

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission)	OMB Control Number: 3060-0010
)	
Promoting Diversification of Ownership In the Broadcasting Services)	MB Docket No. 07-294
)	

To: The Commission

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)¹ submits these comments in response to the Federal Register Notice (the “*Notice*”) concerning Federal Communications Commission (“FCC” or “Commission”) revisions to FCC Form 323, the biennial ownership reporting form.² As we have previously indicated, NAB strongly supports the FCC’s goal of improving the quality and reliability of data on minority and female owners of media properties.³ In this *Notice*, as required by the Paperwork

¹ The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of free local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the Courts.

² *Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission*, 74 Fed. Reg. 27,549 (Jun. 10, 2009) (“*Notice*”).

³ See *Petition for Reconsideration of the National Association of Broadcasters in MB Docket No. 07-294* (Jun. 20, 2009) at 2.

Reduction Act of 1995 (“PRA”),⁴ the Commission is seeking comment on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.⁵ As discussed further below, however, because the Form is not available and we do not have sufficient information about how the Form 323 has been changed, we are unable to provide meaningful comment on the information collection burdens associated with these revisions at this time.

Earlier this year, the Commission adopted an *Order* revising several aspects of its broadcast ownership reporting requirements. Specifically, the Commission: (1) expanded the class of licensees required to file ownership reports biennially to include low power TV stations, including Class A stations, as well as commercial broadcast stations licensed to sole proprietors and partnerships composed of natural persons; (2) re-defined the classes of interests that are reportable so that certain attribution exemptions would not apply; (3) set a uniform biennial filing date in place of the filing date tied to stations’ renewal anniversaries; and (4) set an initial filing date of no later than November 1, 2009.⁶ The Commission also delegated authority to the staff to: (1)

⁴ 44 U.S.C. §§ 3501-3520.

⁵ *Notice*, 74 Fed. Reg. 27,549 (2009).

⁶ See *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, MB Docket No. 07-294, FCC No. 09-33 at ¶ 12 (rel. May 5, 2009) (“*Order*”).

revise the FCC Form 323 according to the parameters adopted in the *Order*; (2) revise the electronic interface so that ownership data is part of a database, is searchable, and can be aggregated and cross-referenced; and (3) build additional checks into Form 323 to perform verification and review functions and to preclude the filing of incomplete or inaccurate data.⁷

The *Notice* states that, consistent with these directives, the following changes have been made to the Form:

“The instructions have been revised to state the Commission’s revised Biennial filing requirements adopted in the 323 Order. The instructions and questions in all sections of the form have been significantly revised. Many questions on the form have been reworked or reordered in order to (1) clarify the information sought in the form; (2) simplify completion of the form by giving respondents menu-style or checkbox-style options to select rather than requiring respondents to submit a separate narrative exhibit; and (3) make the data collected on the form more adaptable for use in database programs used to prepare economic and policy studies relating to media ownership.”⁸

Unfortunately, without a draft Form 323 or additional description of the changes, interested parties cannot realistically assess the burdens associated with this new information collection and, thus, cannot file meaningful comment. For example, commenters cannot determine whether efforts to “simplify completion of the form by giving respondents menu-style or checkbox-style options” have been successful, or whether the new form will actually require more time because the menu options might not be consistent with the types of ownership structures used by licensees. Without more information, commenters are not able to determine whether the revised Form 323 will make the data collected “more adaptable for use in database programs” for studies

⁷ *Id.*

⁸ *Notice*, 74 Fed. Reg. 27,549 (2009).

on media ownership, as the Commission intends. Without a draft form, commenters also cannot address critical PRA questions such as the accuracy of the Commission's burden estimate, ways to enhance the quality, utility, and clarity of the information collected, or ways to minimize the collection burden. Providing the public an opportunity to comment on a more detailed notice or draft form also would further the stated goal of ensuring an open and transparent administrative process.⁹

CONCLUSION

NAB urges the Commission to make available for public examination and comment a paper or electronic version of its revised draft form. Upon seeing how the revisions have been implemented, concerned parties can offer meaningful input on the burdens associated with the revisions and the effectiveness of the changes being made. Without this input, the requirements of the PRA cannot be met, and the Commission's intended goal of developing a clearer and more complete picture of minority and female ownership may be jeopardized.

⁹ NAB also filed a Petition for Reconsideration that addresses the public interest harms that are likely to result from certain changes to the ownership reporting requirements, including the burdens on licensees and investors. *See Petition for Reconsideration of the National Association of Broadcasters in MB Docket No. 07-294* (Jun. 20, 2009). Although the Petition is not primarily intended to address the specific ways in which information is gathered on Form 323, the Petition proposes that: 1) ownership data for sole proprietors be obtained from existing records because it does not change over time; and 2) if the Commission does not reconsider its decision to require ownership reporting by certain nonattributable investors, such reporting should be limited to the race, gender, and ownership percentage of the nonattributable investors, rather than full reporting of the names, addresses, familial relationships, and unrelated media holdings of these investors. *Id.* at 2-4 and 9-10. Because these proposals advanced by NAB in its Petition for Reconsideration of the *Order* may be relevant to the Commission in revising its forms, we incorporate the Petition by reference thereto.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

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A handwritten signature in black ink, appearing to read 'E. Mago', written in a cursive style.

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Erin L. Dozier

August 10, 2009