

## NON-SUBSTANTIVE CHANGE REQUEST JUSTIFICATION

### OMB CONTROL NO. 3060-0031

#### **Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315**

The Commission submits this non-substantive change request to the Office of Management and Budget (OMB) for approval of minor, non-substantive changes to FCC Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License, and to FCC Form 315, Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

On November 20, 2019, the United States Court of Appeals for the Third Circuit vacated and remanded in its entirety the Commission's *2010/2014 Quadrennial Review Order on Reconsideration*.<sup>1</sup> The *2010/2014 Quadrennial Review Order on Reconsideration* had previously modified the Commission's media ownership rules by: (1) eliminating the newspaper/broadcast cross-ownership and radio/television cross-ownership rules; (2) revising the local television ownership rule by eliminating the "eight voices" test and permitting applicants to seek the combination of two top-four ranked stations in a given market on a case-by-case basis; and (3) deeming joint sales agreements (JSA) between television stations to be non-attributable. By vacating the *2010/2014 Quadrennial Review Order on Reconsideration*, the *Prometheus* decision abrogates these rule changes and reinstates the 2016 media ownership rules as they existed prior to the *2010/2014 Quadrennial Review Order on Reconsideration*.<sup>2</sup>

Therefore, with this non-substantive change request, the Commission seeks to reinstate the word deletions that had been approved by OMB on June 19, 2018, as non-substantive form changes to this Information Collection.<sup>3</sup> This reinstatement necessitates only minor edits to FCC Forms 314 and 315 in order to update the form section that pertains to media ownership. The previous non-substantive change deletions affected only brief, general references to the cross-ownership rules and television JSAs. Therefore, these references can be simply restored without altering the primary purpose of the section, which is to certify that an applicant is in compliance with the media ownership rules. The Commission also corrects a typographical error pertaining to the submission of relevant agreements. The changes, which are listed below, do not affect the substance, burden hours, or costs of completing the forms.

#### Change #1 – Reinstatement of the Cross-Ownership Rules:

References to the cross-ownership rules are reinstated in Form 314, Section III., Question 6.b., and in Form 315, Section IV., Question 8.b.

#### Change #2 – Reinstatement of the Attribution of Television JSAs:

Reinstating television JSA attributability is made in Form 314, Section III., Question 6.a., and in Form 315, Section IV., Question 8.a.

#### Change #3 – Submission of JSAs and time brokerage agreements:

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<sup>1</sup> *Prometheus Radio Project v. FCC*, 939 F.3d 567 (3d Cir. 2019), *petition for rehearing en banc denied* (3d Cir. Nov. 20, 2019) (*Prometheus*); *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.*, Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 (2017) (*2010/2014 Quadrennial Review Order on Reconsideration*).

<sup>2</sup> *2010/2014 Quadrennial Review Order*, Second Report and Order, 31 FCC Rcd 9864 (2016).

<sup>3</sup> OMB Control No. 3060-0031, Notice of Action, ICR Reference No. 201805-3060-004 (approved June 19, 2018).

Clarification in Form 314, Section III., Question 6.a., and in Form 315, Section IV., Question 8.a, pertaining to JSAs and time brokerage agreements, that “all applicants must submit as an Exhibit a copy of each such agreement,” rather than as previously stated, due to typographical error that only “radio applicants” make this submission.