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Special Advisory to Broadcasters
March 2008

Communications Broadcast Advisory

Biennial Ownership Reports Due By April 1, 2008 for Certain Radio and Television Broadcasters

Commercial and noncommercial Radio stations licensed to communities in Delaware, Indiana, Kentucky, Pennsylvania, and Tennessee must file their Biennial Ownership Reports with the FCC by April 1, 2008. Reports for commercial and noncommercial Television stations licensed to communities in Texas must also file their Biennial Ownership Reports by the same deadline.

As radio and television stations in the same state file their renewals one year apart, broadcast stations in the above-referenced states which are not subject to the April 1, 2008 deadline will be required to file their Biennial Ownership Reports by April 1, 2009.

Failure to timely file a Biennial Ownership Report is a violation of Section 73.3615(a), and could subject a station owner to a fine. This filing must be made electronically on the FCC website, www.fcc.gov. Individuals holding FCC licenses need not file Biennial Ownership Reports.

Licensees controlling multiple broadcast stations are permitted to file their Biennial Ownership Report on the anniversary of the license renewal filing deadline for any station they own, provided that no more than two years have passed since the previous Biennial Ownership Report was filed. If the permittee or licensee of a radio or television station licensed to communities in one of the aforementioned states elects for the first time to file its Biennial Ownership Report on the anniversary date of a commonly owned station licensed in another state or territory, it should notify the Commission of this decision by April 1, 2008.

In addition, all permittees and licensees of radio and/or television stations licensed to communities in these states must disclose to the FCC, by the April 1 deadline, any adjudication of relevant non-FCC misconduct by individuals or entities with an attributable interest in the station(s).

Commercial Broadcast Stations

Pursuant to a change in the rules as of 1999, commercial broadcast stations must file an Ownership Report every two years on the anniversary date of the station's license renewal filing, rather than every year, using a revised version of FCC Form 323 that seeks information regarding gender and ethnicity.

As noted previously, paper copies of FCC Form 323 or 323-E will no longer be accepted. In addition, stations whose ownership has not changed since the previous filing of Form 323 may no longer file a "Certification of No Change in Ownership." They must file a new form 323.

The required FCC processing fee for Biennial Ownership Reports is \$60.00 per station. For example, a multiple station owner filing a combined Biennial Ownership Report for an AM/FM combo plus two independent TV stations would incur a required fee of \$240 (4 x \$60).

Noncommercial Educational Broadcast Stations

Ownership Reports for noncommercial educational ("NCE") broadcast stations are now required biennially as well, using the electronic version of Form 323-E that seeks information regarding the principal professions of members of the governing board and by whom they were appointed or elected. Rules adopted in 1999 deleted the requirement that NCE licensees file their Ownership Reports on FCC Form 323-E within thirty (30) days of any change in the information reported on the previous Ownership Report.

NCE stations are exempt from the filing fee.

Annual Reporting of Non-FCC Misconduct

The Commission requires all permittees and licensees of **radio** and **television** stations licensed to communities in states with a April 1 renewal anniversary date (Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas) to report relevant non-FCC misconduct annually by April 1 of **each year**. Questionnaires should be sent to all persons with a direct or indirect attributable interest in the permittee/licensee for filing which the report is being filed. Relevant non-FCC misconduct includes: (1) all felonies; (2) mass-media related antitrust violations; (3) mass-media related unfair competition violations; (4) false statements to government agencies or departments; and (5) adverse employment discrimination decisions.

Permittees and licensees need only report adverse court or administrative agency decisions. Pending cases not involving an adverse action do not need to be reported. However, adverse decisions must be reported even while they are on appeal.

Misconduct involving non-broadcast companies that share an officer, director or significant shareholder / partner with a broadcast company must be reported in situations where the broadcast principal was in control of the other company or was found to be directly involved in the other company's misconduct. With regard to parent/subsidiary relationships, non-FCC misconduct has to be reported if: there is a close ongoing relationship between the parent (or non-broadcast subsidiary) and the broadcast subsidiary; the two have common principals; and the common principals are actively involved in the operations of the broadcast subsidiary.

If any principals of your company were involved in such conduct, you should contact communications counsel for advice on how this information should be reported. If there has been no reportable adjudication, the FCC does not require the permittee/licensee to affirm that fact.

Filing of Ownership Reports

For your own protection, we recommend that you have your Biennial Ownership Report reviewed and filed by communications counsel.

Live Link

Federal Communications Commission Website

For further information, please contact:

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