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FEDERAL COMMUNICATIONS COMMISSION

[DA 19-1304; FRS 16387]

Media Bureau Announces Procedures for Processing License Renewal Applications for Commercial Radio Stations in Light of Third Circuit Mandate

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau announces revised processing procedures for applications to renew commercial radio station licenses, following the remand of certain Commission rules by the United States Court of Appeals for the Third Circuit, in its decision in *Prometheus Radio Project v. FCC*, 939 F.3d 567 (3d Cir. 2019), *petition for rehearing en banc denied* (3d Cir. Nov. 20, 2019) (*Prometheus*).

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Michael Wagner,

Michael.Wagner@fcc.gov, (202) 418-2775, or Tom Hutton, Tom.Hutton@fcc.gov, (202) 418-7266, of the Media Bureau, Audio Division. Press inquiries should be directed to Janice Wise, Janice.Wise@fcc.gov, at (202) 418-8165. Filers who have questions regarding basic filing requirements or who need assistance logging into LMS or amending Schedule 303-S should contact the Commission at (877) 480-3201 (Option 2), Monday – Friday, 8:00 am – 6:00 pm ET, or submit a request online at <https://fccprod.service-now.com/auls?id=esupport>.

SUPPLEMENTARY INFORMATION: By this Public Notice, the FCC’s Media Bureau announces revised procedures for commercial radio station renewal applications in light of the

United States Court of Appeals for the Third Circuit’s decision in *Prometheus*. In its decision, the court vacated and remanded the Commission’s *2010/2014 Quadrennial Review Order on Reconsideration*,¹ thereby reinstating the Commission’s Newspaper/Broadcast Cross-Ownership Rule and the Radio/Television Cross-Ownership Rule. On November 29, 2019, the Third Circuit issued its mandate in *Prometheus*. Letter from Patricia S. Dodszuweit, Clerk, *Prometheus Radio Project v. FCC*, Nos. 17-1107 *et al.* (3d Cir. Nov. 29, 2019). Accordingly, by order released December 20, 2019, the Commission’s rules have been amended to reflect the changes required by the court’s foregoing actions. *2014 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 et al.*, Order, DA 19-1304 (MB Dec. 20, 2019) (2019 Order). The purpose of this Public Notice is to clarify the application of these new rules as they bear on pending and future renewal applications.²

New Renewal Applications: Effective immediately, every licensee seeking renewal of a commercial station license must report any violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules contained in the revised section 73.3555 of the Rules. The Media Bureau is in the process of seeking approval from the Office of Management and Budget to add a new question on this topic to the renewal application, FCC Form 2100, Schedule 303-S. Pending that approval and effective immediately, all licensees must use the “FCC Violations during the Preceding License Term” question in the “Renewal Certification” section

¹ *2014 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 et al.*, Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 (2017) (*2010/2014 Quadrennial Review Order on Reconsideration*).

² Nothing in this Public Notice shall be construed to affect the right of the Commission or any other party to the *Prometheus* litigation to seek further review of the Third Circuit’s decision in the U.S. Supreme Court, or to limit the Commission’s discretion in the event that the Supreme Court were to take further action in that litigation.

of the renewal application to report any violations of section 73.3555.³ If the licensee (or any party with an attributable interest in the licensee) is in violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules, it must answer that question “No” and include an explanatory exhibit. Licensees should answer “No” and provide an explanatory exhibit even if the acquisition of an attributable interest in a newspaper/broadcast combination or radio/television combination has previously been approved by the Commission or its staff. If the licensee is not in violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules, and there have been no other violations of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term, it must answer that question “Yes.” The Media Bureau will issue a future Public Notice when a permanent question on this subject has been added to the renewal application.

Pending Renewal Applications: Each licensee that has a pending application for renewal of a commercial station license must update its application as described herein. Specifically, within 30 days of the date of this Public Notice, the licensee must file an amendment to its pending application⁴ as required by section 1.65 of the Commission’s rules, 47 CFR 1.65. This amendment must include an attachment certifying whether the station licensee (and each party

³ 47 CFR 73.3555. That question states, “Licensee certifies that, with respect to the station(s) for which renewal is requested, there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term. If “No”, the licensee must submit an explanatory exhibit providing complete descriptions of all violations.”

⁴ Licensees must use the Media Bureau’s LMS database to file this amendment. After logging into LMS, the licensee should click on the “Applications” tab at the top of the screen. The Applications tab enables licensees to amend pending renewal applications. Next, the licensee must click on the “Submitted” tab to see any pending renewal applications. Then, click on the application File Number to get to the screen to create the amendment. This is the “Application Summary” page. From this page, click on the “File an Application” button and select “Amend Application.” To add an attachment from any Application section, click on the “Attachments” link from the top/middle of the page. For Attachment Type, Select “Amendment.” Then, use the “Browse...” button to locate the appropriate attachment from your computer. Then, select the relevant document and click on “Open.” Next, add a description of the document and click on “Upload File.” Once this is complete, click on the “Back” button at the bottom of the page.

with an attributable interest in the licensee) complies with the Commission's cross ownership rules now in effect in revised section 73.3555. The attachment should state:

The station licensee (and each party with an attributable interest in the licensee) hereby certifies it is in compliance with the Newspaper/Broadcast and Radio/Television Cross-Ownership rules in revised 47 CFR 73.3555.

To the extent the licensee cannot certify compliance, it should file an explanation with all necessary showings. Licensees should address these rules in the amendment even if the acquisition of an attributable interest in a newspaper/broadcast combination or radio/television combination has previously been approved by the Commission or its staff. No action will be taken on pending renewal applications prior to submission of this amendment. Pending renewal applications will be processed once amendments are received.

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