

December 22 Comment Deadline Set for FCC Proposal for Online Public Inspection File for TV - What is the Regulatory Burden?

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The FCC has set the date for comments on the proposal for television stations to maintain an **online public inspection file**, including an **online political file** (see Federal Register notice [here](#)). Comments are due on **December 22**. Replies are due on **January 6**. Happy Holidays from the FCC! We summarized the FCC's proposals [here](#) and [here](#). While the proposed new rules will relieve stations from the burden of hosting the files themselves (as the FCC is proposing to host all of the files on its own servers), it still requires that stations upload their information - including all information that is put in their political file, into a new electronic reporting system to be devised by the FCC. As we described in detail [in our summary of the proposal for the online public file](#), the FCC is asking whether certain new public file obligations should be added to those currently in place. These include possible **posting of comments on programming that come from the station's social media efforts** in addition to the letters and emails currently required; a proposed requirement to place in the public file **information about sponsorship identification of all "pay for play" material** that is broadcast on a station (currently only broadcast, not kept in any paper form); a requirement to provide information about **shared services agreements** and the programming that they provide to a station; and a requirement that all information about **fines and other enforcement actions** taken against a station be posted to the online file. So how much does the FCC think that this will cost stations?

As [we wrote](#) yesterday, in adopting rules, the FCC is currently bound by the Paperwork Reduction and the Regulatory Flexibility Acts, both of which require some assessment of the impact of new regulations, particularly on small businesses. In the Federal Register publication, the FCC's assessment of the regulatory burden of these proposed new obligations is broken down into several pieces. The burden for the new online public file requirement, including the posting of the political file, is set forth as follows:

- ❖ *Respondents/Affected Parties:* Business or other for-profit entities; Not for-profit institutions; Individuals or households
- ❖ *Number of Respondents and Responses:* 25,422 respondents; 59,833 responses
- ❖ *Estimated Time per Response:* 1 to 104 hours.
- ❖ *Frequency of Response:* On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement
- ❖ *Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C 151, 152, 154(i), 303, 307 and 308
- ❖ *Total Annual Burden:* 2,158,909 hours
- ❖ *Total Annual Costs:* \$801,150.00

Stations should look at and evaluate these numbers as part of their response, as the FCC has invited a cost-benefit analysis of the proposed new rules. How is it that the FCC assumes that the regulatory burden would be over 2 million hours, but that the costs would be less than a million dollars? How will this work be done and paid for? It is also interested in that the number of respondents is listed as 25,422. As there are only 1,782 full-power television stations and about 450 Class A stations according to the last [FCC Report on station totals](#), who else is expected to report on this form? The FCC, in its Notice of Proposed Rulemaking, specifically exempted radio from the obligations for an online public file - at least for the time being.

A separate assessment is made of the need to collect information to meet the new sponsorship identification. The FCC expects 22,761 respondents and 1,831,610 responses, but expects each response to take only .0011 to .2011 hours (about a minute to 12 minutes). This leads to an estimate of a total annual burden of 242,633 hours at a cost of \$33,828. Again, do these estimate seem realistic? When has anyone even been able to log onto an FCC database and submit required information in one minute - much less to gather information about the sponsorships that may be included in each program that is broadcast and to get it organized for submission to the FCC's online public file system.

The comment date is not yet set for the related proceeding for a new FCC Form to replace the never-implemented **Form 355**. As we [wrote last week](#), this new form will require that television broadcasters (for now, with radio to be included at some later date) document very specific facets of their public interest service - for inclusion in the new online public file. Watch for comment deadlines on the proposal for this new form shortly. And, perhaps while you are preparing for the holidays and preparing your comments, you can ask Santa for some help at your stations to upload your information to this new online public file, as it may be only by borrowing Santa's helpers that you'll be able to meet the burdens that the FCC imposes at the costs that it projects.

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