

SUPPORTING STATEMENT

A. Justification:

1. The Commission is requesting the Office of Management and Budget (OMB) approval of a new information collection for disclosure and labeling requirements relating to wireless microphones and video assist devices that operate on “600 MHz Service Band” frequencies that will no longer be available for such operations after July 13, 2020, if not sooner, as more fully explained below.

With the completion of the TV bands incentive auction on April 13, 2017, all broadcast television stations that have been operating in most of the 600 MHz band frequencies – specifically the 614-698 MHz frequencies – are being transitioned off of these frequencies, making spectrum available for use by commercial wireless licensees that have obtained their licenses on “600 MHz Service Band” frequencies – specifically the 617-652 MHz / 663-698 MHz frequencies – following the incentive auction. A number of wireless microphones and similar devices that operate on a licensed basis (as low power auxiliary stations under Part 74 rules) and on an unlicensed basis (operating under Part 15 rules) are designed to operate on the 600 MHz Service Band frequencies; similarly, a number of wireless video assist devices (authorized under Part 74 rules) also have been designed to operate on the 600 MHz Service Band frequencies. Operations on the 600 MHz Service Band by all of these devices must cease no later than the end of the post-incentive auction transition period, which ends on July 13, 2020. There were a wide variety of users that operate wireless microphones on the 600 MHz Service Band, including those associated with broadcasters, theaters, churches, schools, sports facilities, entertainment venues, and meeting and conference facilities. There also are a variety of uses of wireless video assist devices, though these devices are not nearly as widespread as wireless microphones.

The operations of these devices on the 600 MHz Service Band have the potential to cause harmful interference to new commercial 600 MHz wireless service licensees in the band. In light of this, the Commission took steps to clear wireless microphones and wireless video assist devices from the 600 MHz Service Band. It also provided entities operating wireless microphones with an opportunity to relocate to use of other frequencies that would continue to be available – including the revised TV bands (television channels 2-36, where many wireless microphones already operate, a portion of the new 600 MHz guard band (specifically, the 614-616 MHz portion) or portions of 600 MHz duplex gap (the 653-663 MHz portions, with access to particular portions depending on whether operation is licensed or unlicensed), and other frequency bands (either on a licensed or unlicensed basis, depending on the frequency band).

To effectuate the Commission’s plan to clear wireless microphones and wireless video assist devices from the 600 MHz Services Band, the Commission has taken several steps in recent years. In June 2014, it adopted the *Incentive Auction R&O*, which among other things required that wireless microphones and wireless video assist devices cease

operating on the 600 MHz service band frequencies repurposed for wireless broadband services following the incentive auction.¹ In August 2015, the Commission adopted the *Wireless Microphones R&O* that established additional requirements concerning the need for all wireless microphones to cease operations in the 600 MHz Service Band no later than 39 months following the end of the post-incentive auction transition period.² With the close of the incentive auction on April 13, 2017, the end of this 39-month transition period was established – July 13, 2020.³ As discussed in these decisions, wireless microphone operators may be required to cease operations in this band prior to the end of the post-incentive auction transition period to the extent that operation would potentially cause interference to operations by 600 MHz wireless service licensees.⁴

In the 2015 *Wireless Microphones R&O*, the Commission also adopted a consumer disclosure requirement, set forth in Sections 74.851(k) and 15.37(k).⁵ In adopting a consumer disclosure requirement, the Commission explained that consumers will need to be informed of the changes that will affect their use of wireless microphones in the portion of the TV bands that is being repurposed following the broadcast television incentive auction, the conditions associated with their continued use of the 600 MHz Service Band during the 39-month post-auction transition period, and their need to cease operations in the 600 MHz Service Band no later than the end of this transition period.⁶ Specifically, the Commission required that anyone selling, leasing, or offering for sale or lease, wireless microphones that operate in the 600 MHz service band provide the

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 14-165, Report and Order, 29 FCC Rcd 6567, 6846 & n.1904 (2014).

² See *Promoting Spectrum Access for Wireless Microphone Operations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 14-166 and GN Docket No. 12-268, Report and Order, 30 FCC Rcd 8739, at 8756-57, para. 41 (wireless microphone users may operate in the 600 MHz Service Band during the post-auction transition period (which ends 39 months following issuance of the *Channel Reassignment PN*), and must cease operations earlier if such operations would cause harmful interference to any 600 MHz service licensee's wireless operations) (2015) (*Wireless Microphones R&O*); see also *Promoting Spectrum Access for Wireless Microphone Operations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 14-165 and GN Docket No. 12-268, Report and Order, 30 FCC Rcd 9551, 9630-31, para. 192, 9659, para. 263 (2015) (*TV Bands Part 15 R&O*) (wireless microphone users may operate in the 600 MHz Service Band during the post-auction transition period except where 600 MHz service licensees commence their wireless operations); 47 CFR §§ 15.236(c)(2), 74.802(f). As the Commission noted in the *Wireless Microphones R&O*, wireless video assist devices also must cease operations on the 600 MHz Service Band by the end of post-auction transition period. *Wireless Microphones R&O*, 30 FCC Rcd at 8757 n.118.

³ *Incentive Auction Closing and Channel Reassignment Public Notice*, AU Docket No. 14-252, GN Docket 12-268, WT Docket No. 12-269, MB Docket No. 16-306, Public Notice, DA 17-314 (MB/WTB, rel. Apr. 13, 2017) (establishing the 39-month post-auction transition period in the 600 MHz service band, which will end on July 13, 2020) (*Channel Reassignment PN*).

⁴ See, e.g., *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 30 FCC Rcd 12025, 12028-35, paras. 7-20 (2015) (defining areas where secondary and licensed users in the 600 MHz service band must cease operations in order to prevent harmful interference to 600 MHz service licensees' operations; these include areas where the 600 MHz service licensees commence their wireless operations, as well as where those licensees are conducting their first field application testing) (*Commencing Operations R&O*).

⁵ *Wireless Microphones R&O*, 30 FCC at 8761-62, paras. 49-50.

⁶ *Id.* at 8761, para. 49.

Consumer Disclosure to consumers.⁷ These entities must display the consumer disclosure at the point of sale in a clear, conspicuous, and readily legible manner. In addition, the consumer disclosure must be displayed on the website of the manufacturer (even if the manufacturer does not sell wireless microphones directly to the public) and of dealers, distributors, retailers, and anyone else selling or leasing the devices.⁸

In the 2015 *Wireless Microphones R&O*, the Commission delegated to the Commission's Consumer and Governmental Affairs Bureau the responsibility for crafting specific language for the consumer disclosure after the incentive auction closed. In an Order adopted on July 24, 2017,⁹ the Consumer and Governmental Affairs Bureau, the Wireless Telecommunications Bureau and the Office of Engineering and Technology adopted the following specific text that must be used in the consumer disclosure required by the Commission's 2015 *Wireless Microphones R&O*:

CONSUMER ALERT

This particular wireless microphone device operates in portions of the 617-652 MHz or 663-698 MHz frequencies. Beginning in 2017, these frequencies are being transitioned by the Federal Communications Commission (FCC) to the 600 MHz service to meet increasing demand for wireless broadband services. Users of this device must cease operating on these frequencies *no later than July 13, 2020*. In addition, users of this device may be required to cease operations *earlier* than that date if their operations could cause harmful interference to a 600 MHz service licensee's wireless operations on these frequencies. For more information, visit the FCC's wireless microphone website at www.fcc.gov/wireless-microphones-guide or call the FCC at 1-888-CALL-FCC (TTY: 1-888-TELL-FCC).

The Commission determined that the point-of-sale disclosure requirement is essential for a successful transition of wireless microphones out of the 600 MHz Service Band, and to address concerns regarding the lack of consumer awareness of the Commission's rules to best ensure the operation of wireless microphones on frequencies available for their use in the revised TV bands and in other frequency bands. The point-of-sale disclosure requirement will help consumers make an educated decision as they obtain new microphones that are capable of operating on the 600 MHz Service Band frequencies. This disclosure is intended to inform consumers considering whether to obtain such devices that if they did obtain such devices they would only have a limited period of time

⁷ *Id.* at 8761, para. 50 (citing authority under 47 U.S.C. § 302a).

⁸ *Id.*; see 47 CFR §§74.851(l), 15.37(k). As the Commission noted, this disclosure requirement draws on the approach taken for the consumer disclosure required when informing consumers about the transition of wireless microphones out of the 700 MHz band. *Wireless Microphones R&O*, 30 FCC Rcd at 8758, para. 43; see also *Revisions to Rules Authorizing Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Order, DA 10-92, 25 FCC Rcd 367 (WTB/CGB, rel. Jan. 15, 2010).

⁹ *Promoting Spectrum Access for Wireless Microphone Operations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 14-166 and GN Docket No. 12-268, Order, DA 17-709 (CGB/WTB/OET rel. Jul. 24, 2017) (*Consumer Disclosure Order*).

in which to operate such devices – specifically, they would not be permitted to operate on the specified 600 MHz Service Band frequencies after than July 13, 2020, and may be required to cease operations of those microphones prior to that date if such operation potentially would cause harmful interference to 600 MHz wireless service licensees’ operations. This consumer disclosure also could serve to inform consumers that they may want to consider other options for purchasing or leasing wireless microphones, such as wireless microphones that are not subject to this particular Consumer Disclosure because they operate on other frequencies that will continue to be available for operation. The disclosure also could help minimize the number of wireless microphones that potentially would interfere with 600 MHz wireless service band licensees’ operations.

The disclosure requirements set forth in the 2015 *Wireless Microphones R&O*, and the text of the consumer disclosure adopted by the Consumer and Governmental Affairs Bureau in July 2017, are similar in certain respects to the disclosure requirements adopted by the Commission in January 2010 with respect to the sale or lease of wireless microphones that would no longer be permitted to operate in the 700 MHz Band, which at the time was being transitioned for use by commercial and public safety wireless licensees.¹⁰ The 2017 consumer disclosure required here applies generally to the same set of entities on which the 2010 point-of-sale consumer disclosure requirement applied – i.e., anyone selling, leasing, or offering for sale or lease of wireless microphones. The 2010 consumer disclosure was approved by OMB on February 17, 2010 as collection number 3060-1135, and a revised collection was approved by OMB on August 27, 2010, with an expiration date of August 31, 2013. The Commission subsequently requested that OMB extend that collection for another three years in order to keep the 700 MHz band clear of wireless microphones and to provide them a home in the core TV spectrum, where many wireless microphones operate.

In the 2015 *Wireless Microphones R&O*, the Commission also adopted § 74.851(k), in which it required, effective 18 months after the close of the incentive auction, that any person who manufactures, sells, leases, or offers for sale or lease wireless microphones or wireless video assist devices that operate on the 600 MHz Service Band and are destined for non-United States markets must include labeling in all sales, marketing, and packaging materials (including online materials) that makes clear that such devices cannot be operated in the United States.¹¹ In the *Wireless Microphones Order on Reconsideration and Further Notice*, the Commission amended this rule to reflect that October 13, 2018, is the effective date of this labeling requirement for such devices that are destined for non-U.S. markets.¹²

¹⁰ See *Wireless Microphones R&O*, 30 FCC Rcd at 8758-59, paras. 43-44.

¹¹ *Id.* at 8764-65, para. 60; 47 CFR § 74.851(k).

¹² *Promoting Spectrum Access for Wireless Microphone Operations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 14-166, ET Docket No. 14-165, and GN Docket No. 12-268, Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 17-95, at para. 76; 47 CFR § 74.851(k)(revised to reflect the effective date of October 13, 2018).

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 151, 154(i), 154(j), 301, 302a, 303(f), 303(g), and 303(r).

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

2. The information in the point-of-sale disclosure will be used by consumers to help them make educated decisions about the potential purchase or lease of wireless microphone devices that have been designed to operate on 600 MHz Service Band frequencies, which will no longer be available for wireless microphone use after July 13, 2020, if not sooner. Any wireless microphones or wireless video assist devices that operate on the 600 MHz Service Band frequencies and are destined for non-U.S. markets after October 13, 2018, also must include labeling in all sales, marketing, and packaging materials (including online materials) that makes clear that such devices cannot be operated in the United States.¹³

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

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

5. The point-of-sale disclosure and export labeling requirements apply to large and small entities alike. The Commission believes whatever burdens small entities may incur in complying with these requirements are warranted by the overall benefit to the public from accomplishing the clearing of the 600 MHz Service Band for use by commercial wireless licensees such as wireless broadband providers. These benefits include job creation; economic growth; stimulation of new technology in this country; and the shift of spectrum from television broadcasting to other uses such as new wireless services.

6. The information collection is essential to the responsible and effective implementation of the Commission's mission, and the avoidance of public harm resulting from a less than successful transition of wireless microphones and wireless video assist devices out of the 600 MHz Service Band. The Commission anticipated that many wireless microphone users that seek to purchase or lease new equipment may consider devices that are designed to operate in the 600 MHz Service Band, which would only be available for use for a limited amount of time, and in no event beyond July 13, 2020. The point-of-sale disclosure requirement on these particular wireless microphone devices will help consumers make an educated decision as they obtain new microphones, and it will help entities that operate wireless microphones in the 600 MHz Service Band to do so without causing interference to the licensed wireless services that operate in that spectrum.

¹³ *Id.* at 8764-65, para. 60; 47 CFR § 74.851(k).

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

8. The 60-day notice soliciting comments on this collection was published in the *Federal Register* as required under 5 CFR 1320.8(d) on September 14, 2017 (82 FR 43236). No PRA comments were received as a result of the Notice.

9. Respondents will not receive any payments.

10. There is no need for confidentiality.

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

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

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

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

Total Number of Annual Respondents: 5,000

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

Total Number of Annual Responses: 125,000

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

Total Annual Burden Hours: 31,250 hrs.

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

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

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour. 5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment x 0.25 hrs./piece of equipment x \$10.00/hr.= \$312,500

Part B: Labeling Requirement.

We estimate 100 manufactures, sellers, or entities that lease wireless microphone equipment in the U.S. that is destined for non-U.S. markets and that is capable of operating in the 600 MHz Service Band will label twenty-five (25) pieces each of wireless microphone equipment that operate in the 600 MHz Service Band in all sales, marketing, and packaging materials, including online materials, related to such devices. We estimate this activity will require 0.25 hours for each piece of wireless equipment that operates in the 600 MHz Service Band that is labeled.

Total Number of Annual Respondents: 100

100 Manufacturers, Sellers, or Entities That Lease.

Total Number of Annual Responses: 2,500

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 600 MHz Service Band = **2,500 Annual Responses**

Total Annual Burden Hours: 625 hrs.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 600 MHz Service Band x 0.25 hrs./piece of equipment = 625 hrs.

Total Annual “In-House” Cost for Part B: \$6,250

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour. 100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 600 MHz Service Band x 0.25 hrs./piece of equipment x \$10.00/hr.= \$6,250

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

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

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

Total Annual “In-House” Cost for the entire collection: Part A (\$312,500) + Part B (\$6,250) = \$318,750

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

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

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

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

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

Part B: Labeling Requirement.

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

Annual Capital/Startup Cost: 100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 2,500 pieces each of wireless microphone equipment that operate in the 600 MHz Service Band x \$0.25 /piece of equipment = \$62,500

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

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

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

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

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

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

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

Part B: Labeling Requirement.

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

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

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

15. This is a new information collection request resulting in a program change/increase to the total respondents of 5,100, total annual responses of 127,500, total annual burden hours of 31,875 hours and total annual costs of \$1,625,000. These estimates will be added to OMB's Active Inventory.

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

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There is no form; therefore, the expiration date requirement is not applicable.

18. When the 60-day Notice was published in the Federal Register on September 14, 2017 (82 FR 43236), the Commission inadvertently stated that there are no total annual costs to the respondent. However, the total annual costs to the respondent were reported in the 30-Day Notice as \$1,625,000.

There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.