

NON-SUBSTANTIVE CHANGE REQUEST JUSTIFICATION

OMB CONTROL NO. 3060-0031

Form 2100, Schedule 314 – Application for Consent to Assignment of Broadcast Station Construction Permit or License; Form 2100, Schedule 315 – Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License

The Commission submits this non-substantive change request to the Office of Management and Budget (OMB) for approval of minor, non-substantive changes to Form 2100, Schedule 314 – Application for Consent to Assignment of Broadcast Station Construction Permit or License; Form 2100, Schedule 315 – Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

On April 1, 2021, the U.S. Supreme Court, in *FCC v. Prometheus Radio Project*, reversed the decision of the United States Court of Appeals for the Third Circuit regarding the Commission’s media ownership rules as contained in the Commission’s *2010/2014 Quadrennial Review Order on Reconsideration*.¹ The United States Court of Appeals for the Third Circuit had previously vacated and remanded in its entirety the Commission’s *2010/2014 Quadrennial Review Order on Reconsideration*.² The *2010/2014 Quadrennial Review Order on Reconsideration* had 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. Consistent with the Supreme Court’s recent decision in *FCC v. Prometheus Radio Project*, on June 4, 2021, the Media Bureau released an Order reinstating the *2010/2014 Quadrennial Review Order on Reconsideration* modified media ownership rules.³ Subsequently on July 1, 2021, the Media Bureau announced by public notice that the summary of the Order had been published in the *Federal Register* and that the reinstated rules became effective on June 30, 2021.⁴

Therefore, the Commission seeks, as a non-substantive change request, to reinstate the non-substantive form changes approved by OMB on June 19, 2018, to this Information Collection.⁵ This current reinstatement necessitates only minor edits to Schedules 314 and 315, in order to update the section of each form that pertains to media ownership. The non-substantive form changes to this collection approved by OMB on December 30, 2019, to accommodate the 2019 Third Circuit

¹ *FCC v. Prometheus Radio Project*, 141 S.Ct. 1150 (2021).

² *Prometheus Radio Project v. FCC*, 939 F.3d 567 (3d Cir. 2019) (*Prometheus*), petition for rehearing en banc denied (3d Cir. Nov. 20, 2019); *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*).

³ *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.*, MB Docket No. 14-50 et al., Order, DA 21-656 (MB June 4, 2021).

⁴ *Media Bureau Announces June 30, 2021 Effective Date of Reinstated Media Ownership Rules*, Public Notice, DA 21-783 (MB July 1, 2021); *Media Bureau Reinstates Commission's Prior Rule Changes Regarding Media Ownership Consistent with the U.S. Supreme Court's Decision*, 86 Fed. Reg. 34627 (June 30, 2021).

⁵ OMB Control No. 3060-0031, Notice of Action, ICR Reference No. 201805-3060-004 (approved June 19, 2018).

Prometheus decision, had required restoration of certain language to the questions on the forms that referenced the cross-ownership rules and television JSA attribution. These December 30, 2019, non-substantive restored language changes can now easily be deleted without altering the primary purpose of the forms' media ownership section, which is an applicant's certification that it is in compliance with the current media ownership rules.⁶ The instant non-substantive changes, which are listed below, do not affect the substance, burden hours, or costs of completing the forms.

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

References to the “cross-ownership rules” are deleted in the Schedule 314, as cited in the Assignee Legal Certifications Section, Multiple Ownership Section, sub-question two, *Multiple Ownership Rules*, and in Schedule 315, as cited in the Transferee Legal Certifications Section, Multiple Ownership Section, sub-question two, *Multiple Ownership Rules*. The Instructions to both Schedules 314 and 315 have been updated accordingly.

Change #2 – Non-Attribution of Television Joint Sales Agreements:

Deleted language in Schedule 314, Assignee Legal Certifications, Multiple Ownership Section, sub-question one, *Joint Sales/Time Brokerage Agreements*, reflecting the fact that “Television Joint Sales Agreements” are no longer attributable. Deleted language in Schedule 315, Transferee Legal Certifications, Multiple Ownership Section, sub-question one, *Joint Sales/Time Brokerage Agreements*, reflecting the fact that “Television Joint Sales Agreements” are no longer attributable. The Instructions to both Schedules 314 and 315 have been updated accordingly.

⁶ OMB Control No. 3060-0031, ICR Reference No. 201912-3060-013 (approved December 30, 2019). OMB had approved, through a non-substantive change request, minor non-substantive edits to Schedules 314 and 315 to accommodate the 2019 U.S. Court of Appeals for the Third Circuit *Prometheus* decision. See *Prometheus Radio Project*, 939 F.3d 567.