

SUPPORTING STATEMENT

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

On April 22, 2021, the Commission adopted *Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Report and Order, MB Docket No. 20-299, FCC 21-42 (rel. Apr. 22, 2021). The Commission updated its existing sponsorship identification requirements to address the issue of undisclosed foreign government provided programming. Specifically, the Commission adopted new foreign government sponsorship identification requirements to require broadcast television and radio stations to make a specific disclosure at the time of broadcast if material aired pursuant to the lease of time on the station has been sponsored, paid for, or furnished by a foreign governmental entity that indicates the specific entity and country involved. Licensees of each broadcast station also are required to exercise reasonable diligence to ascertain whether the foreign sponsorship identification requirements apply at the time of the lease agreement and at any renewal thereof. These obligations expressly apply to any programming broadcast pursuant to a section 325(c) permit.

This submission is being made to OMB for approval of the modified disclosure requirements for this Information Collection, as adopted in the 2021 Report and Order. The modified information collection adds the information collection requirements contained in 47 CFR 73.1212(j) and (k). The new information collection requirements are as follows:

47 CFR 73.1212(j): Where the material broadcast consistent with 47 CFR 73.1212(a) or (d) has been aired according to the lease of time on the station and has been provided by a foreign governmental entity, the station, at the time of the broadcast, shall include the following disclosure:

The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country].

If the material broadcast contains a “conspicuous statement” pursuant to the Foreign Agents Registration Act of 1938 (22 U.S.C. § 614(b)), such conspicuous statement will suffice for purposes of this rule if the conspicuous statement also contains a disclosure about the foreign country associated with the individual/entity that has sponsored, paid for, or furnished the material being broadcast.

- 1) The licensee of each broadcast station shall exercise reasonable diligence to ascertain whether the foreign sponsorship disclosure requirements apply at the time of the lease agreement and at any renewal thereof, including:
 - i. Informing the lessee of the foreign sponsorship disclosure requirement in section (j) above;
 - ii. Inquiring of the lessee whether the lessee falls into any of the categories that qualify the lessee as a foreign governmental entity;
 - iii. Inquiring of the lessee whether the lessee knows if anyone involved in the production or distribution of the programming that will be aired pursuant to the lease agreement, or a sub-lease, qualifies as a foreign governmental

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- entity and has provided some type of inducement to air the programming;
- iv. Independently confirming the lessee's status, by consulting the Department of Justice's FARA website and the Commission's semi-annual U.S.-based foreign media outlets reports, if the lessee states that it does not fall within the definition of "foreign governmental entity" and that there is no separate need for a disclosure because no one further back in the chain of producing/transmitting the programming falls within the definition of "foreign governmental entity" and has provided an inducement to air the programming; and
 - v. Memorializing the above-listed inquiries to track compliance therewith and retaining such documentation in the licensee's records for either the remainder of the then-current license term or one year, whichever is longer, so as to respond to any future Commission inquiry.
- 2) In the case of any video programming, the foreign governmental entity and the country represented shall be identified with letters equal to or greater than four percent of the vertical picture height that air for not less than four seconds.
 - 3) At a minimum, the required announcement shall be made at both the beginning and conclusion of the programming. For programming of greater than sixty minutes in duration, an announcement shall be made at regular intervals during the broadcast, but no less frequently than once every sixty minutes.
 - 4) Where the primary language of the programming is other than English, the disclosure statement shall be made in the primary language of the programming. If the programming contains a "conspicuous statement" pursuant to the Foreign Agents Registration Act of 1938 (22 U.S.C. § 614(b)), and such conspicuous statement is in a language other than English so as to conform to the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611 et. seq.), an additional disclosure in English is not needed.
 - 5) A station shall place copies of the disclosures required by paragraph (j) and the name of the program to which the disclosures were appended in its online public inspection file on a quarterly basis in a standalone folder marked as "Foreign Government-Provided Programming Disclosures." The filing must state the date and time the program aired. In the case of repeat airings of the program, those additional dates and times should also be included. Where an aural announcement was made, its contents must be reduced to writing and placed in the online public inspection file in the same manner.

47 CFR 73.1212(k): The requirements in 47 CFR 73.1212(j) shall apply to programs permitted to be delivered to foreign broadcast stations under an authorization pursuant to the section 325(c) of the Communications Act of 1934 (47 U.S.C. § 325(c)) if any part of the material has been sponsored, paid for, or furnished for free as an inducement to air on the foreign station by a foreign governmental entity. A section 325(c) permit holder shall place copies of the disclosures required along with the name of the program to which the disclosures were appended in the International Bureau's public filing System (IBFS) under the relevant IBFS section 325(c) permit file. The filing must state the date and time the program aired. In the case of repeat airings of the program, those additional dates and times should also be included. Where an aural announcement was made, its contents must be reduced to writing and placed in the IBFS in the same manner.

These information collection requirements are still approved under this collection and have not changed because of the adopting of FCC 21-42:

47 CFR 73.1212 requires a broadcast station to identify at the time of broadcast the sponsor of any matter for which consideration is provided. For advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In the case of television political advertisements concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four (4) percent of the vertical height of the television screen that airs for no less than four (4) seconds. In addition, when an entity rather than an individual sponsors the broadcast of matter that is of a political or controversial nature, licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization paying for such matter. Sponsorship announcements are waived with respect to the broadcast of "want ads"¹ sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection.

47 CFR 73.1212(e) states that, when an entity rather than an individual sponsors the broadcast of matter that is of a political or controversial nature, the licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization paying for such matter in its public file. Pursuant to the changes contained in 47 CFR 73.1212(e) and 47 CFR 73.3526(e)(19), this list, which could contain personally identifiable information, would be located in a public inspection file to be located on the Commission's website instead of being maintained in the public file at the station. Burden estimates for this change are included in OMB Control Number 3060-0214.

47 CFR 76.1615 states that, when a cable operator engaged in origination cablecasting² presents any matter for which money, service or other valuable consideration is provided to such cable television system operator, the cable television system operator, at the time of the telecast, shall identify the sponsor. Under this rule section, when advertising commercial products or services, an announcement stating the sponsor's corporate or trade name, or the name of the sponsor's product is sufficient when it is clear that the mention of the name of the product constitutes a sponsorship identification. In the case of television political advertisements concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four (4) percent of the vertical height of the television screen that airs for no less than four (4) seconds.

47 CFR 76.1715 state that, with respect to sponsorship announcements that are waived when the broadcast/origination cablecast of "want ads" sponsored by an individual, the licensee/operator

¹ Want ads are classified advertisements.

² Cablecasting is the transmission by wire for public reception of sounds, images or sounds and images or of the representations thereof. Transmission by wire of encrypted signals is "cablecasting" where the means for decrypting are provided to the public by the cablecasting organization or with its consent. Cablecasting shall not be understood as including transmissions over computer networks or any transmission where the time and place of reception may be individually chosen by members of the public.

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shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection.

Statutory authority for this information collection is contained in Sections 4(i), 317, 325(c) and 507 of the Communications Act of 1934, as amended.

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The records and sponsorship announcements are used by the public so that they may know by whom broadcasts and origination cablecasts are sponsored and, therefore, by whom they are being persuaded.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

These are recordkeeping and disclosure requirements and electronic collection techniques will be used.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

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

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. Therefore, the collection of information will not have a significant economic impact on a substantial number of small entities/businesses.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If this information was not disclosed or records kept, the public would not know by whom they are being persuaded. If the Commission did not sponsor this information collection, it would not be in compliance with the Communications Act of 1934.

7. Explain any special circumstances that cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to submit proprietary trade secrets, or other confidential

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information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances associated with this information collection.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.

The Commission published a Notice (86 FR 38482) in the *Federal Register* on July 21, 2021 seeking public comment for the information collection requirements contained in this supporting statement. No comments were received from the public as a result of the Notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift was provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR § 0.459.

Should respondents submit any PII as part of the information collection requirements, the FCC has a system of records, FCC/MB-1, "Ownership of Commercial Broadcast Stations," that may partially cover this PII.

There are two additional systems of records relevant to this collection: FCC/MB-2, "Broadcast Station Public Inspection Files," and FCC/IB-1, "International Bureau Filing System (IBFS)." The Commission has published system of records notices (SORNs) for FCC/MB-2 and FCC/IB-1 and will modify them as necessary to include any personally identifiable information (PII) that will be added to the Online Public Inspection Files system or IBFS as part of this collection. The Commission is preparing Privacy Impact Assessments for these systems.

11. Provide additional justification for any questions of a sensitive nature.

This collection does not ask questions of a sensitive nature. Any PII that is submitted as part of the information collection requirements may be covered in part by the system of records notice, FCC/MB-1, FCC/MB-2, and/or FCC/IB-1, as noted in Question 10. In addition, the Commission will redact any other personal information before it becomes available for public inspection, at the request of the submitter.

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

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The following is estimated for public burden:

Existing Information Collection Requirements Burdens:

Rule Sections	Number of Respondents (Systems/ Stations)	Number of Broadcast Cablecasts, or Listings	Number of Responses	Hourly Burden	Total Burden Hours	Hourly Wage	Total In-house Cost
73.1212	20,600	60 commercial ³	1,236,000	0.1 hrs.	123,600	\$26	\$3,213,600
	20,600	30 political ⁴	618,000	0.2011 hrs.	124,280	\$26	\$3,231,280
76.1615⁵	2,300	5 political	11,500	0.0011 hrs.	12.6	\$18	\$ 228
76.1715⁶	2,300	5 want ads listings	<u>11,500</u>	0.1 hrs.	<u>1,150</u>	\$18	<u>\$ 20,700</u>
TOTALS:			1,877,000 (responses)		249,043 hours		\$6,465,808

Number of Annual Respondents: 20,600 broadcasters + 2,300 cable systems = **22,900**

Number of Annual Responses: **1,877,000**

Annual Burden Hours: **249,043 hours (rounded)**

Annual "In-house" Cost: **\$6,465,808**

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

³ We have assessed only recordkeeping burdens for broadcasting of commercial products or services. We do not assess a burden for sponsorship ID (disclosure requirement) because the mere mention of the product name or service during the broadcast satisfies sponsorship identification and no burden is attached to this disclosure requirement.

⁴ For the political spots, we have assessed both recordkeeping and disclosures burdens of 0.2011 hours [0.0011 hours for the disclosure requirements (at least four seconds) and 0.2 hours for the recordkeeping requirements]. We assume that a sales person at the station will perform recordkeeping functions and monitor the sponsorship identification requirements.

⁵ For Section 76.1615, we do not assess a burden for advertising commercial products or services. We do not assess sponsorship ID (disclosure requirement) because the mere mention of the product name or service during the programming satisfies sponsorship identification, and no burden is attached to this requirement. For the political spots, we have assessed a disclosure burden of 0.0011 hours. We estimate that half the cable systems (2,300) would air an average of five candidate spots for which sponsorship identification is required.

⁶ This is only a recordkeeping requirement. We estimate that half the cable systems (2,300) would air an average of five origination cablecasts that require a system to keep a record.

New Information Collection Requirement Burdens:

5,524 time brokerage agreement lessees⁷ x 1 hour⁸ = 5,524 hours for respondents to make inquiries related to determining whether a foreign sponsorship disclosure is necessary, informing lessees of the new rule, checking two federal government websites in the event a lessee states it is not a “foreign governmental entity,” and keeping a record of the inquiries.

200 respondents⁹ x 20 programs¹⁰ x 1 hour¹¹ = 4,000 hours for respondents to generate and affix any required disclosures.

5,524 hours + 4,000 hours = 9,524 hours

Annual Number of Respondents: 5,524 time brokerage agreement lessees

Annual Number of Responses: 5,524 time brokerage agreement lessees + 4,000 disclosures = 9,524 responses

Annual Burden Hours: 9,524 hours

Annual In-House Cost: 9,524 hours x \$26 hourly wage = \$247,624

Cumulative Totals:

Total Number of Respondents: 22,900

Total Number of Annual Responses: 9,524 (new) + 1,877,000 (existing) = 1,886,524

Total Annual Burden Hours: 9,524 hours (new) + 249,043 (existing annual burden hours) = 258,567 hours

⁷ There are currently 5,524 files in the Time Brokerage Agreements (TBA), or lease agreement, folders in broadcast stations’ online public inspection files (OPIFs). Using this number is likely an overestimate for multiple reasons. First, stations likely have more than one lease agreement with the same lessee, and once an inquiry has been made for one lessee, no additional inquiries need be made for the lease agreements with the same lessee unless and until the agreement is renewed. Second, we note that, based on FCC staff review of over 200 TBA filings in the OPIFs, a significant number of the filings are single pages stating that there are no TBAs. By overestimating, we account for instances where a licensee lists multiple TBAs on one filing and for stations that do not have OPIF requirements including international broadcast service stations as well as the 12 current Section 325(c) permittees that have been identified by FCC staff.

⁸ We estimate that it will take no more than an hour per lessee for respondents to make the required inquiries, which consist of informing lessees of the new rule, and, in certain instances, navigating two publicly accessible websites and checking whether the name of an entity is listed there, as well as to keep a record of the inquiries.

⁹ We estimate that approximately 1% of the roughly 20,000 broadcast respondents (including Section 325(c) permittees) will have to make the required disclosures.

¹⁰ Based on a review of FARA filings, a foreign governmental entity may have 10 to 20 programs to which disclosures may need to be affixed by the broadcast station, depending on whether the programs are provided pursuant to a lease agreement.

¹¹ We estimate that it should take no more than an hour, on average, for respondents to generate and affix the required disclosures.

Total In-House Cost: \$247,624 (new) + \$6,465,808 (existing in-house cost) = \$6,713,432

13. Provide estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).

Annual Cost Burden:

553^{12} brokerage agreement lessees x $\$300^{13}$ x 2.5 hours¹⁴ = \$414,750

This has to be a whole number. I rounded up to 553 lessees.

$\$414,750 + \$34,623$ (existing annual burden dollars) = **\$449,373**

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.

There is no cost to the Federal Government.

15. Explain the reasons for any program changes or adjustments reported for this information collection.

The Commission has program changes/increases to the following figures which are due to the modifications of the sponsorship identification rules to include foreign sponsorship identification adopted in FCC 21-42: +9,524 to the number of annual responses, +9,524 to the annual burden hours and \$414,750 to the annual cost.

There are no adjustments to this collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The data will not be published.

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

¹² We note that relying on the existing number of lease agreements is likely an overestimate, since most stations will be able to take the necessary compliance measures themselves and therefore will not need to hire outside counsel and since, as stated above, stations likely have more than one lease agreement with the same lessee, and once an inquiry has been made for one lessee, no additional inquiries need be made for lease agreements with the same lessee.

¹³ We fully expect that stations will be able to take the necessary steps for compliance themselves, but we estimate approximately 10% of the 5,524 brokerage agreement lessees may choose to employ legal counsel to establish a compliance plan and/or draft form language for insertion into all of a station's lease agreements regarding the new rule. The Commission estimates the hourly rate for outside attorneys as \$300/hour.

¹⁴ We estimate the time required for outside counsel who are utilized to draft a compliance plan or form language for insertion into a station's lease agreements to be approximately 2.5 hours.

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

18. Explain any exceptions to the Certification Statement.

The Commission published a 60-day notice in the Federal Register on July 21, 2021. We published the annual cost as 448,923. With this submission, we are reporting the annual cost as \$449,373 to correct a rounding error. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.