



April 1, 2013

VIA E-MAIL

Nicholas A. Fraser
Office of Management and Budget
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Cathy Williams
Federal Communications Commission
PRA@fcc.gov and Cathy.Williams@fcc.gov

Re. OMB Control No. 3060-0010
Ownership Report for Commercial Broadcast Stations, FCC Form 323

Dear Mr. Fraser and Ms. Williams:

Asian American Justice Center (AAJC), member of the Asian American Center for Advancing Justice, submits the following comments pursuant to the Notice and request for comment regarding changes to FCC Form 323, 78 Fed. Reg. 13876 (proposed Mar. 1, 2013). AAJC is dedicated to promoting a fair and equitable society for all by working for civil and human rights and empowering Asian Americans, Native Hawaiians and Pacific Islanders (Asian Americans and NHPs), and other underserved communities. We provide the growing Asian American and NHP communities with multilingual support and culturally appropriate legal services, community education, and public policy and civil rights advocacy. In the communications field, AAJC works to promote universal access and reduce barriers to critical technology, services, and the media.

FCC Form 323 is an important report “to obtain complete, reliable, and accurate data on racial and ethnic minority and female broadcast ownership.”¹ Unfortunately minority and female broadcast ownership is at abysmal levels and it is critical that the Commission take steps to increase ownership level, including accurate data collection and monitoring.²

Removal of “Two or more races” option

AAJC supports removal of the “Two or more races” option under the Gender/Ethnicity/Race Information section (page 7) in favor of allowing filers to select more than one race category. The FCC’s current categorization of persons who identify with more than one race category in a “Two or More Races” category overrides 1997 and 2000 OMB direction on this matter and would compromise civil rights enforcement and monitoring.³ When OMB conducted its review of the collection of racial and ethnic data for federal statistical and law enforcement purposes, it specifically rejected the proposal to have a “multiracial” category.⁴

Use of a catch-all category can lower or inflate the actual number of broadcast station owners from a specific community, which could impede civil rights enforcement and ownership monitoring. A “two or more races” category is meaningless for civil rights and research purposes since it can include people who were from two

¹ See FCC, *Report on Ownership of Commercial Broadcast Stations* (Nov. 14, 2012).

² See Letter from American Civil Liberties Union *et al.* to Chairman Julius Genachowski *et al.* (Dec. 26, 2012) available at <http://apps.fcc.gov/ecfs/document/view?id=7022092035> (including AAJC as signatory).

³ See OMB, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 FR 58782-58790 (Oct. 30, 1997).

⁴ *Id.* at 58786.

historically underrepresented groups, others from two groups that are not, others from one that is and one that is not, and various other combinations as discussed below.

The United States is becoming a more diverse country. In 1990 the multi-racial population was 1.41 percent of the American population; in 2010 it was 2.9 percent.⁵ As the racial composition of the country continues to change and the idea of race evolves, it is important that we collect data that reflects this societal shift. For the first time in 2000 the U.S. Census Bureau allowed for the checking of multiple boxes in racial identification. With this change in official record keeping there has been substantial change and growth in racial identification between the 1990 and 2010 census reports. Those who identified as being two or more races increased by almost 3 million people and saw a 32 percent growth rate from 2000 till 2010.⁶ This data clearly show a shift in the racial make-up of America and as the population continues to inter-mix, the self-identification of the population will continue to change.

A majority of the multi-racial population, 83 percent, are mixed with White.⁷ This is important to note if there is a difference between those who are mixed with White versus those who are multiple-minority mixed. Because there may be very different perceptions and experiences of multi-racial people as aesthetic appearances will vary, how others identify that person may affect how they are treated. Also there is noted concern that the White mixed population could artificially inflate the statistics of minority groups depending on the way they are counted. Racial identification and classification are constantly shifting and the Commission should consistently look to ensure its data are meeting the needs of the ever-changing population.

While the majority of multi-racial persons are White mixed, there are also significant portions of the population who are multiple minority mixed. The largest multiple-minority race is Black and Some other Race followed by Black and American Indian.⁸ The fastest growing multiple minority mix, however, is Asian and Black with a 74 percent growth within the past 10 years.⁹ The second fastest growing multiple-minority race is Native Hawaiian and Other Pacific Islander and Black with a growth of 68 percent.¹⁰ It is interesting to note that the fastest growing multiple-minority races are Asian and Black mixes because both races individually have different broadcast ownership levels. As the mixing of various populations grow, new types of racial communities, media owners, and media outlets may emerge and will need to be counted.

OMB guidance on aggregation of data on race for use in civil rights monitoring and enforcement is clear. In order to accommodate the possibility of having to deal with too many racial combinations, OMB provided a framework for deciding which categories to include, which the Commission must consider using in the next biennial ownership report.¹¹ For example, OMB recommends reporting of multiple race responses that include the "White" race category as one race are allocated to the 'minority' (non-White) race as well as the aggregation of the most common double-race combinations and multiple race combinations that comprise more than one percent of the population of interest to the federal agency.¹²

AAJC notes that as of 2011, there were relatively few multiracial broadcast station owners.¹³ Accordingly, we recommend the Commission report all multiracial combinations because it would not be overly burdensome

⁵ See U.S. Census Bureau, *Two or More Races Population* (2010) available at <http://www.census.gov/prod/cen2010/briefs/c2010br-13.pdf>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ See OMB, Bulletin No. 00-02- Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement (2000) available at http://www.whitehouse.gov/omb/bulletins_b00-02/.

¹² *Id.*

¹³ Station with multiracial owners were as follows: one full power TV station, eight commercial FM radio stations, eight class A TV stations, twenty low power TV stations, and nine commercial AM stations.

and there is great benefit in knowing what multiracial groups own stations. In the alternative, the FCC should at least report the racial make-up of owners who report being two races as 92% of those who report being multiracial report being two races.¹⁴

Self-Identification and responses

Briefly, AAJC agrees with OMB guidance that self-identification of a filer's race and ethnicity is the appropriate method to collect the data. We note that in the most recent FCC report on broadcast station ownership includes many responses that have insufficient data or where station owners have not filed Form 323, which affects the true accuracy of ownership percentages. The FCC should work to increase the number of complete responses rates from filers as well as increase response rates in general. This can be done through public education regarding the importance of responding and also direct outreach to incomplete and non-filers in a linguistically and culturally appropriate way.

Thank you for your consideration and please feel free to contact us via the information below if you would like to discuss any of the above issues with us.

Sincerely,

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¹⁴ See U.S. Census Bureau, *Two or More Races Population*.