

Biennial Ownership Report Filing Requirements

Licensees operating commercial or noncommercial television stations in South Carolina must file a Biennial Ownership Report with the FCC by August 1, 2006, the anniversary date of the filing deadline for license renewal applications for those stations. Biennial Ownership Reports for South Carolina radio stations are not due until August 1, 2007.

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. All licensees should note that 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 an South Carolina licensee elects for the first time to file its Biennial Ownership Report on the anniversary date of a commonly owned station located in another state, it should notify the Commission of this decision by August 1, 2006.

In addition, as discussed below in greater detail, all permittees and licensees of radio and television stations licensed to communities in South Carolina must disclose to the FCC, by the August 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.

As noted above, paper copies of FCC Form 323 or 323-E will no longer be accepted. In addition, 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 FCC processing fee for Biennial Ownership Reports is \$55.00 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 \$220 (4 x \$55).

Time Brokerage Agreements and Joint Sales Agreements

Television and Television Time Brokerage Agreements must be reported on the Biennial Ownership Report and filed with the FCC where a brokering entity owns a local television or television station and brokers more than 15 percent (on a weekly basis) of the airtime of the brokered station. Television Joint Sales Agreements must also be reported on the Biennial Ownership Report and filed with the FCC where the selling entity owns a local television or television station and sells more than 15 percent (on a weekly basis) of the advertising time of the other station. The FCC allows parties to both types of agreements to redact confidential or proprietary information prior to filing the agreements with the FCC or placing them in a station's public inspection file.



Special Advisory to South Carolina Broadcasters

Noncommercial Educational Broadcast Stations

Ownership Reports for noncommercial educational ("NCE") broadcast stations are now required 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, but have no fee obligation.

Annual Reporting of Non-FCC Misconduct

The Commission requires all permittees and 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 permittee/licensee filing that report. 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 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, 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.



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Filing of Ownership Reports

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

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