



Federal Communications Commission
Washington, D.C. 20554

August 23, 2017

DA 17-795

Small Entity Compliance Guide

Promoting Diversification of Ownership in the Broadcasting Services

FCC 17-42
MB Docket No. 07-294
MD Docket No. 10-234

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 *Order on Reconsideration* in MB Docket No. 07-294 and MD Docket No. 10-234, released April 21, 2017,¹ the Commission relieved noncommercial (NCE) broadcasters of the requirement that they must report a unique FCC Registration Number (FRN) for each attributable interest holder on ownership reports filed with the Commission, or risk being subject to enforcement action. The FCC had previously adopted this requirement when it revised FCC Form 2100, Schedule 323-E, Ownership Report for Noncommercial Broadcast Stations (formerly, FCC Form 323-E) in the *Report and Order, Second Report and Order, and Order on Reconsideration (Report and Order)* in MB Docket Nos. 07-294, 10-103, and MD Docket No. 10-234 on January 20, 2016.² In the *Report and Order*, the Commission adopted a number of revisions to FCC Form 2100, Schedule 323 (formerly FCC Form 323) and Schedule 323-E in an attempt to increase the comprehensiveness and reliability of the ownership data collected on the forms, while reducing certain filing burdens on broadcasters. However, one of these revisions required individuals holding attributable interests in NCE broadcast licensees—primarily officers and governing board members—to obtain a unique identifier, which required submission of personal information, such as a social security number or date of birth, to the Commission. NCEs claimed that this requirement would deter volunteers from serving as board members. On reconsideration, the Commission found that elimination of this requirement properly balances the need to improve the integrity and usability of the Commission’s broadcast ownership data with the public interest in avoiding the potential chilling effects this requirement could have on participation in noncommercial station governance.

II. COMPLIANCE REQUIREMENTS

This Compliance Guide supplements the prior *Compliance Guide*, DA 16-1372, released on January 9, 2017, and partially supersedes the prior *Compliance Guide*, specifically as it pertains to the requirement that the licensees of noncommercial educational broadcast stations report a unique identifier for all individuals holding attributable interests in the licensee, such as officers and governing board members. The draft of FCC Form 2100, Schedule 323-E in Appendix E of the *Report and Order* does not reflect the change subsequently adopted in the *Order on Reconsideration*. The Commission will announce when final versions of this form and FCC Form 2100, Schedule 323 are available online and when filers should begin using the revised forms.

1. **What new reporting requirements did the Commission adopt in the *Order on Reconsideration*?**

Before reviewing the new reporting requirements, it is important to understand the following terms and definitions:

The *Commission Registration System (CORES)* is a web-based, password-protected, registration system that assigns FCC Registration Numbers (FRNs) to entities and individuals.

A *CORES FRN* is a unique 10-digit FRN that is assigned by CORES to an entity or individual and that requires submission of the Taxpayer Identification Number or Social Security Number of the entity or individual during the CORES registration process.

An *FCC Registration Number (FRN)* is an identifying number that is assigned to those doing business with the FCC.

A *Restricted Use FRN* is an FRN that is assigned by CORES to an individual and that requires submission of the individual’s full name, residential address, date of birth, and only the last four

¹ *Promoting Diversification of Ownership in the Broadcasting Services et al.*, Order on Reconsideration, FCC 17-42 (Apr. 21, 2017).

² *Promoting Diversification of Ownership in the Broadcasting Services et al.*, Report and Order, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 398 (2016).

digits of his or her Social Security Number during the CORES registration process. The FCC adopted the Restricted Use FRN in the *Report and Order* in order to provide an alternative mechanism within the CORES that will allow an individual to obtain a unique FRN without having to submit his or her full Social Security Number to the Commission. Restricted Use FRNs may be used only to identify individuals (not entities) reported as attributable interest holders on Broadcast Ownership Reports.

A *Special Use FRN* is a number that is generated automatically by clicking a button and without registration in CORES. Unlike the CORES FRN and the Restricted Use FRN, the Special Use FRN is not associated with any information that allows the FCC to uniquely identify the person for whom the number was created.

Use of FRNs on Ownership Reports for Noncommercial Educational (NCE) Stations: In the *Report and Order* adopted in 2016, the FCC revised FCC Form 2100, Schedule 323-E to conform the reporting requirements for NCE stations more closely to those for commercial stations. Among other things, the FCC required NCE filers to submit a CORES FRN or Restricted Use FRN for each attributable interest holder reported on FCC Form 2100, Schedule 323-E (typically officers and governing board members). Filers were permitted to report Special Use FRNs for individuals that did not provide a means of reporting a valid CORES FRN or Restricted Use FRN, but only after the filer used reasonable and good-faith efforts to obtain a CORES FRN or Restricted Use FRN from or on behalf of the individual and only after they informed the individual of his or her obligation to obtain such an FRN and the risk of FCC enforcement action against the individual for failing to do so. Under the revised reporting requirements adopted in the *Order on Reconsideration*, however, the Commission suspended this requirement and granted NCE filers the discretion to use Special Use FRNs (which do not require disclosure of personal information) in lieu of CORES FRNs and Restricted Use FRNs on Form 2100, Schedule 323-E without having to first use reasonable and good-faith efforts to obtain a CORES FRN or Restricted Use FRN from an individual. As a result, an NCE filer is now not required to warn an individual about potential FCC enforcement action if the individual chooses not to provide the Commission with the personal information needed to obtain a CORES FRN or Restricted Use FRN.

III. RECORDKEEPING

A copy of all ownership and supplemental ownership reports and related material must be maintained and made available for public inspection as required by the Commission's local public inspection file rules for broadcast stations (47 CFR §§ 73.3615(g), 73.3526, 73.3527). These requirements were not affected by the *Order on Reconsideration*.

IV. INTERNET LINKS

Order on Reconsideration

- <https://www.fcc.gov/document/fcc-eases-reporting-burden-noncommercial-broadcaster-volunteers>

Report and Order

- <https://www.fcc.gov/document/fcc-adopts-order-improve-collection-broadcast-ownership-data>

Jan. 9, 2017 Compliance Guide

- <https://www.fcc.gov/document/323-and-323-e-order>

FCC Forms

- <https://www.fcc.gov/licensing-databases/forms>