579 1061">Applicant certifies that the proposed facility:</p> <ul style="list-style-type: none"> <li data-bbox="892 752 1558 824">(a) does not present an issue under the Commission's policies relating to media interests of immediate family members;</li> <li data-bbox="892 853 1558 925">(b) complies with the Commission's policies relating to future ownership interests;</li> <li data-bbox="892 954 1558 1061">(c) complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors</li> </ul> <p data-bbox="871 1110 1579 1263">Does the Applicant claim status as an "eligible entity," that is, an entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping (as set forth in 13 C.F.R. § 121-201), and holds:</p> <ul style="list-style-type: none"> <li data-bbox="892 1292 1558 1395">(a) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or</li> <li data-bbox="892 1424 1558 1655">(b) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or</li> <li data-bbox="892 1684 1558 1790">(c) more than 50 percent of the voting power of the corporation that will own the media outlet (if such corporation is a publicly traded company)?</li> </ul>	

**Construction  
Permit  
Certifications**

Section	Question	Response
<b>Environmental Effect</b>	Would a Commission grant of Authorization for this location be an action which may have a significant environmental effect? (See Section 1.1306 of 47 C.F.R.)	
<b>Broadcast Facility</b>	The proposed facility complies with the applicable engineering standards and assignment requirements of 47 C.F.R. Sections 73.616, 73.622(i), 73.623(e), 73.625, 73.1030, and 73.1125.	

## Legal Certifications

Section	Question	Response
<b>Character Issues</b>	<p>Has the Applicant or any party to the application:</p> <p>(1) had any interest in, or connection with any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application, or</p> <p>(2) had any pending broadcast application in which character issues have been raised?</p>	
<b>Adverse Findings</b>	<p>Has the Applicant or any party to this application had an adverse finding or an adverse final action taken by any court or administrative body in a civil or criminal proceeding brought under any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination?</p>	
<b>Program Service Certification</b>	<p>Applicant 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.</p>	
<b>Local Public Notice</b>	<p>Applicant certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.</p>	
<b>Auction Authorization</b>	<p>Is the applicant submitting an application to obtain a construction permit as a result of winning an auction?</p>	
<b>Equal Employment Opportunity (EEO)</b>	<p>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.</p>	

## Certification

Section	Question	Response
<b>General Certification Statements</b>	<p>The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by authorization or otherwise, and requests an Authorization in accordance with this application (See Section 304 of the Communications Act of 1934, as amended.).</p>	
	<p>The Applicant certifies that neither the Applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under §1.2002(c) of the rules, 47 CFR . See §1.2002(b) of the rules, 47 CFR §1.2002(b), for the definition of "party to the application" as used in this certification §1.2002(c). The Applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.</p>	
<b>Authorized Party to Sign</b>	<p><b>FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID</b></p> <p>Upon grant of this application, the Authorization Holder may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in automatic cancellation of the Authorization. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of Authorization requested in this application.</p> <p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, §312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, §503).</p>	
	<p>I certify that this application includes all required and relevant attachments.</p>	
	<p>I declare, under penalty of perjury, that I am an authorized representative of the above-named applicant for the Authorization(s) specified above.</p>	

