



Federal Communications Commission
Washington, D.C. 20554

May 21, 2019

DA 19-451

Small Entity Compliance Guide

Amendment of Section 73.3613 of the Commission's Rules Regarding Filing of Contracts

**FCC 18-145
MB Docket Nos. 18-4 & 17-105**

This Guide is prepared in accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking dockets. This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 1-866-418-0232

I. OBJECTIVES OF THE PROCEEDING

In the *Report and Order* in MB Docket Nos. 18-4 and 17-105, released October 23, 2018, the FCC eliminated the paper filing requirement for broadcast station contracts and other documents specified in section 73.3613 of the Commission's rules.¹ Because stations already provide easy access to these documents via the online public inspection file, it is no longer necessary to retain the routine paper filing requirement for the documents.

The *Report and Order* advances the Commission's goal of eliminating outdated and unnecessary regulatory burdens that can impede competition and innovation in media markets. In addition, the decision is consistent with other actions the FCC has taken to reduce paper submissions and make documents available electronically.

II. COMPLIANCE REQUIREMENTS

Commercial and Noncommercial AM, FM, and TV Stations²

Instead of routinely filing paper copies of section 73.3613 documents with the FCC, licensees and permittees must either (i) upload the documents directly to the FCC-hosted online public inspection file (OPIF) or (ii) maintain an up-to-date list of the documents in the OPIF and provide copies to requesting parties within seven days. Licensees and permittees that maintain a list of documents in the OPIF must include on that list all of the information about the documents that the FCC requires on broadcast ownership reports (FCC Form 323/323-E), including a description of each document, the parties to the document, the month and year of execution, the month and year of expiration, and the document type. Regardless of whether a licensee or permittee chooses option (i) or (ii), the licensee or permittee must update the OPIF to reflect new section 73.3613 documents within 30 days of execution, including amendments, supplements, and cancellations.

In maintaining copies of section 73.3613 documents in the OPIF and providing copies upon request, licensees and permittees may redact information that is confidential or proprietary where appropriate. But if the FCC requests a copy of a document, then the licensee or permittee must provide the FCC with a complete, unredacted copy of the document within seven days. When doing so, licensees and permittees may seek nondisclosure of confidential or proprietary information contained in documents filed with the FCC in accordance with the Commission's general procedures for seeking nondisclosure of such information.³

Any confidential or proprietary information that is redacted must be marked consistently throughout the document. If a person believes that a section 73.3613 document has been inappropriately redacted, he or she may file a response in opposition in accordance with the FCC's rules if the licensee or permittee properly filed a request for confidential treatment of the material. Otherwise, the person may file a complaint with the FCC if he or she believes that the licensee or permittee violated the FCC's public file rules or redacted information that is not actually confidential or proprietary.

In addition to requiring that section 73.3613 documents be made available via the OPIF as discussed above, the FCC's OPIF rule for commercial stations also requires that all time brokerage agreements (TBAs) and joint sales agreements (JSAs) be uploaded directly to the OPIF for both the brokering and brokered stations.

¹ 47 CFR § 73.3613.

² The online public file requirements discussed in this section are contained in Sections 73.3526(e) and 73.3527(e) of the Commission's rules, 47 CFR §§ 73.3526(e)(5), (e)(14), (e)(16), & 73.3527(e)(4).

³ See 47 CFR § 0.459(a)(1).

As with Section 73.3613 documents, licensees and permittees of commercial AM, FM, and TV stations may redact information that is confidential or proprietary where appropriate, and licensees and permittees must update the OPIF to reflect new TBAs and JSAs within 30 days of execution, including amendments, supplements, and cancellations.

Low Power TV Stations

Instead of routinely filing paper copies of network affiliation agreements with the FCC, licensees and permittees of LPTV stations must provide network affiliation agreements to the FCC only upon request by the FCC and within seven days of the request. Unlike for other stations, for LPTV stations section 73.3613 applies only to network affiliation agreements. Licensees and permittees of LPTV stations may seek nondisclosure of confidential or proprietary information contained in network affiliation agreements filed with the FCC in accordance with the Commission's general procedures for seeking nondisclosure of such information.⁴

International Broadcast Stations

Instead of routinely filing paper copies of all section 73.3613 documents with the FCC, licensees and permittees of international broadcast stations must provide the documents to the FCC only upon request by the FCC and within seven days of the request. Licensees and permittees of international broadcast stations may seek nondisclosure of confidential or proprietary information contained in documents filed with the FCC in accordance with the Commission's general procedures for seeking nondisclosure of such information.⁵

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The compliance requirements discussed in Section II of this Compliance Guide include recordkeeping and reporting requirements. The FCC did not adopt any additional recordkeeping or reporting requirements in the *Report and Order*.

IV. IMPLEMENTATION DATES

The revised rules became effective 30 days after publication of the text of the *Report and Order* or a summary thereof in the Federal Register, i.e., on January 22, 2019.

V. INTERNET LINKS

Report and Order (R&O)

<https://www.fcc.gov/document/fcc-eliminates-paper-filing-broadcast-station-contracts>

Federal Register Summary of R&O

<https://www.govinfo.gov/content/pkg/FR-2018-12-21/pdf/2018-26595.pdf>

⁴ *Id.*

⁵ *Id.*