

FCC FACT SHEET*

Modernization of Media Regulation Initiative: Streamlined Reauthorization Procedures for Assigned or Transferred Television Satellite Stations

Notice of Proposed Rulemaking – MB Docket Nos. 17-105 and 18-63

Background: Television satellite stations are full-power terrestrial broadcast stations that generally retransmit some or all of the programming of another television station, known as the parent station. Typically, the parent and satellite stations are commonly owned or operated. Television satellite stations are excepted from the broadcast ownership limits, most notably, the local television ownership rule. For this exception to apply, licensees must obtain authorization as a satellite from the Commission. Such satellite status must be reauthorized if the station is transferred or assigned. The Commission evaluates requests for new and continued satellite status on an *ad hoc* basis, taking into consideration whether: (1) there is contour overlap between the stations; (2) the satellite station serves an underserved area; and (3) any alternative operator is ready and able to purchase and operate the satellite station as a full-service, stand-alone station. The showing that is required for the reauthorization of an existing satellite station is the same as is required for an initial satellite authorization.

In response to the Public Notice launching the Commission's *Modernization of Media Regulation Initiative*, commenters asserted that requiring the same evidentiary showing for a reauthorization request that was made for the initial satellite authorization is unnecessarily costly and burdensome for both the applicants and the Commission.

What the Notice Would Do:

- Propose to streamline the process for reauthorizing television satellite stations when they are assigned or transferred in combination with their previously approved parent station while ensuring that the Commission and public have adequate information to assess whether reauthorization serves the public interest.
- Seek comment on a proposal whereby the applicants to the transaction could: (1) certify that there has been no material change in the underlying circumstances that the Commission relied upon in granting the current satellite authorization, and (2) provide a copy of the most recent decision granting that authorization.
- Tentatively conclude that if the above two criteria are met, station owners would not have to make the full showing that currently is required and the Commission would not need to provide a written decision granting such reauthorization.

* This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MB Docket No. 18-63, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Streamlined Reauthorization Procedures for) MB Docket No. 18-63
Assigned or Transferred Television Satellite)
Stations)
Modernization of Media Regulation Initiative) MB Docket No. 17-105

NOTICE OF PROPOSED RULEMAKING*

Adopted: []

Released: []

Comment Date: (30 days after date of publication in the Federal Register)
Reply Comment Date: (45 days after date of publication in the Federal Register)

By the Commission:

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking (NPRM), we propose to streamline the process for reauthorizing television satellite stations when they are assigned or transferred in combination with their previously approved parent station. Under current rules, authorized television satellite stations, which generally retransmit some or all of the programming of their parent station, are excepted from media ownership limits.1 In order for the exception to apply, a television station must obtain authorization as a satellite from the Commission, and it must be reauthorized as a satellite at the time of assignment or transfer of control. In response to the Public Notice launching the Commission’s Modernization of Media Regulation Initiative,2 commenters assert that the reauthorization of the satellite exception can be costly and burdensome for both the station owner and the Commission.3 We propose to streamline the reauthorization process in order to eliminate potentially needless regulatory expense and delay. With this proceeding, we continue our efforts to modernize our regulations and reduce unnecessary requirements that can impede competition and innovation in the media marketplace.

* This document has been circulated for tentative consideration by the Commission at its March 2018 open meeting. The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

1 47 CFR § 73.3555, Note 5.

2 See Commission Launches Modernization of Media Regulation Initiative, Public Notice, 32 FCC Rcd 4406 (MB 2017) (Modernization Initiative Public Notice).

3 Letter from Kevin P. Latek, Executive Vice President, Gray Television, Inc. (Gray), to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-105 (filed June 26, 2017) (Gray June 26, 2017 Ex Parte Letter).

II. BACKGROUND

2. *Regulatory Treatment of Television Satellite Stations.* Television satellite stations are full-power terrestrial broadcast stations authorized under Part 73 of the Commission's rules that generally retransmit some or all of the programming of another television station, known as the parent station, which typically is commonly owned or operated with the satellite station.⁴ The Commission initially authorized television satellite stations in sparsely populated areas with insufficient economic bases to support full-service stations and more recently in larger markets when the proposed satellite could not operate as a full-service station.⁵ Television satellite stations are exempted from the local and national television multiple ownership limits, but from a practical perspective, the ownership exception is significant only for purposes of the Local Television Ownership Rule.⁶

3. In 1991, the Commission revised the standards for television stations seeking satellite status and the corresponding ownership exception.⁷ The Commission adopted a rebuttable presumption that stations would qualify for satellite status if: (1) there was no City Grade overlap between the parent and the satellite station; (2) the satellite station served an underserved area; and (3) no alternative operator was ready and able to construct or to purchase and operate the satellite station as a full-service station.⁸ The Commission established detailed evidentiary standards for meeting the second and third criteria.⁹ If

⁴ See *Television Satellite Stations Review of Policy and Rules*, Report and Order, 6 FCC Rcd 4212, 4212, para. 3 (1991) (*Satellite Stations Order*).

⁵ *Id.* at 4212, para. 5.

⁶ The ownership exception is set forth in Note 5 of Section 73.3555. 47 CFR § 73.3555, Note 5. The Local Television Ownership Rule prohibits an entity from owning or controlling more than two television stations in the same local market. *Id.* § 73.3555(b). The National Television Multiple Ownership Rule prohibits entities from owning or controlling television stations that, in the aggregate, reach more than 39 percent of the television households in the country. *Id.* § 73.3555(e). The satellite exception does not have practical relevance for the national television cap. Households are not double-counted when a satellite station and its parent operate in the same local television market, and the Note 5 exception does not apply when a satellite station and its parent operate in separate markets. *Broadcast Television National Ownership Rules, Review of the Commission's Regulations Governing Television Broadcasting, Television Satellite Stations Review of Policy and Rules*, Report and Order, 15 FCC Rcd 20743, 20745-50, paras. 4-23 (1999).

⁷ *Satellite Stations Order*, 6 FCC Rcd at 4213-15, paras. 12-20. Gray seems to suggest that the satellite exception also applies to the Commission's Main Studio Rule. See Gray June 26, 2017 *Ex Parte* Letter at 1; but see *id.* at 2 (distinguishing the satellite exception from the Main Studio waiver). We clarify that waivers of the Main Studio Rule had to be obtained separately from satellite exceptions to the multiple ownership rules and that this NPRM has no implications for waivers of the Main Studio Rule, which are now largely superseded by the recent elimination of that rule. See *Elimination of Main Studio Rule*, Report and Order, 32 FCC Rcd 8158, 8167-68, 8173, paras. 16, 26 (2017).

⁸ *Satellite Stations Order*, 6 FCC Rcd at 4213-14, 4214-15, paras. 12, 18-20; see also *Broadcast Television National Ownership Rules, Review of the Commission's Regulations Governing Television Broadcasting, Television Satellite Stations Review of Policy and Rules*, 15 FCC Rcd 20743, 20745, para. 4 (1999) ("The Commission does not authorize satellite operation unless it is demonstrated that the frequency would likely go unused otherwise. As a result, satellite stations typically operate in areas that are likely to provide television broadcasters relatively little opportunity for growth and profit when compared with larger markets.").

⁹ Regarding the second criterion, an area would qualify as underserved if: (1) there were two or fewer full-service stations licensed to the proposed satellite's community of license (the "transmission test") and (2) at least 25 percent of the area within the proposed satellite's Grade B contour—but outside the parent's Grade B contour—received four or fewer television services, including educational, satellite, low-power, and translator services, but excluding the proposed satellite service (the "reception test"). Under the third criterion, a diligent search for an alternative operator could be evidenced in various ways, such as the listing of the station with a broker, the paucity of resulting inquiries, and the reasons for any failed negotiations. *Satellite Stations Order*, 6 FCC Rcd at 4215, paras. 19-20.

an applicant could not qualify for the presumption, the Commission would evaluate the proposal on an *ad hoc* basis and grant the application if there were compelling circumstances warranting approval.¹⁰

4. To help encourage satellite stations to air more of their own programming, the Commission eliminated the previous requirement that no more than five percent of a station's programming could be locally originated in order for the station to maintain its satellite status.¹¹ The Commission stated that allowing satellite stations to exceed that limit would promote its diversity and localism goals. It recognized, however, that its action had potential ramifications for subsequent transfers or assignments of such stations because a satellite station could become more like a full-service station based on its origination of local programming.¹² Accordingly, it required applicants seeking to transfer or assign a parent/satellite combination that otherwise would violate the Local Television Ownership Rule to demonstrate that the conditions that had warranted satellite status under the *Satellite Stations Order* continued to exist at the time of any subsequent transfer or assignment.¹³

5. The transition to digital television service in 2009 complicated the assessment of the first prong of the Commission's presumptive standard in that there is no digital counterpart to a station's analog City Grade contour. Accordingly, in the 2010/2014 Quadrennial Review proceeding, the Commission clarified that, consistent with case law developed after the transition, it will evaluate requests for new and continued satellite status on an *ad hoc* basis,¹⁴ while, as a practical matter, the second and third prongs of the Commission's presumptive standard still serve as guidelines under the *ad hoc* review. This shift in approach did not change the burden of proof for initial satellite station authorizations or requests for continued satellite status in the transfer or assignment context.

6. *Modernization of Media Regulation Initiative.* In May 2017, the Commission issued a Public Notice launching a review of its media regulations to eliminate or modify rules that are outdated, unnecessary, or unduly burdensome.¹⁵ In response to that Public Notice, Gray urges the Commission to streamline the process for demonstrating that a television satellite station remains eligible for satellite status in connection with an assignment or transfer of the station.¹⁶ Gray argues that the current process for reauthorizing a satellite exception is lengthy, costly, unnecessary, and serves no rational purpose.¹⁷ Nexstar Broadcasting, Inc. (Nexstar) supports Gray's recommendation, calling it "the very type of logical reform that the Commission envisioned when it commenced this [modernization] proceeding."¹⁸

¹⁰ *Satellite Stations Order*, 6 FCC Rcd at 4214, para. 14. The Commission has accepted alternative showings under the *ad hoc* standard based on various criteria, including expert declarations as to the signal quality, geographic conditions, and/or market conditions and the expected difficulty of finding a buyer to operate the station on a standalone basis. See, e.g., *Shareholders of Tribune Co., Transferors & Sam Zell, et al. Transferees & Applications for the Renewal of License of KTLA(TV), Los Angeles, California, et al.*, 22 FCC Rcd 21266, 21282-83, paras. 49-52 (2007); *David D. Burns, Esq. Gregory L. Masters, Esq.*, 22 FCC Rcd 19218, 19219-20 (MB 2007).

¹¹ *Satellite Stations Order*, 6 FCC Rcd at 4215-16, paras. 21-25.

¹² *Id.* at 4215-16, paras. 23-24.

¹³ *Id.* at 4215-16, para. 24.

¹⁴ *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.*, Second Report and Order, 31 FCC Rcd 9864, 9876, para. 32 n.72 (2016).

¹⁵ *Modernization Initiative Public Notice*, 32 FCC Rcd at 4406.

¹⁶ Gray June 26, 2017 *Ex Parte* Letter at 1.

¹⁷ *Id.* at 2.

¹⁸ Nexstar Comments at 18-19.

III. DISCUSSION

7. As discussed in greater detail below, we tentatively conclude that the process for reauthorizing satellite status when a television satellite station is assigned or transferred in combination with its previously approved parent station should be streamlined.¹⁹ We believe that the existing process imposes an unnecessary burden on station owners by requiring them to expend time and resources in demonstrating that a satellite exception is warranted for a previously approved parent/satellite station combination where the underlying circumstances have not materially changed.²⁰ Further, the time and expense involved in obtaining a reauthorization may create an artificial disincentive for potential purchasers of satellite stations, which typically are in rural and economically depressed areas and often in need of investment.²¹ In addition, as Gray notes, the sale of a satellite station does not necessarily indicate that the underlying conditions warranting the satellite authorization have changed, as evidenced by the fact that the Commission has never rejected a request for a continued satellite exception despite the numerous reauthorization requests it has processed.²² This approval record raises questions as to the benefit gained by spending Commission resources on time-consuming reviews of detailed reauthorization requests.

8. We seek comment on ways to streamline the reauthorization process while also ensuring that the process affords the Commission and the public adequate information to determine whether reauthorization serves the public interest. Consistent with Gray's proposal, we tentatively conclude that the public interest will be served by permitting a previously approved parent/satellite station combination to be assigned or transferred without the reauthorization request that currently is required and without a written Commission decision granting reauthorization if the following two conditions are met.²³ First, as proposed by Gray, the assignment or transfer application must include a certification by both parties to the transaction that the underlying circumstances that the Commission relied upon in granting the current satellite authorization have not changed materially since the issuance of the most recent authorization.²⁴ Second, the assignment or transfer application must include a complete copy of the most recent written Commission decision (e.g., Letter Order) granting the satellite exception for the current parent/satellite combination. As Gray notes, the existing petition to deny/informal comment process applicable to the assignment or transfer of licenses would provide interested parties that disagree with the applicants' certification an opportunity to present their objections.²⁵ The applicants could respond within the normal pleading cycle, and the Commission then would have a record upon which to make a determination. We believe that this process will provide the Commission and the public with a sufficient opportunity to review the transaction to ensure that continued satellite status is warranted. If any objections to the

¹⁹ As explained below, we propose to limit the application of any streamlined procedures we may adopt to transactions involving the satellite station and the station that the Commission considered to be its parent at the time that it granted satellite status or most recently re-authorized satellite status, whichever is later. Thus, our preliminary view is that any new procedures would not apply when a licensee seeks approval for a transaction that would replace the current parent station with a different parent station. *See infra* para. 10.

²⁰ *See* Gray June 26, 2017 *Ex Parte* Letter at 3; *see also* Nexstar Comments at 18-19.

²¹ *See* Gray June 26, 2017 *Ex Parte* Letter at 2.

²² *See id.*

²³ *Id.* at 3. We note that any action related to satellite station reauthorizations would not prejudice whether a written decision on the assignment or transfer of control application may be necessary for other reasons.

²⁴ *Id.* We note that reauthorization requests generally are submitted as part of an assignment or transfer application and that both parties must certify to the accuracy of the information in the application. Thus, we do not believe that requiring both parties to certify that no material changes have occurred would be unreasonable, and further it would enhance the reliability and accountability of the proposed certification process.

²⁵ *See id.* at 4; Letter from John R. Feore, Cooley, LLP, Counsel to Gray Television, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-105 at 1 (filed Oct. 11, 2017).

satellite station's reauthorization are raised, any decision on the application would require a written decision that would include an explanation for the reauthorization decision. Absent such objections, however, the application could be granted without a written decision (provided that there are no other issues that require designation of the application for hearing or otherwise warrant a written decision).

9. We seek comment on all aspects of this proposal. For example, what impact, if any, would the proposal have on small entities? In addition, what showing should the Commission require in the event that the Commission's most recent decision granting satellite status, which may never have been published or put in the public record, is unavailable or does not specify the facts and circumstances surrounding the grant? We also seek comment on how the Commission should memorialize its reauthorization approval when the approval of an assignment or transfer application is not a written decision explaining the scope and basis of the Commission's decision but instead is recorded only on the FCC Form 732. In such circumstances, what information should the Commission include in the FCC Form 732 authorization regarding the satellite station? In addition, to obtain reauthorization approval, is it sufficient for applicants to certify generally that there has been no material change in the circumstances that warranted the station's most recently authorized satellite status? What types of changes would be considered material? For example, would a change in contour be material if the lack of contour overlap was part of the basis upon which the underlying satellite status was granted? If the current authorization is not based on a finding that the service area was underserved or on a finding that the licensee undertook a diligent but unsuccessful search for a buyer, but instead on alternative showings, what would constitute a material change in circumstances? Alternatively, should the Commission require the applicants to attest to a set of more specific facts relevant to the Commission's usual considerations in determining satellite status? For example, where relevant, should the applicants specifically certify that the service area remains underserved as the Commission has defined that term?²⁶ What other specific certifications, if any, would be useful to require without defeating the purpose of streamlining the reauthorization process?

10. As discussed above, we propose that any streamlined reauthorization procedures we adopt be restricted to transactions that involve the assignment or transfer of a television satellite station in combination with its previously approved parent station. Gray argues, however, that satellite status should not be limited to a particular parent/satellite combination. Rather, Gray suggests that licensees should have the flexibility to change a satellite station's parent without needing to repeat the full showing required for an initial satellite exception.²⁷ We tentatively conclude that changing a station's parent constitutes a material change in the underlying circumstances that the Commission relied upon in granting the most recent authorization. Indeed, satellite station determinations are fact specific inquiries that rely in part on the identity of the specific stations involved. Therefore, our preliminary view is that such a change calls for a closer look at the satellite station request, i.e., the applicants must make the showing for an initial satellite station authorization. Unlike renewals of previously approved parent/satellite combinations, the Commission and the public have never had an opportunity to review the particular circumstances of the new combination. While there may be significant public interest benefits associated with a change in parent station, as Gray suggests,²⁸ we are skeptical at this point that the potential for benefits in some circumstances obviates the need for Commission review of the proposed new parent/satellite combination. Nevertheless, we seek comment on this issue.

11. Ultimately, we believe that this proposal to streamline the reauthorization process for television satellite stations is consistent with our efforts to modernize our regulations and will encourage investment in such stations by removing unnecessary constraints on their transferability. We seek comment on the costs and benefits associated with our proposals herein. For example, how much time, effort, and expense do reauthorization requests usually require now, and what cost savings could be

²⁶ See, e.g., *Satellite Stations Order*, 6 FCC Rcd at 4215, para. 19.

²⁷ Gray June 26, 2017 *Ex Parte* Letter at 3-4.

²⁸ *Id.* at 4 n.5.

achieved by allowing licensees to certify that there have been no material changes, given that a licensee must exercise due diligence in ascertaining the facts needed to support any such certification? Are there any benefits other than cost savings that are likely to occur from streamlining, and if so, how likely are such benefits to arise from the streamlining proposal we offer for comment? Based on the Commission's experience processing transactions that include satellite station reauthorizations, we do not believe that the proposals herein will impair our, or interested parties', ability to meaningfully review such transactions. We seek comment, however, on any negative consequences of streamlining, including whether this proposal will require applicants or other stakeholders to incur any additional costs beyond what they currently incur. We also seek comment on any alternative approaches. Any party advocating for an alternative approach should be as detailed as possible and should explain the costs and benefits of any recommended approach.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Act Certification

12. The Regulatory Flexibility Act of 1980, as amended (RFA),²⁹ requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”³⁰ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³¹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.³² A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

13. In this NPRM, the Commission seeks comment on how to streamline the process for reauthorizing television satellite stations when they are assigned or transferred in combination with their previously approved parent station. The potential rule changes discussed in the NPRM stem from a Public Notice issued by the Commission in May 2017 launching an initiative to modernize the Commission's media regulations.³³ Commenters in the proceeding argued that the Commission should streamline the process for demonstrating that a television satellite station remains eligible for satellite status in connection with an assignment or transfer of the station because, they contend, the current process is lengthy, costly, unnecessary, and serves no rational purpose.³⁴ The proposals upon which the NPRM seeks comment are intended to reduce unnecessary regulation and regulatory burdens that can impede competition and innovation in the media marketplace.

14. The Commission estimates that the rule changes proposed in this NPRM, if adopted, would reduce the time and expense associated with reauthorizing television satellite stations when they

²⁹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

³⁰ 5 U.S.C. § 605(b).

³¹ *Id.* § 601(6).

³² *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

³³ See generally *Modernization Initiative Public Notice*, 32 FCC Rcd 4406 (initiating a review of rules applicable to media entities to eliminate or modify regulations that are outdated, unnecessary, or unduly burdensome).

³⁴ Gray June 26, 2017 *Ex Parte* Letter at 1-2; Nexstar Comments at 18-19.

are assigned or transferred in combination with their previously approved parent station. For example, the NPRM proposes that, instead of needing to make the same type of showing that was required for the station's initial satellite authorization, the parties to the proposed transaction could certify that there has been no material change in the underlying circumstances since the current satellite authorization was granted by the Commission. In addition, a complete copy of the written Commission decision granting the current satellite exception would need to be provided with the assignment or transfer application. The NPRM seeks comment on various aspects of the streamlining proposal and on any alternative approaches.

15. The Commission believes that the proposals on which it seeks comment in this NPRM would reduce costs and burdens currently associated with transactions involving television satellite stations, including those that are small entities. As transactions involving television satellite stations usually comprise a very small percentage of the total number of television transactions processed by the Commission and originate from a similarly small segment of the overall industry, the number of small entities impacted would not be substantial for RFA purposes.³⁵ Therefore, the Commission certifies that the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the NPRM, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.³⁶ This initial certification will also be published in the Federal Register.³⁷

B. Initial Paperwork Reduction Act Analysis

16. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Ex Parte Rules

17. Permit-But-Disclose. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.³⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be

³⁵ For example, based on Media Bureau staff analysis of the Commission's Consolidated Database System (CDBS) transaction data, in 2017, only eight of the 161 full-power commercial television stations transferred or assigned (excluding pro forma transactions) were satellite stations. *See Bonten Media Group, LLC*, Letter Order, 32 FCC Rcd 5133 (MB 2017); *Applications for Consent to Transfer Control of License Subsidiaries of Media General, Inc. from Shareholders of Media General, Inc. to Nexstar Media Group, Inc.*, Memorandum Opinion and Order, 32 FCC Rcd 183 (MB 2017). Based on staff experience, the percentage of satellite stations in the overall transaction data for 2017 is consistent with previous full-year transaction data.

³⁶ 5 U.S.C. § 605(b).

³⁷ *Id.*

³⁸ 47 CFR §§ 1.1200 *et seq.*

found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Filing Requirements

18. Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

19. Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

20. People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

E. Additional Information

21. For additional information on this proceeding, contact Julie Salovaara of the Industry Analysis Division, Media Bureau, at Julie.Salovarra@fcc.gov or (202) 418-2330.

V. ORDERING CLAUSES

22. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303(r), 309, and 310, this Notice of Proposed Rulemaking **IS ADOPTED**.

23. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary