



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

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CLARIFICATION OF ENFORCEMENT BUREAU GUIDANCE FOR DUE DILIGENCE CHECKS

Many individuals and entities, including attorneys, Commission licensees and financial institutions, routinely request information from the Enforcement Bureau concerning pending matters that might adversely impact proposed license assignments, transfers of control of licensees, mergers, public offerings, and other transactions. By *Public Notice*, DA 00-415, released February 29, 2000, the Bureau provided guidance for the submission and processing of requests from such parties for due diligence review relating to pending matters before the Enforcement Bureau.

Since the release of the *Public Notice* over three years ago, the Enforcement Bureau has processed thousands of due diligence requests. Often, the parties that request such information have a practical need for an expedited Bureau response. With this in mind, the Bureau staff has reviewed its current process and has engaged in informal discussions with representatives of the communications bar to explore how to improve the due diligence process. Based upon the results of those efforts, the Bureau is clarifying the manner by which it will process these requests in order to provide service to the public that is as clear, consistent and timely as possible.

At the outset, as noted in the 2000 *Public Notice*, parties should use due diligence requests only to inquire about matters pending before the Enforcement Bureau, not matters pending before other bureaus and offices. In order to allow the Bureau staff to respond quickly to due diligence requests, Bureau staff will not routinely provide information regarding past Bureau action in enforcement matters involving a particular station, licensee, or company as part of the due diligence process. Such information can be readily obtained elsewhere. Should parties require such information, they may obtain the pertinent documents from the Commission's Reference Information Center, which is located at 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and from 8:00 a.m. to 11:30 a.m. on Fridays. Interested parties may also access such documents at the Enforcement Bureau's website, at

<http://www.fcc.gov/eb/Orders/Welcome.html>. Documents issued by the field offices may be accessed at <http://www.fcc.gov/eb/FieldNotices/Welcome.html>.

In response to due diligence requests, the Bureau will routinely confirm the existence of any pending formal or informal complaints against a particular station or company. In order to avoid potential interference with the Bureau's investigation of such complaints, or the potential inadvertent release of confidential information, we will not disclose the nature of any complaint, the identity of the complainant or the status of our review in the context of due diligence checks. For similar reasons, the Bureau will not routinely disclose information regarding the existence of investigations in the context of due diligence checks. Should an attorney who represents the subject of a pending complaint or a target of an ongoing investigation (or a principal of such an entity) seek additional information regarding such a complaint or investigation of which the entity is aware, the attorney or principal should inquire about such matters by contacting an appropriate manager or attorney in the Bureau division that is handling the proceeding, or in the case of proceedings being handled by a field office, the Spectrum Enforcement Division. Such inquiries should be made independent of the due diligence process.

In order to expedite *bona fide* due diligence requests, the responsible attorney for a requesting entity (or a principal of the entity) should sign any letter requesting due diligence review. To expedite *bona fide* due diligence requests (e.g., those submitted in connection with a *bona fide* transaction, such as a station sale, financing or public offering), the Bureau will not routinely handle through the due diligence process requests from licensees for information about themselves in connection with the preparation of renewal applications.

The Bureau will be able to treat more quickly requests that conform to the above parameters and also provide the following information:

- (1) name of licensee/company that is the subject of request;
- (2) current call sign (and any other call sign by which the facility has been identified since 1999);
- (3) facility identification number;
- (4) community of license/market/market number;
- (5) radio service (e.g., AM, FM, TV, PCS); and
- (6) name, address, telephone number and e-mail address of requesting party.

Direct all due diligence requests to:

Due Diligence Requests
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
202-418-1241 (Fax)

Submit due diligence requests via facsimile (202-418-1241). Such requests may also be tendered via email to ebduedil@fcc.gov, provided that the message includes a pdf file containing an image of a signed letter in the form and containing the information outlined above. Parties tendering requests by other means, including hand delivery and mail, or requests that fail to provide the information outlined above, should expect substantial processing delays. To avoid potential confusion, the Bureau will not accept due diligence requests by telephone.

The Bureau will notify parties of the results of due diligence review, via e-mail, and will endeavor to do so within five (5) business days of IHD's receipt of the request. Also to avoid potential confusion, the Bureau will not provide the results orally.

For further information, please contact William D. Freedman at 202-418-1415.

By the Chief, Investigations and Hearings Division, Enforcement Bureau.

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