

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket Nos. 91-221 & 87-8; FCC 99-240]

Comment Sought on Processing Order for Applications Filed Pursuant to the Commission's New Local Broadcast Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on how to resolve conflicts resulting from two or more applications being filed on the same day relating to stations in the same market pursuant to new rules adopted August 5, 1999, in the local broadcast ownership proceeding.¹

COMMENTS: Comments must be filed on or before October 4, 1999. Reply comments must be filed on or before October 12, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A306, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Vicky Phillips, Chief, Legal Branch, Policy and Rules Division, Mass Media Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Alternatively, comments may also be filed by using the Commission's Electronic Comment Filing System (ECFS), via the Internet to <http://www.fcc.gov/e-file/ecfs.html>.

FOR FURTHER INFORMATION CONTACT: Vicky Phillips, Policy and Rules Division, Mass Media Bureau (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice*, FCC 99-240, adopted September 8, 1999 and released September 9, 1999. The full text of this Commission *Public Notice* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12 St. S.W., Washington, D.C. The complete text of this *Notice* may also be purchased from the Commission's copy contractor, International Transcription Services 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800. It is also available on the Commission's web page at www.fcc.gov/Bureaus/Mass_Media/Public_Notices/fcc99240.txt.

Synopsis of the Public Notice

1. By this *Public Notice*, the Commission requests supplemental comment in MM Docket Numbers 91-221 and 87-8 on procedures for processing applications filed pursuant to the Local Ownership Order adopted in the local broadcast ownership proceeding on August 5, 1999.² In that order, we stated that "[a]pplications filed pursuant to this Report and Order will not be accepted by the Commission until the effective date" of the order, which will be sixty days after publication in the **Federal Register**.³ We also said: "We realize that the rules adopted in this Report and Order could result in two or more applications being filed on the same day relating to stations in the same market and that due to the voice count all applications might not be able to be granted. We will address how to resolve such conflicts in a subsequent action."⁴ This Notice seeks comment on how to resolve such conflicts.

2. Ordinarily, we would process these applications in the order in which they are filed. Generally, however, we treat broadcast applications filed on the same day as being filed simultaneously, regardless of the time of filing. Under the Commission's new local ownership rules, as we noted in the Local Ownership Order, we anticipate that applications for transfer or assignment might be filed on the same day relating to stations in the same market that will not all be able to be granted due to the voice counts that apply to the local ownership rules. The order in which the applications are processed would thus be determinative in these situations. Similar issues could arise in the radio-television cross ownership rule context, in situations in which grant of one application will bring the voice count down to ten or twenty, such that certain other applications relying on the minimum voice count for compliance with the rule could not be granted.

3. We believe that the most prudent, easy to administer, and fair method for determining the order in which applications filed on the same day will be processed is by random selection. Under this procedure, each potentially conflicting applicant in a market would be assigned a random number which would be determined by use of one or more forced-air blowers each containing numbered ping-pong balls. The applications would then be processed in ascending order based upon their randomly assigned numbers.

4. We thus seek comment on the use of random selection to determine processing order, as well as on any alternatives, such as auctions or first-come, first-served, that are both fair and easy to administer. We also seek comment on when the lotteries, if they are implemented, should be held relative to the filing of applications.

5. Because of timing concerns, we also anticipate that the rules adopted will be made effective upon publication in the **Federal Register**.⁵ We seek comment on these issues.

6. *Filing of Comments and Reply Comments.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 4, 1999. Reply comments must be filed on or before October 12, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

8. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, TW-A306, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The Mass Media Bureau contacts for this proceeding is Vicky Phillips at (202) 418-2120.

9. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room CY-A257) 445 12th Street, S.W., Washington, D.C. 20554.

¹ Report and Order in MM Docket Nos. 91-221 & 87-8, FCC 99-209 ("Local Ownership Order"), published elsewhere in this separate part.

² *Id.*

³ *Id.* at ¶¶ 150, 155.

⁴ *Id.* at ¶ 150.

⁵ See 5 U.S.C. 553(d)(3) (exception to 30-day effective date period for good cause).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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