

## Broadcast Station Ownership Report Filing Requirements

Stations Located in: *Delaware, Indiana, Kentucky, Pennsylvania, Tennessee and Texas*

### Introduction

All licensees, other than sole proprietorships or partnerships composed entirely of natural persons, operating commercial or noncommercial broadcast stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee and Texas** must file an Ownership Report with the FCC by **April 1, 2003**, which is the anniversary date of the filing deadline for license renewal applications for stations located in those states. Noncommercial licensees should be especially certain to note this change in the FCC's rules with regard to the timing of their required filings. Failure to timely file an Ownership Report is a violation of Section 73.3615(a), and could subject a station owner to a fine. All licensees should note that this filing must be made electronically on the FCC website, [www.fcc.gov](http://www.fcc.gov).

Licensees controlling multiple broadcast stations are permitted to file their 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 Ownership Report was filed. If a licensee elects to file its Ownership Report on the anniversary date of another commonly owned station, it should notify the Commission of this decision by **April 1, 2003**.

In addition, as discussed below in greater detail, all licensees 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 which became effective in 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 which seeks information regarding gender and ethnicity. We reported on the revised Ownership Report in **Special Bulletin to Broadcasters**, SB No. 99-2 (January 15, 1999). Accordingly, each commercial station should have filed its first such biennial Ownership Report in 1999, and then filed again in 2001.

As noted above, paper copies of FCC Form 323 or 323-E will no longer be accepted absent a waiver. In addition, while prior to mandatory electronic filing of ownership reports stations whose ownership had not changed since the previous filing of Form 323 could instead file a "Certification of No Change in Ownership," that option is no longer available.

The required processing fee for Ownership Reports is \$50.00 per station. For example, a multiple station owner filing a combined Ownership Report for an AM/FM combo plus two independent FM stations would incur a required fee of \$200 (4 x \$50).

As always, we can electronically file your Ownership Report for you with the FCC. Please forward your Report, to one of the lawyers in the Communications Practice Group at least seven (7) business days before the **April 1** deadline so that the document may be reviewed and timely filed.

### Time Brokerage Agreements

In recent years, many radio and television stations have elected to enter into Time Brokerage Agreements. These agreements must be reported on the Ownership Report and filed with the FCC where a brokering entity owns a local radio station and brokers more than 15 percent (on a weekly basis) of the airtime of the brokered radio station. For television stations, the agreements must be reported on the Ownership Report and filed with the FCC where the brokering entity owns a television station in the same market and brokers more than 15 percent (on a weekly basis) of the

airtime of the brokered television station. In the case of both radio and television stations, the FCC allows licensees to redact confidential or proprietary information when filing a Time Brokerage Agreement or placing it in a public inspection file.

## Noncommercial Educational Broadcast Stations

Ownership Reports for noncommercial educational ("NCE") broadcast stations are now to be filed biennially as well, using the electronic version of Form 323-E which seeks information regarding gender and ethnicity. Rule changes adopted in 1999 deleted the prior 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 as well as by the deadline for filing their application for renewal of license.

NCE stations are exempt from the filing fee requirement. Thus, noncommercial educational licensees will file their Reports electronically via the Commission's website, [www.fcc.gov](http://www.fcc.gov), but have no fee obligation. NCE stations are defined as those radio and television facilities whose broadcast authorization identifies the licensee as an educational institution, regardless of whether the station is licensed on a frequency set aside for NCE stations.

## Annual Reporting of Non-FCC Misconduct

The Commission requires licensees to report relevant non-FCC misconduct annually by the Ownership Report deadline. Questionnaires should be sent to all persons with an attributable interest in the licensee filing that report. A sample questionnaire is included as part of this **Special Advisory**. 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.

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. The questionnaire inquires about pending, as well as final, decisions in order to help licensees monitor ongoing matters.

Misconduct involving non-broadcast companies that share an officer, director or major 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, contact any of the lawyers in the communications practice group for advice on how this information should be reported. If there has been no reportable adjudication, the FCC does not require the licensee to affirm that fact.

## Filing of Ownership Reports

We advise you to have your Ownership Report reviewed and filed by one of the lawyers in the Communications Practice Group for your own protection. For assistance in completing and reviewing your Ownership Report, please contact any of the lawyers in the Communications Practice Group.

## Shaw Pittman LLP

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### Non-FCC Misconduct Questionnaire

A. Since [year in which the last license renewal was filed], has an adverse finding been made or adverse final action been taken by any court or administrative body with respect to the person (or other entity) completing this questionnaire, which finding or action was brought under provisions of law relating to:

**Circle Response**

- |    |   |     |    |
|----|---|-----|----|
| 1. | Any felony?   | Yes | No |
| 2. | Antitrust (mass media-related)?                     | Yes | No |
| 3. | Unfair competition (mass media-related)?            | Yes | No |
| 4. | Fraudulent statements to another governmental unit? | Yes | No |
| 5. | Discrimination?                                     | Yes | No |
| 6. | Illegal Drugs?                                      | Yes | No |

B. Is there any proceeding now pending involving any of the matters referred to in Question A? Yes No

C. In the case of illegal drugs, are you subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862? Yes No

If the answer to any of the above questions is yes, please provide a full description, including identification of the court or administrative body, proceeding by file number, the person or matters involved, and the disposition of litigation. Attach separate sheets, if necessary.

Name of Person Completing Questionnaire: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Entity Represented (if applicable): \_\_\_\_\_

Position with Entity Represented: \_\_\_\_\_

**THIS QUESTIONNAIRE IS FOR OUR INFORMATION GATHERING PURPOSES ONLY AND IS NOT INTENDED TO BE SUBMITTED TO THE FCC. HOWEVER, INFORMATION PROVIDED IN RESPONSE MAY NEED TO BE DISCLOSED TO THE FCC.**