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## New Ownership Report Rules Require Companies with Investments in Broadcast Interests to Begin Making FCC Ownership Filings

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The Federal Communications Commission recently changed its ownership reporting rules for broadcasting stations. These changes expand the number of entities and people who are required to file biennial ownership reports with the FCC. Whereas previously only the broadcast licensee and parent entities of the broadcast licensee were required to file an ownership report, going forward any entity or person with an attributable interest in a full power commercial FM, AM, or TV broadcast station or in a low power television station ("LPTV") must now file biennially a separate Form 323 Report. The first deadline for filing a Form 323 Report under the new rules is December 15, 2009 and all information must be current through November 1, 2009. Future reports will be due on November 1 of every odd-numbered year, and reflect ownership information as of October 1 of that year.

### *What Constitutes an Attributable Interest*

As a preliminary matter, all officers and directors of licensee companies and of companies controlling licensees are attributable. For example, if Company A controls the licensee of a television station, and Company B holds more

than five percent of Company A's stock, the officers and directors of Company B (and its subsidiaries) are deemed to hold an attributable interest in the licensee. In addition, the FCC generally deems any person or entity holding **five percent** or more of the voting stock in a licensee or a company that controls the licensee of a broadcast station to be attributed with ownership of that station. Similarly, shareholders in companies with attributable interests in a licensee company may also be attributable if their share of the parent company is large enough to control five percent or more of the licensee. (For example, if Shareholder A held 25% in Parent Company B, which in turn held 30% of the voting stock in Licensee C, A would be deemed to hold a 7.5% interest in C and would be an attributable owner.)

In addition to holding voting stock, a person or entity may be deemed attributable if they hold any combination of debt and equity (voting or non-voting) which exceeds one third of the capital of a licensee or its parent **and** has an additional relationship, such as being a program supplier to the station or holding an attributable interest in another station in the same market.

If an interest in a broadcast licensee is held by a partnership or a limited liability company, all partners and members are presumed to be attributable. The FCC, however, allows partnerships and LLCs to "insulate" limited partners and non-managing members from attribution by adopting specified insulation provisions in the partnership or LLC's formation documents. **"Insulated" limited partners and non-managing members are not required to file ownership reports.**

### *Form 323 Ownership Report*

The FCC requires that Form 323 Reports be filed electronically through its website ([www.fcc.gov](http://www.fcc.gov)). In order to file a Form 323 Report an entity or

person must register with and receive a Federal Registration Number ("FRN") from the FCC. As a requirement to get an FRN, an entity must submit its Employer Identification Number while an individual must submit his or her Social Security Number. Each filer must also identify the FRN of the entity in which it holds an attributable interest as well as the Facility ID Number for the relevant broadcast station(s).

In addition to general information about the attributable interest holder, the Form 323 Report requires filers to provide specific information on the following topics (if applicable): gender, ethnicity, race, citizenship, positional interest in the underlying attributable entity, percentage of votes in the underlying attributable entity, and percentage of total assets (equity plus debt) in the underlying attributable entity. Further, attributable interest holders must provide information on any attributable interests in other broadcast stations and/or newspapers or cable entities in the same market or with overlapping signals. Individuals who hold attributable interests only through their investment in an entity with an attributable interest or their service as an officer or director do not have to file a report for themselves since their interest will be reported by the entity, but they are required to obtain an FRN to be disclosed on the entity's ownership report.

We would be happy to assist companies that hold interests in broadcasting stations to determine whether they are required to file an ownership report and to prepare and file those reports. Because of the sensitivity of Social Security Numbers, we suggest that individuals who previously were not required to obtain an FRN register themselves.

For a memo explaining how to obtain an FRN, please click [here](#).