

FCC Extends Filing Date to December 1 for 2011 Form 323 Biennial Ownership Report - New Significance After Prometheus Court Decision

Posted on August 23, 2011 by [David Oxenford](#)

In 2009, the FCC adopted a uniform deadline for all commercial broadcast licensees to file an FCC Form 323 Biennial Ownership Report. The due date for that report was supposed to be November 1 of that year, but was postponed until [July of 2010 when problems popped up with the new forms](#). The next Biennial Ownership reporting date was scheduled to be November 1 of this year (two years after the originally scheduled date for the first report to use the new form) - but the FCC today issued a [Public Notice](#) postponing the filing deadline for one month, to December 1.

This delay was justified so as to give broadcasters, especially those with many media interests held in different companies, more time to complete what can be a cumbersome process of filling out all of the reports and exhibits that need to be submitted. Reports need to be filed by December 1, but all information still needs to be reported as of October 1 of this year - a standard reporting date that will remain constant each year to give the FCC a snapshot of the composition of ownership in the broadcast world.

The revised ownership report filing process [was adopted so that the FCC could get an accurate report on the ownership of broadcast properties by minorities and women](#), a goal that has taken on added significance in light of the Third Circuit Court of Appeal's recent decision in *Prometheus Radio Project v FCC*, rejecting the FCC's efforts to diversify ownership in the media through the use of a system giving preferences to **qualified entities**, i.e. small businesses. As [we wrote last month](#), the Court found that the FCC's goal was to promote minority and female ownership, which was not fostered by its concentration on small businesses. One of the issues on which the Court faulted the FCC was the lack of information about the current broadcast ownership interests of minorities and women, so that the FCC could do a "**Adarand study**" as to whether there are effects of past discrimination reflected in the current ownership of broadcast stations that need to be remedied by **affirmative action efforts based on race or gender**. These new ownership reports are designed to help to provide that information.

Noncommercial broadcasters are not yet subject to these new Form 323 requirements and the obligation to submit the reports at the same time as their commercial brethren. The FCC is [still considering whether to put noncommercial broadcasters on](#)

[that same schedule](#). Until that decision is made, noncommercial broadcasters continue to file every other year on the anniversary of the due date for their last license renewal application.

Commercial broadcasters should be aware of this December 1 date, and make sure to comply with the Form 323 requirements. As this obligation applies to all commercial broadcasters, and now will have been in effect for two cycles, you can be sure that the FCC will not be too happy about broadcasters who miss this deadline this time around.

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