

SUPPORTING STATEMENT

A. Justification:

New Information Collection Requirements:

On August 3, 2018, the Commission released a Report and Order (Order), *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, FCC 18-114, in MB Docket No. 18-289,¹ establishing the requirements that will govern the incubator program that the Commission previously decided to adopt to support the entry of new and diverse voices into the radio broadcast industry.² The Commission recognized the need for more innovative approaches to encourage access to capital, as well as technical, operational, and management training for use by new entrants and small businesses, that without assistance, would not be able to own broadcast stations. The incubator program is designed for small businesses, struggling station owners, and new entrants that do not have any other means to access the financial assistance and operational support necessary for success in the broadcast industry. The goal is the pairing of these small aspiring, or struggling, broadcast station owners with established broadcasters. These incubation relationships will provide new entrants and struggling small broadcasters access to the financing, mentoring, and industry connections that are necessary for success in the industry, but to date have been unavailable to many. In return for successfully incubating a small aspiring, or struggling, broadcast station owner as part of the incubator program, an incumbent broadcaster will be eligible to receive a waiver of the Local Radio Ownership Rule³ following the conclusion of a successful qualifying incubation relationship.

Under this new information collection, the following information collection requirements require approval from the Office of Management and Budget (OMB).

To qualify for participation in the incubator program, a potential incubating and incubated entity must seek prior approval from the Commission that their proposed incubation relationship comports with the program requirements. Per the Commission's Order, these potential program participants must each file a certified statement attesting to the specific requirements and an incubation contract containing specified terms. During the term of the incubation relationship, the incubated and incubating entities must file an annual joint certified statement. If the parties seek to extend the term of their incubation relationship, they must file a request for extension. Six months before the end of the incubation relationship, the parties must make a submission stating how the incubated entity will meet the station ownership requirement needed for successful completion of a qualifying incubation relationship. When the incubating entity is ready to use its reward waiver, it must make a filing with the Commission explaining

¹ *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, MB Docket No. 18-289, Report and Order, FCC 18-289, (rel. Aug. 3, 2018) (*Incubator Program R&O*).

² See *2014 Quadrennial Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.*, Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802, 9859, para. 126 (2017) (*Order on Reconsideration and NPRM*).

³ 47 CFR §73.3555.

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the basis for the waiver request and showing that the market in which it seeks to use the waiver is comparable to the market in which it successfully completed an incubation relationship.

Incubation Proposal:

- Includes incubation contract per the Commission's Order.
- Incubated entity's written certification to include requirements contained in the Commission's Order.
 - If incubation proposal is filed as a Petition for Declaratory Ruling, the incubated entity must make the same certifications and attribution disclosures that it would have had to submit were it filing the Form 301, 314, or 315.
- Incubating entity's written certification to include requirements contained in the Commission's Order.

Joint Annual Certified Statement:

- During term of incubation relationship, incubated and incubating entities must file a joint annual certified statement.

Request for an Extension of the Incubation Period:

- Parties may seek to extend their incubation relationship by filing a request no later than 120 days prior to the end of the initial three-year period.

Statement Regarding Path to Station Ownership for Incubated Entity:

- Six months before the end of the incubation relationship, the parties must make a submission stating how the incubated entity will meet the station ownership requirement needed for successful completion of a qualifying incubation relationship.

Reward Waiver Request

- The incubating entity seeking to use the reward waiver must include documentation showing the successful completion of the incubation relationship, and that the market in which the incubating entity seeks to use its reward waiver is comparable to the incubation market (i.e., the market in which the incubated entity owned and operated its broadcast station).

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

Statutory authority for this collection of information is contained in Sections 1, 2(a), 4(i), 257, 303, 307-310, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152(a), 154(i), 257, 303, 307-310, and 403.

2. Agency Use of Information: Commission staff will use the initial incubator applications, certification statements, contracts, and any responses to Commission requests for additional information to determine qualifications for participation in the incubator program. Commission staff will use the periodic reports, to determine whether ongoing incubation relationships are proceeding in a manner consistent with the parties' initial filings and are likely to result in a successful incubation relationship. In

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the event the parties seek to extend the duration of their incubation relationship, the filing of a request for such an extension will enable Commission staff to gauge the types of problems incubating parties are experiencing. Information provided by the parties to the Commission no later than six months before the contract termination date will allow Commission staff to evaluate which option for station ownership the incubating parties plan to pursue at the conclusion of the relationship. Additionally, Commission staff will review documentation submitted to seek a reward waiver to assess whether the market where the reward waiver is sought is a comparable market to where the incubated station was located.

3. Consideration Given to Information Technology: Applicants for the incubation program must file the applicable FCC Forms for assignment, transfer of control or construction permit applications (e.g., FCC Form 301, 314 or 315) in the Commission's electronic filing system, Consolidated Database System Electronic Filing System (CDBS) or the Licensing and Management System (LMS). In those instances where the incubation application does not require the filing of an FCC Form, applicants may file in the Commission's electronic system, Electronic Comment Filing System (ECFS), a Petition for Declaratory Ruling in the proceeding docket (MB Docket No. 17-289) in order to apply for participation in the incubator program.

4. Effort to Identify Duplication and Use Similar Information: This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. Effort to Reduce Small Business Burden: This information collection will not have a significant economic impact on small entities.

6. Less Frequent Data Collection: The frequency for this information collection is determined by respondents, as necessary. If these information collections were not conducted, the Commission would be unable to implement its new incubator program, which seeks to create ownership opportunities for small aspiring, or struggling, radio broadcast station owners to encourage competition and diversity in the broadcast industry.

7. Information Collection Circumstances: There are no special circumstances associated with this information collection. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Public Comment Period: The Commission published a Notice (83 Fed. Reg. 55166) in the Federal Register on November 2, 2018, seeking public comment on the information collection requirements contained in this supporting statement. The Commission has received no comments from the public.

9. Payment or Gift: No payment or gift was provided to respondents.

10. Confidentiality of Information: The need for confidentiality for this collection of information is not anticipated; however, when submitting an incubator application (including the underlying contract and certification statement), applicants may, upon request, redact confidential or proprietary terms.

11. Justification for Sensitive Question: This collection does not address matters of a sensitive nature.

12. Estimate of Burden and Burden Hour Cost: The estimated burden for this collection of information is as follows:

While it is difficult to predict the number of incubation proposals that will be filed in a given year, nevertheless, for purposes of this submission, we estimate that 20 proposals will be filed annually with

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various documents included in each proposal. The annual burden hours listed below represent the respondents' time assisting outside attorneys with the preparation of the proposals.

Type	# of Respondents	# of Responses	Hourly Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Costs
Incubation Proposal - Contract (provisions required by Order)	20	20	16	320	\$62.23	\$19,913.60
Incubation Proposal - Incubated Entity's Certified Statement	20	20	12	240	\$62.23	\$14,935.20
Incubation Proposal - Incubating Entity's Certified Statement	20	20	12	240	\$62.23	\$14,935.20
Incubation Proposal – If Incubation Proposal Filed as Petition for Declaratory Ruling, incubated entity must make same certifications/disclosures as on Forms 301, 314, 315.	5 (these 5 are a subset of the 20 respondents filing Incubation Proposals)	5 (these 5 are a subset of the 20 Incubation Proposals)	5	25	\$62.23	\$1,555.75
Incubating and Incubated Entities' Joint Annual Certified Statement	20	20	10	200	\$62.23	\$12,446.00
Request to Extend Duration of Incubation	2 (these are a subset of the 20 respondents filing Joint Annual Certified Statements)	2	5	10	\$62.23	\$622.30
Statement About Ownership Option Incubated Entity Will Pursue	18 (these are a subset of the 20)	18	4	72	\$62.23	\$4,480.56

	respondents filing Joint Annual Certified Statements)					
Filing Required when Seeking to Use Reward Waiver	18 (these are a subset of the 20 respondents filing Joint Annual Certified Statements)	18	4	72	\$62.23	\$4,480.56
Totals	20	123		1,179 hours		\$73,369.17

Total Annual “In-House Cost: We expect that the radio broadcast station in-house personnel compiling the necessary information and materials will be equivalent to a GS-14/Step 5 (\$62.23 hour).

Total Annual Number of Respondents: 20.

Total Number of Responses: 123 documents filed with each proposal.

Total Annual Burden Hours: 1,179 hours.

Total Annual “In-house” Cost: \$73,369.17.

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. Estimated Annual Cost Burden to Respondents to Comply with Information Collection: We expect the respondents will hire outside attorneys (\$300/hour) to prepare and file the Incubation program documents and materials. Therefore, the total annual cost burden to the respondents is as follows:

Type	# of Respondents	# of Responses	Hourly Burden Hours of Outside Counsel	Burden Hours	Hourly Salary Paid to Outside Counsel	Annual Costs
Incubation Proposal - Contract (provisions required by Order)	20	20	16	320	\$300	\$96,000

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Outside Legal Counsel						
Incubation Proposal - Incubated Entity's Certified Statement Outside Legal Counsel	20	20	10	200	\$300	\$60,000
Incubation Proposal – Incubating Entity's Certified Statement Outside Legal Counsel	20	20	10	200	\$300	\$60,000
Incubation Proposal – If Incubation Proposal Filed as Petition for Declaratory Ruling, incubated entity must make same certifications/disclosures as on Forms 301, 314, 315. Outside Legal Counsel	5 (these are a subset of the 20 respondents filing Incubation Proposals)	5 (these are a subset of the 20 Incubation Proposals)	3	15	\$300	\$4,500
Incubating and Incubated Entities' Joint Annual Certified Statement Outside Legal Counsel	20	20	10	200	\$300	\$60,000
Request to Extend Duration of Incubation Outside Legal Counsel	2 (these are a subset of the 20 respondents filing Joint Annual Certified Statements)	2	5	10	\$300	\$3,000
Statement About Ownership Option Incubated Entity Will Pursue Outside Legal Counsel	18 (these are a subset of the 20 respondents filing Joint Annual	18	4	72	\$300	\$21,600

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	Certified Statements)					
Filing Required when Seeking to Use Reward Waiver Outside Legal Counsel	18 (these are a subset of the 20 respondents filing Joint Annual Certified Statements)	18	4	72	\$300	\$21,600
Total Annual Costs:						\$326,700

14. Estimated Annual Costs to the Federal Government for the Information Collection

Requirements: The Commission will use professionals at the GS-12, step 5 level (\$44.28/hour), GS-13, step 5 level (\$52.66/hour), and GS-15, step 5 level (\$73.20/hour) to review and evaluate the Incubation program documents and materials. As referenced in question 12, these professionals will review approximately 20 Incubation program proposals per year.

GS-12 12 hours x \$44.28 x 20 = \$10,627.20

GS-13 7 hours x \$52.66 x 20 = \$7,372.40

GS-15 8 hours x \$73.20 x 20 = \$11,712.00

Total Cost to Federal Government: \$29,711.60

15. Program Changes: This is a new collection. Once this collection is approved by OMB, the following will be added to OMB’s inventory: **20 respondents, 123 responses, 1,179 burden hours and \$326,700 annual cost.**

16. Data will be publicly available on FCC databases.

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

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.