

SUPPORTING STATEMENT

A. Justification:

1. Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order, *In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-228 ("Third DTV Periodic Report and Order") to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. In the Report and Order, the Commission adopted rules to ensure that, by the February 17, 2009 transition date, all full-power television broadcast stations (1) cease analog broadcasting and (2) complete construction of, and begin operations on, their final, full-authorized post-transition (DTV) facility. The Commission recognized that broadcasters may need regulatory flexibility in order to achieve these goals. Accordingly, the Commission affords broadcasters the opportunity for regulatory flexibility, if necessary, to meet their DTV construction deadlines. The Commission, however, must also ensure that no consumers are left behind in the DTV transition. Therefore, the Commission requires broadcasters that choose to reduce or terminate TV service to comply with viewer notification requirements.

Specifically, as a result of the Third DTV Periodic Report and Order, stations must comply with a viewer notification requirement (i.e., stations must notify viewers about their planned service reduction or termination) if:

- (1) The station will permanently reduce or terminate analog or pre-transition digital service before the transition date; or
- (2) The station will not serve at least the same population that receives their current analog TV and DTV service after the transition date.

Viewer notifications must occur every day on-air at least four times a day including at least once in primetime for the 30/60-days prior to the station's termination of full, authorized analog service. These notifications must include: (1) the station's call sign and community of license; (2) the fact that the station must delay the construction and operation of its post-transition (DTV) service or the fact that the station is planning to or has reduced or terminated its analog or digital operations before the transition date; (3) information about the nature, scope, and anticipated duration of the station's post-transition service limitations; (4) what viewers can do to continue to receive the station, *i.e.*, how and when the station's digital signal can be received; (5) information about the availability of digital- to-analog converter boxes in their service area; and (6) the street address, email address (if available), and phone number of the station where viewers may register comments or request information.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

- 2.** Information will be provided to consumers by full-power television broadcasters to notify their viewers about a planned TV service reduction or termination.
- 3.** Broadcasters will provide the required information to their viewers via their regular over-the-air broadcast signal. Such viewer notifications must occur every day on-air at least four times a day including at least once in primetime for the 30/60 days prior to the station's planned TV service reduction or termination.
- 4.** This agency does not impose a similar information collection on the respondents. There are no similar data available.
- 5.** In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. This collection is required only for stations seeking regulatory relief from the construction deadlines set for completion of post-transition facilities. We do expect several small broadcasters to request such relief and therefore this information collection requirement will impose some costs on small broadcasters. This collection, however, is needed to ensure that broadcasters, small and big alike, continue to retain their audiences after the transition by fully informing viewers of the steps necessary to keep watching. Small broadcasters rely completely on their viewing audience for their revenue stream, so this benefit should far outweigh any costs for this temporary requirement.
- 6.** Congress has mandated that after February 17, 2009, full -power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. There is a clear and compelling need for educational efforts directed toward consumers. If the Commission does not take action to ensure that viewers are informed about stations' planned TV service reduction or termination, some consumers may lose television service.
- 7.** This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).
- 8.** The Commission published a Federal Register Notice on April 9, 2008 (73 FR 19214) to seek public comment on the information collections contained in this supporting statement. No comments have been received to date.
- 9.** No payment or gift was provided to the respondents.
- 10.** There is no need for confidentiality.
- 11.** This collection of information does not address any private matters of a sensitive nature.

12. We estimate that there are approximately 1,050 full-power television broadcast stations that have not reported completion of their transition to DTV and, therefore, may need to pursue the provisions for regulatory relief that would require the viewer notifications at issue. The collection requires four (4) on-air notices per day for at least 30/60 days. We estimate that the station will spend 0.01 hours each keeping records for this information and 0.33 hours (20 minutes) each meeting with outside counsel. These requirements are for a total of 30/60 days and, once the respondent has fulfilled the 30/60-day requirements, the respondent satisfied its obligation under the collection. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

Total Number of Annual Respondents:

- **1,050 full power TV broadcast stations**

Total Number of Responses: 174,000 (78,000 + 96,000).

- 400 stations x 4 notices/day/station x 60 days = **96,000 notices (responses)**¹
- 650 stations x 4 notices/day/station x 30 days = **78,000 notices (responses)**²

174,000 notices (responses)

Total Annual Burden Hours for Respondents:

- **On Air Time:** We estimate that viewer notifications will require four minutes of air time per notice for the 60-day notices. Therefore, 400 stations x 4 notices/day/station x 0.067 hours (four minutes)/notice x 60 days = 6,432 hours.

We also estimate that viewer notifications will require four minutes of air time per notice for the 30-day notices. Therefore, 650 stations x 4 notices/day/station x 0.067 hours (four minutes)/notice x 30 days = 5,226 hours.

Therefore, the on air time burden is 6,432 hours + 5,226 hours = **11,658 hours to air notices.**

- **Recordkeeping:** We estimate that it will take each respondent around 0.01 hours to comply with the recordkeeping requirement.³ Therefore, **10 hours** of total recordkeeping for collection for all respondents.

¹ Stations that request STA approval to permanently reduce or terminate their analog service before the transition date must provide their viewers with on-air notifications every day for the 60-day period prior to the planned service reduction or termination.

² These are the other notifications or STA requests to reduce or terminate TV service require the station to provide their viewers with on-air notifications every day for the 30-day period prior to the planned service reduction or termination.

³ This estimate is minimal due to the recordkeeping requirement being kept on the station's tapes as proof that the requirement was meant.

Title: Viewer Notification Requirements in Third DTV Periodic Report and Order, FCC 07-228

- **Consultation Time:** We estimate that each respondent will consult with an outside attorney for 20 minutes⁴ to meet and provide information that will enable the outside attorney to prepare the viewer notifications. This notification will be played over a one to two month period. Therefore, each respondent will have a total of 0.33 hours of consulting time - 1,050 stations x 0.33 hours/respondent to provide necessary information to counsel = **347 hours**.
- **TOTAL ANNUAL BURDEN HOURS:**
11,658 hours + 10 hours + 347 hours = 12,015 hours

Total Annual "In-house cost": We estimate that the respondents would have an average salary of \$70,000/year (\$33.52/hour).

$$12,015 \text{ hours} \times \$33.52/\text{hour} = \mathbf{\$402,742.80}$$

13. Annual Cost Burden:

- (a) Total annualized capital/startup costs: None.
- (b) Total annual costs (O&M): **\$210,000**. We assume that the station would contract an attorney to prepare the viewer notifications. We estimate that it will take 1 hour to prepare the viewer notification. The attorney would have an average salary of \$200/hour. Therefore: 1,050 stations x 1 notice prepared by the attorney for each station which will be played over a one month period x \$200/hour = \$210,000.
- (c) Total annualized cost requested: **\$210,000**.

14. There is no cost to the Federal Government.

15. This is a new collection.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed at 47 CFR. Section 0.408.

18. The Commission published a Federal Register Notice ("Notice") on April 9, 2008 (73 FR 19214) to seek public comment on the information collections contained in this supporting statement. The Commission published the following information in the notice incorrectly: total number of respondent as 1,000, total number of responses as 120,000; total annual burden hours as 8,380 hours and the total annual costs as \$200,000. We correct those numbers to read: total number of respondents – 1,050; total number of responses – 174,000; total annual burden hours –

⁴ The burden is very minimal to the respondent.

OMB Control Number: 3060-XXXX

April 2008

**Title: Viewer Notification Requirements in Third DTV Periodic Report and Order, FCC
07-228**

12,015 and the total annual costs - \$210,000. There are no other exceptions to the Certification Statement in Item 19.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.