

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval, Comments Requested

June 30, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 6, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at Nicholas_A_Fraser@omb.eop.gov or via fax at (202) 395-5167 and to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC or via Internet at Cathy.Williams@fcc.gov or PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal

Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR."

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0113.

Type of Review: Revision of a currently approved collection.

Title: Broadcast EEO Program Report, FCC Form 396.

Form Number: FCC Form 396.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 2,000 respondents and 2,000 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: At time of renewal reporting requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required.

Total Annual Burden: 3,000 hours.

Total Annual Cost: \$200,000.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Broadcast Equal Employment Opportunity (EEO) Program Report, FCC Form 396, is a device that is used to evaluate a broadcaster's EEO program to ensure that satisfactory efforts are being made to comply with FCC's EEO requirements. FCC Form 396 is required to be filed at the time of renewal of license by all AM, FM, TV, Low Power TV and International stations.

The Commission is revising this collection to remove the information collection requirements associated with OMB control number 3060-0120 (FCC Form 396-A) from the collection. Collection 3060-0120 was previously consolidated into information collection 3060-0113. The collections (3060-0113 and 3060-0120) are really different in nature and should not be consolidated. Therefore, we are requesting that they remain as two separate collections.

OMB Control Number: 3060-0120.

Type of Review: Reinstatement of a previously approved collection.

Title: Broadcast EEO Program Report, FCC Form 396-A.

Form Number: FCC Form 396-A.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 5,000.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required.

Total Annual Burden: 5,000 hours.

Total Annual Cost: None.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Broadcast Equal Employment Opportunity (EEO) Model Program Report, FCC Form 396-A, is filed in conjunction with applicants seeking authority to construct a new broadcast station, to obtain assignment of construction permit or license and/or seeking authority to acquire control of an entity holding construction permit or license. This program is designed to assist the applicant in establishing an effective EEO program for its station. The Commission is requesting reinstatement of OMB control number 3060-0120 by OMB. The collection was previously consolidated into information collection 3060-0113. The collections (3060-0113 and 3060-0120) are really different in nature and should not be consolidated. Therefore, we are requesting that they remain as two separate collections.

OMB Control Number: 3060-0647.

Title: Annual Survey of Cable Industry Prices ("Price Survey").

Form Number: FCC Form 333.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 758 respondents and 758 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 7,580 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is contained in Sections 4(i) and 623(k) of the

Communications Act of 1934, as amended. Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To receive confidential treatment of their data, respondents need only describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Section 623(k) of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to publish annually a statistical report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to "effective competition" and those not subject to effective competition. The data needed to prepare this report is collected using the annual cable industry Price Survey.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

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FEDERAL ELECTION COMMISSION

[Notice 2009-11]

Advisory Opinion Procedure

AGENCY: Federal Election Commission.

ACTION: Notice of New Advisory Opinion Procedures and Explanation of Existing Procedures.

SUMMARY: The Commission is establishing a program to allow persons requesting an advisory opinion, or their counsel, a limited opportunity to appear before the Commission. The purpose of their appearances is to answer questions from the Commission at the open meeting during consideration of the requestor's draft advisory opinion.

DATES: *Effective Date:* July 7, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Neven F. Stipanovic, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission is implementing a program allowing persons requesting advisory opinions, or

their counsel, to answer questions at the open meeting during consideration of an advisory opinion draft.

I. Background

On January 14 and 15, 2009, the Commission held a public hearing on possible changes to a number of its policies, practices, and procedures, including possible changes to the advisory opinion process. Information about the hearing is available on the Commission Web site at <http://www.fec.gov/law/policy/enforcement/publichearing011409.shtml>. The Commission received several public comments regarding the advisory opinion process. One issue generating significant attention was whether advisory opinion requestors, or their counsel, should be allowed to appear before the Commission during the advisory opinion process. After reviewing the public comments, the Commission has decided to allow requestors, or their counsel, to appear at the open meeting during consideration of an advisory opinion draft. The specific procedures are explained below.

A. Existing Advisory Opinion Procedures

Any person may request an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), or Commission regulations, to a specific transaction or activity by the person.¹ See 2 U.S.C. 437f; 11 CFR part 112. Requestors or their counsel ("Requestors") must submit their request in writing. 11 CFR 112.1. The Commission, in turn, must issue an advisory opinion within 60 days of receiving a complete advisory opinion request. 2 U.S.C. 437f(a)(1). The 60-day deadline is reduced to 20 days when a Federal candidate or a candidate's authorized committee submits a complete request within 60 days of a Federal election. 2 U.S.C. 437f(a)(2). At times, the Commission expedites certain highly significant, time-sensitive requests and issues these advisory opinions within 30 days. See *infra* Section I(E). Advisory opinions are issued if approved by at least four Commissioners.

Members of the public have two distinct opportunities to participate in the advisory opinion process. First, they may submit written comments on the advisory opinion request, which is released to the public and posted on the

Commission's Web site as soon as it becomes complete. 11 CFR 112.2; 112.3. Second, they may submit written comments on a draft advisory opinion, which typically is provided to the Requestor and made available to the public prior to the Commission meeting at which the advisory opinion will be considered.

B. Proposed Revisions to the Advisory Opinion Process

At the public hearing held on January 14 and 15, 2009, those commenters who addressed the advisory opinion process generally agreed that the Requestor should be allowed to appear before the Commission when the Commission considers the advisory opinion draft. The main concern with the existing advisory opinion process was the Requestor's inability to respond to Commissioners' questions during the open meeting. The commenters noted that when they represented Requestors, they sometimes found it frustrating to sit in the audience during the open meeting when the Commission was considering their request, with no opportunity to respond when Commissioners raised questions. To address this concern, the Commission is implementing a new procedure that would allow Requestors to appear before the Commission to answer questions at the open meeting when the Commission considers the Requestor's draft advisory opinion.

The Commission believes that this procedure will promote transparency and fairness, while ensuring that advisory opinions continue to be issued in an efficient and timely manner. It would permit the Requestors to answer directly Commissioners' questions. These appearances may clear up ambiguous or conflicting statements in the Requestors' written submissions or allow the Commission to obtain additional information where the Requestor's previous discussions with Office of General Counsel ("OGC") attorneys did not provide an answer. Allowing Requestors to appear would help ensure that the Commission fully considers all significant aspects of the proposed transaction or activity before voting on the advisory opinion. Appearances by Requestors may also help some Requestors to understand better the basis for the Commission's decision.

Some commenters suggested that the Commission should hold formal oral hearings on advisory opinion requests, similar to the probable cause hearings the Commission holds in enforcement matters, before it considers and votes on draft advisory opinions. See Procedural

¹The Act defines "person" as an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. 431(11).