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## FCC Postpones November 1 Ownership Report Filing Deadline

by Scott R. Flick and Paul A. Cicelski

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*As we wrote in an earlier Advisory, the FCC adopted an order in April 2009 revising FCC Form 323, its Ownership Report form for commercial stations. It also expanded the types of entities and licensees required to file Form 323, announcing that owners of all commercial AM, FM, TV, LPTV and Class A TV stations would need to file the new form by November 1, 2009. The FCC later suspended its existing biennial Ownership Report filing requirement for stations that were to have filed in June, August, or October of 2009, since those stations would have to file the new Form 323 by November 1, 2009 in any event.*

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At this time, the Office of Management and Budget (OMB) has not yet approved the new Form 323 for use by the FCC. In response to numerous calls from station counsel and industry representatives, the FCC today announced that it is suspending the requirement that stations file the revised Form 323 by November 1, 2009. Instead, stations will be required to file the new Form 323 by a date to be later announced by the FCC that is at least thirty days after the release of a public notice of OMB approval of the new form. In the meantime, the FCC announced that it will continue to suspend the filing of biennial ownership reports on existing Form 323 until the new form is available.

While the FCC originally required that the ownership information submitted in the new Form 323 be current as of October 1, 2009, today's Order announced that when the revised Form 323 is available for filing, stations should include ownership information that is current as of November 1, 2009. The FCC also announced that this delay does not affect future filing dates of the biennial Ownership Report, which will fall on November 1 of all odd-numbered years going forward.

A copy of the FCC's Order is attached. Should there be any questions concerning this change in biennial Ownership Report filing requirements, please contact us.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors of this advisory.

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

In the matter of	)	
	)	
Promoting Diversification in the Broadcasting Services	)	MB Docket No. 07-294
	)	
2006 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	)	MB Docket No. 06-121
	)	
2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
	)	
Definition of Radio Markets	)	MM Docket 00-244
	)	
Ways to Further Section 257 Mandate and to Build on Earlier Studies	)	MB Docket No. 04-228
	)	

**ORDER**

**Adopted: October 2, 2009  
2009**

**Released: October 2,**

By the Chief, Media Bureau:

1. On April 8, 2009, the Commission adopted a *Report and Order and Fourth Further Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>1</sup> In pertinent part, the *Report and Order* revised certain requirements for filing FCC Form 323, which provides ownership information

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<sup>1</sup> *Report and Order and Fourth Further Notice of Proposed Rulemaking*, MB Docket No. 07-294, 24 FCC Rcd 5896 (2009) (“*Report and Order*”).

about broadcast facilities. The *Report and Order* enlarged the class of broadcast licensees required to file FCC Form 323 biennially, and it substituted a uniform biennial filing deadline for the current system of rolling filing deadlines that are tied to a station's renewal anniversary. Pursuant to these new requirements, all commercial full-power AM, FM, TV, LPTV and Class A stations, as well as entities with attributable or reportable interests in them,<sup>2</sup> are required to file the revised FCC Form 323 on or before November 1, 2009, with information current as of October 1, 2009, and to file biennially thereafter.<sup>3</sup>

2. On May 29, 2009, the Media Bureau suspended the filing requirement for the existing Form 323 for licensees who would otherwise be required to file biennially between the date of the Order and November 1, 2009. The Bureau considered it in the public interest to relieve filers from the burden of biennially filing the existing Form 323 within the six months prior to the new November 1 biennial filing requirement. In addition, the Bureau stated that if the Commission has not received OMB approval for the new Form 323 by the November 1, 2009 filing deadline, all filers who would have been required to file Form 323 biennially between the date of the Bureau Order and November 1, 2009, but whose filing obligation was suspended by the Bureau's May 29<sup>th</sup> Order, would be required to file the existing Form 323 by November 1, 2009.

3. On our own motion, we are extending the initial November 1 biennial filing date for the new Form 323.<sup>4</sup> Accordingly, licensees and other filing entities are not required to biennially file revised Form 323 on November 1. When the Commission receives approval from the Office of Management and Budget ("OMB") for the revised Form 323 (Control Number 3060-0010), the Media Bureau will issue a Public Notice establishing a filing date for the revised Form 323 that will be no earlier than 30 days after the date of public notice of OMB approval. We will also extend the date as of which information submitted on the revised Form 323 must be accurate from October 1, 2009, to November 1, 2009. We believe these deferrals are necessary in order to provide licensees and other entities with sufficient time to review the new form and gather the information needed to complete it.<sup>5</sup> The filing deadline extension and the November 1 cut-off date for ownership data will apply only to the initial biennial filings. Beginning with the 2011 filing, the form must be filed no later than November 1 with data current as of October 1 of the filing year.

4. We will also not require licensees excused from filing by the Media Bureau's May 29<sup>th</sup> Order to file the existing Form 323 on November 1, 2009. We believe that it would be an undue burden on licensees and other entities required to file Form 323 to prepare the existing form on November 1 and then prepare and file the revised form soon thereafter.

5. Accordingly, IT IS ORDERED, that pursuant to authority under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 and 303(r) and pursuant to authority delegated to the Media Bureau pursuant to Sections 0.204 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.204, 0.283, the filing requirements as described above ARE EXTENDED, *sua sponte*.

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<sup>2</sup> For purposes of the biennial filing requirement, the *Report and Order* provided that certain nonattributable interests would be reportable: (1) minority voting stock interests in a corporation with a single majority shareholder, and (2) interests in an eligible entity that would otherwise be attributable under the Equity/Debt Plus attribution rule. *Report and Order* at ¶¶ 17-19. These requirements, *inter alia*, are subject to a pending petition for reconsideration.

<sup>3</sup> The reasons warranting these changes are set forth in the *Report and Order*, 24 FCC Rcd at 5902-05, 5908-09 ¶¶ 12-15, 22.

<sup>4</sup> This extension applies only to biennial filings of the revised Form 323 and does not apply to any other required filings of the existing Form 323 or to any required filings of Form 323-E.

<sup>5</sup> The Commission submitted the revised Form 323 and supporting statement to OMB on August 11, 2009. OMB has 60 days to act on the revised information collection, which does not expire until October 13, 2009. Therefore, entities could have less than one month to file the revised form.

6. For additional information, please contact Mania Baghdadi or Amy Brett, Industry Analysis Division, Media Bureau, at (202) 418-2330.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
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