

time brokerage agreements,²⁰⁴ joint sales agreements,²⁰⁵ materials related to FCC investigations or complaints (other than investigative information requests from the Commission),²⁰⁶ and any new political file material. The Commission will import to the online file documents and information required to be in the public file that are electronically filed in CDBS (or LMS), including authorizations, applications and related materials, ownership reports and related materials, EEO Reports, The Public and Broadcasting manual, and Letters of Inquiry and other investigative requests from the Commission, unless otherwise directed by the inquiry itself.

78. FCC Form 302-AM. FCC Form 302-AM (Application for AM Broadcast Station License) is available for paper filing only, unlike the application for FM station licenses (FCC Form 302-FM) which must be filed electronically.²⁰⁷ We will permit AM stations that must retain Form 302-AM in their public inspection file to choose either to retain the form locally for public inspection or upload the form themselves to the Commission's online database. NAB urges the Commission to upgrade its database to reduce the unequal burden on AM stations that are unable to file forms electronically. We are working on upgrading our broadcast licensing database, including FCC Form 302-AM, but we will not make changes to the filing requirements in this item. Our focus is on moving the public inspection file to the Commission's online database; other broadcast licensing database improvements are beyond the scope of this proceeding.

79. Political file. As proposed in the *NPRM*,²⁰⁸ and consistent with the approach we adopted for television broadcasters and that we adopt here for other entities, broadcast radio licensees will not be

(Continued from previous page)

²⁰³ See 47 C.F.R. §§ 73.3526(e)(13), 73.3527(e)(10). These are announcements required to be aired pursuant to 47 C.F.R. § 73.3580(h).

²⁰⁴ See 47 C.F.R. §§ 73.3526(e)(14). The Commission defines "time brokerage" as "the sale by a licensee of discrete blocks of time to a 'broker' that supplies the programming to fill that time and sells the commercial spot announcements in it." 47 C.F.R. § 73.3555 Note 2 (j).

²⁰⁵ See 47 C.F.R. §§ 73.3526(e)(16). The Commission defines a "joint sales agreement" as "an agreement with a licensee of a 'brokered station' that authorizes a 'broker' to sell advertising time for the 'brokered station.'" 47 C.F.R. § 73.3555 Note 2 (k).

²⁰⁶ See 47 C.F.R. §§ 73.3526(e)(10), 73.3527(e)(11). These rules require stations to include in the public file "material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised." *Id.* Similar to the approach we took with respect to television stations, subject to any disclosure limitation included in a Commission inquiry itself or directed by the staff, the online public file must include Letters of Inquiry ("LOI"), any supplements thereto, and any other correspondence from the Commission commencing an investigation, materials related to such inquiries, licensee responses to these Commission inquiries, and any documents – including Commission orders – terminating or concluding the investigation or imposing penalties as a result of the investigation. See *Second Report and Order*, 27 FCC Rcd at 4570-71, ¶ 74. Unless directed to the contrary by the Commission (in an LOI or otherwise), stations will be responsible for uploading any materials related to a Commission investigation or inquiry that they generate or possess (such as responses to LOIs and relevant documents related to an investigation). To reduce burdens on stations, the Commission, as it deems appropriate, will post to the online public file any material that it originates relating to an investigation, such as LOIs and other investigative requests. *Id.* The Commission will also post to the online public file any complaint or complaints that it possesses and that underlie an investigation, if doing so is feasible, will not interfere with or obstruct an investigation and disclosure is consistent with any privacy concerns that publication might raise. *Id.* Stations should retain in the local correspondence file complaints that have not prompted an LOI or other investigative request, whether filed with the Commission or submitted only to the station. *Id.* at 4571, ¶ 75. When there are circumstances in investigatory and enforcement contexts that would weigh against the disclosure of Commission investigations and related materials, the Commission or the staff may inform a licensee that an LOI or request for information or other material related to a particular investigation need not be placed in the public file or uploaded to the online public file. *Id.* at 4570-71, ¶ 74.

²⁰⁷ See NAB Comments at 11.

²⁰⁸ See *NPRM*, 29 FCC Rcd at 15968, ¶ 65.

required to upload their existing political files to the online file, but instead will be permitted to maintain existing material in their local political file and upload documents to the online political file only on a going-forward basis. This approach will minimize the burden of transitioning to the online file.

80. Delay in implementation for stations with fewer resources. In light of the unique economic circumstances faced by radio broadcasters, we believe it is appropriate to implement the online public file by imposing requirements, at first, only on stations with more resources.²⁰⁹ Some radio commenters expressed opposition to the Commission's proposal to include radio broadcasters in the online file.²¹⁰ Some argue that the radio industry already faces significant economic challenges as the result of competition from other services that would be exacerbated by the imposition of further regulatory requirements.²¹¹ Others question the need to expand the online file to radio, noting the limited number of requests radio stations receive to view the public file,²¹² or noting that the Petition for Rulemaking did not address broadcast radio and advocated only that cable operators and DBS providers be added to the online file.²¹³

81. Most radio commenters focus in particular on the impact on small stations, including small NCE stations, of including broadcast radio stations in the online file. In general, these commenters argue that many radio stations are very small with limited financial and other resources, face constant economic pressure, and would find the transition to the online file very burdensome.²¹⁴ Several commenters argue that all small radio stations should be exempt from the online file, either permanently²¹⁵ or at least initially.²¹⁶ The Named State Broadcasters Associations argue that adding radio to the online file is more complex than adding television as broadcast radio operators are less

²⁰⁹ See *NPRM*, 29 FCC Red at 15968, ¶ 66.

²¹⁰ See, e.g., Joint NCE Comments at 1-2.

²¹¹ See, e.g., Comments of Local and Regional Small Radio Broadcasters at 3 and Max Media at 1-2.

²¹² See KERM Comments at 3 (one request to view the public file in 35 years of operation) and Skycountry Broadcasting Comments at 1 (3 requests to view the public file in 54 years).

²¹³ See Comments of Radio Training Network at 2 (suggesting that the Commission focus first on adding cable and DBS to the online file database given the magnitude of the resources required to add more than 15,000 radio stations to the Commission's database).

²¹⁴ See, e.g., Blount Masscom Comments at 2.

²¹⁵ See NAB Comments at 2 (urging the Commission to permanently exempt all NCE radio stations and commercial stations with fewer than five full-time employees from mandatory online filing requirements). See also Missouri and California Broadcasters Associations Comments at 4, Allan Hampton Comments at 1, Central Park Church of God Comments at 2, Eagle Bluff Enterprises Comments at 2 and National Religious Broadcasters Reply Comments at 9-10. But see CLC *et al.* Comments at 4 (opposing any categorical exemption from online file requirements for radio except for NCE stations with fewer than five employees) and Torres Law Group Reply Comments at 12 (arguing against any permanent exemption from online political file obligations for small radio stations).

²¹⁶ See Joint Comments of Local and Regional Small Radio Broadcasters at 4, 7 (arguing that the Commission should permanently exempt radio stations with fewer than 5 full-time employees from the online file and at least indefinitely exempt small and NCE radio stations until after commercial stations in larger markets have transitioned to online filing); Comments of Native Public Media and National Federal of Community Broadcasters at 4 (arguing that the Commission should indefinitely exempt both NCE stations and stations with fewer than five full-time employees from online filing at least until after other stations have completed their transition to the online public file); and Max Media Comments at 2 (Commission should wait to see what happens when large market radio stations convert to the online file and then issue a further notice to gather information about that experience).

homogeneous than TV operators, with far greater variation in staffing, the number of stations jointly operated, and the size of the audience and community served.²¹⁷

82. With respect to NCE radio stations, many commenters advocate that all such stations be permanently exempt from online filing.²¹⁸ Many NCE radio commenters argue that these stations are prohibited from accepting paid political and issue advertising, making access to their political file records less necessary than for commercial stations.²¹⁹ Others contend that NCE stations often have more limited financial resources and smaller staffs than commercial stations and rely on donations for the majority of their funding, making the burden of transitioning to the online file particularly challenging.²²⁰ NPR argues that mandating online public filing is not necessary for public radio licensees to be responsive to their community of license because they rely on support from listeners and local foundations and businesses and therefore have a direct stake in airing programming that their communities will value and support.²²¹ If NCE stations are not exempt from online filing, the Educational Media Foundation argues they should be in the last group of stations required to transition to the online file so that any issues with the online filing process can be resolved before NCEs are required to utilize scarce resources in uploading online files.²²²

83. As we proposed in the NPRM, we will commence online public file requirements for radio with commercial stations in markets 1 through 50, as defined by Nielsen Audio (formerly Arbitron), that have five or more full-time employees.²²³ We will delay all mandatory online filing for other radio

²¹⁷ See Named State Broadcasters Associations Comments at 4. See also First Dallas Media Comments at 2 (arguing that NCE radio staffs and budgets are appreciably smaller than those of NCE TV stations, increasing the burden of compliance with an online public file requirement).

²¹⁸ See Comments of NPR at 6, Local and Regional Small Radio Broadcasters at 4, Bethel Baptist Church at 1, University of Northwestern-St. Paul at 2, First Dallas Media at 1, Rio Grande Bible Institute at 2, Star Educational Media Network at 1, Colorado State University – Pueblo at 1, Centenary College at 1, Seton Hall University at 1, Christian Broadcasting Services at 1, Hilo Christian Broadcasting at 1, Araiza Revival Ministries at 1. See also Reply Comments of National Religious Broadcasters at 6 and NAB at 2-3.

²¹⁹ See Comments of NPR at 4, Radio Training Network at 2, Joint NCE Commenters at 2-3, Educational Media Foundation at 1, Bethel Baptist Church at 4, University of Northwestern-St. Paul at 3, Rio Grande Bible Institute at 3, Star Educational Media Network at 3, Christian Ministries at 1, Colorado State University – Pueblo at 3, Araiza Revival Ministries at 4. But see Reply Comments of Torres Law Group at 13 (arguing that NCE stations should not be exempt from the online political file as they will have few political file documents to upload thereby making the burden of compliance minimal).

²²⁰ See, e.g., NPR Comments at 2-3 (noting that financial contributions from listeners represents more than 1/3 of a typical public radio station's budget, the single largest source of station revenue, and that support from listeners, local businesses and foundations collectively exceeds 60% of a public radio station's budget on average); Joint NCE Commenters at 3 (arguing private, non-profit licensees are especially reliant upon the generosity of listeners as they do not receive public funding from NPR, CPB, or other governmental or quasi-governmental entity), and University of Northwestern-St. Paul Comments at 3 (noting that UNWSP is not eligible for grants from CPB and is therefore even more reliant on donations to fund station operations). Several college/university NCE stations noted that student-run NCE stations often operate on modest funding that comes solely from a portion of a student activity fund or a university/college appropriation. See Colorado State University – Pueblo at 2, Centenary College at 2, Seton Hall University at 2.

²²¹ See NPR Comments at 2-3.

²²² See Educational Media Foundation Comments at 4.

²²³ *Id.* at 15969-70, ¶ 69. The market ranking are available at:

<http://www.nielsen.com/us/en/about-us/press-releases/2015/04/01/nielsen-audio-reveals-2015-market-rankings.html> We will define a full-time employee for purposes of radio online public file requirements in the same way that term is defined in our EEO rules and policies; that is as "a permanent employee whose regular work schedule is 30 hours per week or more." 47 C.F.R. § 73.2080(e)(1). Pursuant to this definition, volunteers, interns, temporary employees, certain owners, and part-time employees regularly working fewer than 30 hours per week are not

(continued...)

stations for approximately two years, until March 1, 2018.²²⁴ Commencing on this date, all NCE radio stations, all commercial stations in markets below the top 50 as well as those outside all markets,²²⁵ and all commercial top 50 market stations with fewer than five full-time employees must begin placing all new public and political file material in the online file. In addition, as of this date, these stations must have placed all their existing public file material in the online file, with the exception of their existing political file material. Stations transitioning to the online file in the second wave will have approximately two years in which to upload their existing public file material to the online file. Accordingly, we do not believe these stations need an additional six months beyond the March 1, 2018 transition date in which to upload existing public file material.²²⁶

84. We decline to permanently exempt any category of radio stations from online filing. All broadcasters have public and political inspection file requirements, and we believe that all these files should ultimately be moved to the Commission's online database to improve accessibility and, over time, reduce the covered entities' administrative costs of maintaining these files. We note that, unlike small cable systems which are exempt from the political file as well as other public file requirements, small radio stations are not exempt from the political file requirement. We also decline to categorically exempt part of the public inspection file from online filing, as proposed by some commenters, with the exception of the existing political file and the correspondence file. NAB argues that, if we decide not to permanently exempt NCE stations and commercial stations with fewer than 5 full-time employees from mandatory online filing, we should require only the prospective uploading of all public file materials, and not just political file materials.²²⁷ Other commenters propose that radio stations be required only to post their political files online, and not the rest of the public file, thereby providing improved access to political file information while conserving station resources.²²⁸ We decline to adopt these alternative approaches to the online file for radio stations. With respect to existing public file documents other than political file documents, many of these documents do not change over time, so exempting these materials from the online public file would deprive online users from access to certain materials permanently. Our experience to date with television stations suggests that most entities will not encounter undue difficulties in completing the transition to online filing. While we recognize that some radio broadcasters face significant economic and other resource constraints, we believe that most radio stations will be capable of completing the transition to the online file and are more likely to reap benefits over time in terms of reduced administrative costs if they post their entire public and political files online. Stations that face

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considered full-time employees. *See Review of the Commissions Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Second Report and Order and Third Notice of Proposed Rulemaking, 17 FCC Red 24018 (2002).

²²⁴ NAB supports tolling mandatory online file requirements for at least two years for smaller stations. *See* NAB Comments at 7, 10.

²²⁵ *See* Comments of Missouri and California Broadcasters Associations at 2 (noting that, in Missouri, two-thirds of radio stations are outside all markets). Nielsen Audio currently has 272 rated markets in the U.S. Radio stations not licensed to or located within these markets are "outside all markets." *See* <http://www.nielsen.com/us/en/about-us/press-releases/2014/04/01/nielsen-audio-launches-2014-2015-ratings.html>.

²²⁶ As discussed above, *see, supra*, ¶ 44 and note 118, the Commission will give careful consideration to requests for additional time to commence online filing from commercial radio stations with between 5 and 10 full-time employees, as these stations may have fewer resources than larger stations and, therefore, may find the transition to online filing particularly challenging. For the same reason, the Commission will be favorably inclined to grant requests for additional time to commence online filing from very small radio stations with fewer than five full-time employees.

²²⁷ *See* NAB Comments at 10. *See also* First Dallas Media at 5.

²²⁸ *See* Comments of LeSEA at 4, Blount Masscom at 2-3. *See also* Reply Comments of the Torres Law Group at 6 (proposing that all operators and licensees upload their political files first).

unique economic or other impediments that make transitioning to the Commission's online file especially difficult may request a waiver.

85. We believe that commencing online file requirements with commercial stations in the top 50 markets with 5 or more full-time employees will ensure that the first group of radio stations to transition to the online file will have sufficient financial and staff resources to address any implementation issues that may arise. Commenters who addressed this issue generally agreed that it is reasonable to phase in online filing for radio stations starting with larger, commercial stations in the top 50 markets.²²⁹ We believe that it is appropriate to delay online filing for other radio stations as they are likely to have fewer financial and other resources and may need additional time to prepare for their transition to the online file. As we discussed in the *NPRM*, radio stations with fewer than 5 full-time employees are exempt from many EEO requirements, including the requirement to file FCC Form 396 (Broadcast Equal Employment Opportunity Program Report).²³⁰ We believe that defining the class of small radio stations based on this EEO exemption makes sense as it is a standard with which stations are already familiar and it provides a clear, bright line test for determining which stations are temporarily exempt from online filing. In addition, information regarding the stations that are exempt from certain EEO requirements is readily available to the Commission and the public, as this information is filed with the FCC and is available on the FCC's website.²³¹ Commercial stations in the top 50 radio markets that are required to file FCC Form 396 and comply with other EEO requirements pursuant to our EEO rules and policies²³² are the stations that must transition to the online file in the first wave of radio stations.

86. The 5 full-time employee threshold in our EEO rules applies to station employment units. A station employment unit is defined as "a station or a group of commonly owned stations in the same market that share at least one employee."²³³ We will apply the 5 full-time employee threshold for purposes of the temporary exemption from radio online file requirements to station employment units. Thus, where a radio station is commonly owned with one or more other radio or television stations in the same market that share at least one employee, and the station employment unit has five or more full-time employees, each radio station in the group will be considered to exceed the threshold for the temporary exemption from the online public file. While some commenters urge us to apply the 5 full-time employee standard on a per station rather than a per employment unit basis,²³⁴ we believe it is appropriate to apply the standard to employment units, as employment units with 5 or more full-time employees may already share the task of maintaining the public inspection file for all stations in the unit and will be able to share the task of uploading documents to the online file for these stations.²³⁵

²²⁹ See, e.g., NAB Comments at 6. *But see* Reply Comments of Torres Law Group at 12 (arguing that we should phase-in online file requirements for radio by requiring stations in the top 100 markets to upload their political files first).

²³⁰ See 47 C.F.R. § 73.2080(d).

²³¹ *Id.* All radio stations, including those with fewer than five full-time employees, must file a Broadcast Equal Employment Opportunity Program Report (FCC Form 396) with their renewal application. See 47 C.F.R. § 73.2080(f)(1). Stations identify on this form whether the station has five or more full-time employees. These forms are available on the FCC's website at www.fcc.gov.

²³² *Id.* See also *Review of the Commissions Broadcast and Cable Equal Employment Opportunity Rules and Policies, Second Report and Order and Third Notice of Proposed Rulemaking*, 17 FCC Rcd 24018 (2002), *recon pending*.

²³³ 47 C.F.R. § 73.2080(e)(2).

²³⁴ See, e.g., Comments of LeSEA at 2-3, University of Northwestern-St. Paul at 4-5, First Dallas Media at 4. See also NAB Reply Comments at 3.

²³⁵ See CLC *et al.* Reply Comments at 5 (supporting applying the five or more employee standard to station employment units).

87. We reject the suggestion that we instead use a ten or fifteen-employee threshold for purposes of the temporary exemption from online public file requirements.²³⁶ The commenters that advocate a standard based on a larger number of employees argue generally that this approach better reflects the economic reality of radio versus television broadcasting and will better protect against adverse impacts to smaller radio stations.²³⁷ We believe, however, that a top-50 market commercial station with a staff of five or more full-time employees will have sufficient resources to be able to manage the transition to the online public file in the first wave of radio stations. Stations that face undue economic or other impediments to the transition may request a waiver. We also reject CLC *et al.*'s suggestion that, instead of delaying online file requirements for all commercial radio stations with fewer than five full-time employees, we instead only exempt such stations that earn only a nominal amount of revenue from political advertising per year.²³⁸ A revenue-based standard would be more complicated and difficult to enforce as well as less transparent than the simpler five full-time employee standard. We also believe that the number of station employees is likely reflective of the station's revenues and profitability, making an employee based standard a good proxy for the station's financial capacity to transition to the online file. Moreover, we expect that stations with fewer resources also have less voluminous political files.

88. We will permit radio stations that are not required to transition to the online file until March 1, 2018 voluntarily to transition to the online file before that date. As discussed above,²³⁹ entities that choose to transition to the online file early must upload all new public and political file documents to the online file on a going-forward basis. All commenters who addressed this issue agree that radio stations that are exempt from online filing should be permitted to use the online file voluntarily.²⁴⁰ We agree with NPR that many NCE radio station licensees may choose to move to the online file voluntarily in lieu of continuing to maintain a physical public inspection file "because they see it as increasing transparency" and because they believe online filing will be "a less costly and administratively easier task compared to maintaining paper-based public files."²⁴¹

89. Contour map and main studio information. The Commission will create contour maps for the online file for both AM and FM stations based on existing data. Radio stations are currently required to include in their public inspection files "any service contour maps submitted with any application" together with "any other information in the application showing service contours and/or main studio and transmitter location."²⁴² While we sought comment in the *NPRM* on whether we should require AM

²³⁶ See Comments of Named State Broadcasters Associations Comments at 9-10 (arguing that a ten-employee standard would be more appropriate as a staff of this size has sufficient resources to maintain the online file, even for multiple stations in a market each of which has its own online file) and KERM at 3 (advocating that the Commission exempt stations with fewer than 15 employees from the online public file). See also Reply Comments of NC, Ohio, and VA Association of Broadcasters at 1-2 (supporting the Named State Broadcasters Associations 10-employee standard).

²³⁷ See Reply Comments of NC, Ohio, and VA Association of Broadcasters at 3.

²³⁸ See CLC *et al.* Comments at 4-5 and Reply Comments at 5.

²³⁹ See, *supra*, ¶ 28.

²⁴⁰ See Comments of NAB at 5, NPR at 6, Local and Regional Small Radio Broadcasters at 6, Named State Broadcasters Associations at 10-13, and Max Media at 4.

²⁴¹ NPR Comments at 5. We decline, however, a request to provide broadcasters with specific incentives to move their public files online. See, e.g., Palm Harbor Radio Comments at 1-2 (arguing that NCE radio stations that move their files online should be relieved from routine on-site inspections).

²⁴² See 47 C.F.R. §§ 73.3526(e)(4), 73.3527(e)(3). These rules require radio stations to retain in the public inspection file "[a] copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station." *Id.*

stations to upload contour maps to the online file given the complexities of AM contour mapping,²⁴³ we conclude that it is not necessary to require AM stations to upload contour maps. Instead, the Media Bureau will create contour maps for purposes of the online file for both AM and FM stations.

90. As we proposed in the *NPRM*,²⁴⁴ we will require stations to provide information to the online file regarding the location of the station's main studio. The Commission's rules do not currently require the reporting of this information, and it is not included on contour maps. We believe that information regarding the location of the main studio will help members of the public to engage in an active dialogue with radio licensees regarding their service, which is one of the goals of this proceeding. This information is also necessary to inform the public of the location of the correspondence file²⁴⁵ and existing political file (until its retention period expires in two years), both of which will be publicly available at the station. In addition, back-up political files will be available at the main studio (unless placed on a station website) if the online file database becomes unavailable. Therefore, consistent with the approach we took with respect to television stations,²⁴⁶ we will require broadcast radio stations to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. In addition, stations with a main studio located outside of their community of license must list the location of the correspondence file and existing political file, as well as the required local or toll free number.²⁴⁷

91. Donor Lists. NCE stations are required to retain in the public inspection file lists of donors supporting specific programs.²⁴⁸ As we proposed in the *NPRM*²⁴⁹ and as we required for television broadcasters in the *Second Report and Order*,²⁵⁰ we will require noncommercial radio broadcasters to include donor lists in their online public files. A number of NCE radio commenters argued that donor lists should not be included in the online file in order to protect the privacy of supporters of noncommercial radio broadcasting.²⁵¹ National Religious Broadcasters and other commenters argue generally that donors will be less likely to contribute if their names are made public online rather than only in the local public file.²⁵² National Religious Broadcasters also argues that donors to these stations could become targets of unwanted attention or even crime if donor information is available online.²⁵³

²⁴³ See *NPRM*, 29 FCC Red at 15970, ¶ 72.

²⁴⁴ See *NPRM*, 29 FCC Red at 15970-71, ¶ 73.

²⁴⁵ See, *infra*, ¶ 94.

²⁴⁶ See *Second Report and Order*, 27 FCC Red at 4568-9, ¶ 69.

²⁴⁷ Comments requesting that we revisit prior Commission decisions regarding the main studio rules are beyond the scope of this proceeding. See Comments of Warren Kozireski at 1-2 and Dennis Jackson at 1-2.

²⁴⁸ See 47 C.F.R. § 73.3527(e)(9).

²⁴⁹ See *NPRM*, 29 FCC Red at 15971-72, ¶ 75.

²⁵⁰ See *Second Report and Order*, 27 FCC Red at 4540, ¶ 11 and at 4546, ¶ 21.

²⁵¹ See, e.g., Comments of Native Public Media and National Federation of Community Broadcasters at 5, Educational Media Foundation at 3-4, Allan Hampton at 1, Radio Training Network at 3, Bethel Baptist Church at 4, University of Northwestern-St. Paul at 5, First Dallas Media at 5, Rio Grande Bible Institute at 4, Star Educational Media Network at 3, Colorado State University-Pueblo at 4, Centenary College at 3, Seton Hall University at 3, Christian Broadcasting Services at 3, Araiza Revival Ministries at 4, Central Park Church of God at 2. See also Reply Comments of National Religious Broadcasters at 3-4.

²⁵² See Reply Comments of National Religious Broadcasters at 3-4. See also Comments of Allan Hampton at 1, Radio Training Network at 3, and University of Northwestern-St. Paul at 5-6.

²⁵³ See Reply Comments of National Religious Broadcasters at 3-4.

92. We are not persuaded that making donor information available online will affect contributions to noncommercial radio programming or create significant problems for donors. NCE television stations have been posting donor lists in their online public files and have not reported any problems. The benefits of placing the public file online, thereby facilitating public access to this information, are substantial, and we decline to exclude donor lists from this requirement on the basis of unsubstantiated claims of commercial harm. We are not requiring broadcasters to make any information publicly available that stations are not already required to make public.²⁵⁴ Moreover, unlike letters from the public, donor lists do not contain personal information other than the name of the donor. They are not required to include information about the amounts contributed, the donor's address or email, or other potentially sensitive information. Thus, we do not believe that requiring that the list of donor names be posted online, rather than maintained at the station, raises fundamental privacy concerns.²⁵⁵ Nonetheless, we recognize the concerns expressed by the National Religious Broadcasters. To the extent a licensee fears that online disclosure of donor information with respect to particular programs could discourage a donor from making contributions to the station or subject donors to unwanted attention or crime, the licensee may seek a waiver of the online posting requirement.²⁵⁶

93. National Religious Broadcasters also argues that mandatory Internet posting of the identity of donors to NCE radio stations raises First Amendment concerns.²⁵⁷ They argue that many NCE stations rely on a talk format and carry programming addressing political or social issues that are unpopular or controversial.²⁵⁸ According to National Religious Broadcasters, the First Amendment has been held to require, in some instances, protection of the privacy of persons who support certain social or political causes, particularly from Internet disclosure.²⁵⁹ We disagree that the First Amendment requires that information regarding donors to specific NCE programs be excluded from the online file. Making such already-public records available via the Internet does not change the existing requirement that donors be disclosed in the public file; it only changes how they are disclosed. The donor list provides the only complete information regarding program sponsorship on noncommercial stations, public disclosure

²⁵⁴ See *Second Report and Order*, 27 FCC Red at 4553, ¶ 38.

²⁵⁵ Under the *Privacy Act of 1974*, as amended, 5 U.S.C. 552a, federal agencies are required to have a System of Records Notice (SORN) for an information system that contains information about individuals, e.g., "personally identifiable information" (PII). A SORN is a description of how the information system will collect, maintain, store, and use the PII. The FCC created a SORN in connection with the TV online file, see 77 FR 32111 (May 31, 2012), and will revise that document to cover the entities added to the online file in this Order.

²⁵⁶ As with any of our rules, stations may request a waiver of the requirement to post donor information to the online public file under our general waiver standards. See 47 C.F.R. § 1.3. Waivers of the requirement to post donor lists to the online public file will be provided, on a program by program basis to stations that submit a showing that meets the general waiver standards. Any such waiver granted by the Commission will be limited to two years. A party may seek a renewal of the waiver after the two-year period. Stations who seek a waiver of the requirement to include information regarding the donors to particular programs in the online file are not required to post this donor information to the online file but may instead retain this information in the station's local public file until Commission review of the waiver request (and any further judicial review) is complete. Information regarding donors supporting particular programs must at all times be retained either in the online file or, if a waiver request has been filed or has been granted or is still under review, in the local public file. If donor information is not included in the online public file the station must include a notation in the online file that this information is available in the station's local public file.

²⁵⁷ See Reply Comments of National Religious Broadcasters at 6-9.

²⁵⁸ *Id.*

²⁵⁹ *Id.* at 8-9.

of which is premised on the basic concept that the public is entitled to know by whom they are being persuaded.²⁶⁰

(ii) Content exempt from the online file

94. Letters from the public. We will exempt letters and emails from the public from the online file and instead require broadcast radio stations to retain such material at the station in a correspondence file. This is the approach we took with respect to television stations in the *Second Report and Order*²⁶¹ and the approach we proposed to take with respect to radio broadcasters in the *NPRM*.²⁶² In the *Second Report and Order*, the Commission determined that including letters and emails from the public in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome.²⁶³ The Commission determined that letters and emails from the public should be maintained at the station's main studio either in a paper file or electronically on a computer.²⁶⁴ Further, the Commission clarified that, as required under the current public inspection file rules, this file should include all letters and emails from the public regarding operation of the station unless the letter writer has requested that the letter not be made public or the licensee feels that it should be excluded due to the nature of its content.²⁶⁵ Finally, the Commission determined that it would not require stations to retain social media messages in their correspondence file.²⁶⁶ We will apply these same determinations to radio broadcasters.

95. Named State Broadcasters Associations urges us to consider eliminating the requirement that broadcasters retain letters from the public in the public inspection file, noting that this requirement does not apply to cable operators.²⁶⁷ This commenter argues that if a station could move its entire public file online and eliminate the need to host a local public file and ensure public access to it, the overall burden of maintaining the public inspection file would be reduced.²⁶⁸ Consistent with our decision regarding the television correspondence file,²⁶⁹ we decline to eliminate in this proceeding the requirement that commercial radio stations retain correspondence from the public, as our focus is on moving the public file to an online regime and not on changing its underlying requirements. While we recognize that our decision to require a correspondence file to be retained locally will prevent stations from realizing the

²⁶⁰ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Memorandum Opinion and Order, 90 FCC 2d 895, 901, note 18 (1982), clarified on other grounds, 97 FCC 2d 255 (1984).

²⁶¹ *Id.* at 4565, ¶ 62. Commercial radio stations are required to retain such material in the public inspection file. See 47 C.F.R. § 73.3526(e)(9).

²⁶² See *NPRM*, 29 FCC Rcd at 15971, ¶ 74.

²⁶³ In particular, the Commission stated its concern that requiring correspondence to be placed in the online public file might result in violations of the Children's Online Privacy Protection Act (COPPA), which prohibits posting children's personally identifiable information online. The Commission stated that, because letters and emails from the public can account for a substantial amount of the content of a station's public file, requiring stations to review these documents for compliance with COPPA before uploading them could pose a burden. See *Second Report and Order*, 27 FCC Rcd at 4567, ¶ 63.

²⁶⁴ See *Second Report and Order*, 27 FCC Rcd at 4565, ¶ 62.

²⁶⁵ *Id.* at 4567, ¶ 64.

²⁶⁶ *Id.* at 4568, ¶ 66.

²⁶⁷ See Named State Broadcasters Associations Comments at 11-12.

²⁶⁸ *Id.* at 12.

²⁶⁹ See *Second Report and Order*, 27 FCC Rcd at 4567, ¶ 64. As noted above, however, the Commission will initiate a separate proceeding to consider whether to eliminate the correspondence file requirement for commercial broadcasters. See, *supra*, note 105.

full cost savings of moving their public files online, as a practical matter stations appear to receive few requests to view letters from the public,²⁷⁰ relieving to some extent the impact of the requirement to retain a local correspondence file.

4. Satellite Radio Public Inspection File

a. Current rules

96. Licensees in the satellite radio service are required to maintain a public file with two categories of material. First, SDARS licensees are required to comply with EEO requirements similar to those imposed on broadcasters, including the requirement to file EEO reports and to maintain those reports in their public file together with other EEO program information.²⁷¹ Second, satellite radio licensees are required to maintain a political file. In addition, SiriusXM, the current, sole U.S. SDARS licensee, is required to retain a third category of material in the public file. SiriusXM made a voluntary commitment to make capacity available for noncommercial educational and informational programming, similar to the requirement imposed on DBS providers, in connection with its merger application.²⁷² As part of its approval of the merger, the Commission required that the merged entity reserve channels for educational and informational programming, offer those channels to qualified programmers, and comply with the public file requirements of section 25.701(f)(6) of the Commission's rules, which sets forth public file requirements for the noncommercial set-aside for DBS providers.²⁷³

b. Online public file requirements

97. As we proposed in the NPRM, we will treat satellite radio licensees in the same manner as television, cable, DBS, and broadcast radio entities by requiring them to upload to the online file only material that is not already on file at the Commission. The only documents that DBS providers file with the Commission that must also be retained in their public inspection files are EEO forms 396 and 397. The Commission will upload these documents to the online file. We do not believe that requiring SDARS licensees to upload other public file materials to the online file will be unduly burdensome as the number of public file requirements for this service is fewer than for other services discussed in this item and because the current, sole U.S. SDARS licensee has ample financial resources to comply with this online file requirement. We also believe that, as with DBS, the transition to an online file is particularly important for satellite radio because of that service's nationwide reach and the fact that the current licensee maintains only one public and political file for the entire U.S., making in-person access very difficult.

98. With respect to the political file, we will treat satellite radio similar to DBS, as they are both nationwide services with few licensed service providers. Similar to the requirement we adopt for the DBS political file²⁷⁴ and consistent with our approach for television stations, cable systems, and radio broadcasters, SDARS licensees will not be required to upload their existing political files to the online file but will instead be permitted to maintain existing material in their physical political file, and upload documents to the online political file only on a going-forward basis. SDARS licensees must begin uploading new public and political file material to the online public file 30 days after the Commission announces in the Federal Register that OMB has completed its review of this Order under the Paperwork Reduction Act ("PRA") and approved the collection.²⁷⁵ These licensees will have six months from the

²⁷⁰ *Id.* (noting that "[i]f every part of the [public] file is moved online except Letters from the Public, it's hard to imagine anyone ever visiting a station solely for the thrill of reading its mail." (emphasis in original)).

²⁷¹ See *XM-Sirius Merger Order*, 23 FCC Red at 12426, ¶ 174 and note 551.

²⁷² See *XM-Sirius Merger Order*, 23 FCC Red at 12413, ¶ 140.

²⁷³ *Id.* at 12415, ¶ 146.

²⁷⁴ See *supra*, ¶ 71.

²⁷⁵ See *supra*, ¶ 41.

effective date of the rules (*i.e.*, six months after the Commission publishes a notice in the Federal Register announcing OMB approval under the PRA) to complete the process of uploading existing public file materials to the online file,²⁷⁶ with the exception of existing political files which entities are permitted, but not required, to upload to the Commission's online public file.

99. As discussed above, if the FCC's online public file database is temporarily unavailable, we will require SDARS licensees to make their back-up political files available to the public by, at their own choice, either an online method, via the entity's own website, or by answering questions and accommodating requests for copies of political file materials made by telephone.²⁷⁷ We believe it is appropriate to require SDARS licensees to provide access to political file documents either online or by telephone as these entities provide service nationwide making in-person access to these files difficult for most subscribers. As we are requiring that all current political file materials be posted online on the FCC's database on a going-forward basis, we believe the number of telephone requests for other materials is likely to be limited. In addition, SDARS licensees have the option to provide online access to back-up political file materials in lieu of responding to telephone inquiries regarding these materials. Finally, similar to our decision regarding the organization of DBS political files,²⁷⁸ we will permit SDARS licensees the flexibility to organize their political files in any manner that reasonably allows users to review their contents and reflects how ads were purchased and shown.

5. Open Video System operators

100. We decline at this time to require Open Video System ("OVS") operators to use the Commission's online public inspection file. We noted in the *NPRM* that OVS operators have several public file obligations and sought comment on whether these entities should be required to make this information available in the online public file.²⁷⁹ No commenters addressed this issue. We may revisit the issue of OVS use of the online file at a later time.

IV. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Act Analysis

101. As required by the Regulatory Flexibility Act of 1980 ("RFA"),²⁸⁰ the Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA"), attached hereto as Appendix C, relating to this Report and Order.

B. Paperwork Reduction Act Analysis

102. This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 ("PRA"), Public Law 104-13. It will be submitted to the Office of Management and Budget ("OMB") for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought

²⁷⁶ See, *supra*, ¶ 43.

²⁷⁷ Copies requested by telephone may be sent by fax, email, or mail. If a requester prefers access by mail, the SDARS licensee may require the individual requesting documents to pay for photocopying.

²⁷⁸ See, *supra*, ¶ 73.

²⁷⁹ See *NPRM*, 29 FCC Rcd at 15958, ¶ 36. For example, OVS operators are required to maintain a file with certain EEO materials as well as information regarding qualified video programming providers that have requested carriage. See 47 C.F.R. §§ 76.1510, 76.1702.

²⁸⁰ The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Congressional Review Act

103. The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

V. ORDERING CLAUSES

104. Accordingly, **IT IS ORDERED** that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 303(r), 315, and 335 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303(r), 315, and 335 this Report and Order **IS ADOPTED**.

105. **IT IS FURTHER ORDERED** that the requirement that cable systems with 1,000 or more subscribers, DBS providers, SDARS licensees, and large market commercial radio stations with five or more full-time employees place their new public inspection file documents on the Commission-hosted online public file **SHALL BE EFFECTIVE** 30 days after the Commission publishes a notice in the Federal Register announcing OMB approval. These entities will be responsible for placing existing public file documents into the Commission-hosted online public file within six months after the Commission published a notice in the Federal Register announcing OMB approval. Entities will not be required to place in the online public file existing political file material. Cable systems with 1,000 or more subscribers but fewer than 5,000 subscribers will not be required to place new political file material in the Commission's online file until March 1, 2018. In addition, until March 1, 2018, all NCE radio broadcast stations, commercial radio broadcast stations in the top 50 markets with fewer than five full-time employees, and all commercial radio broadcast stations in markets below the top 50 or outside all markets are exempt from all requirements to place public file materials in the online public file. As of March 1, 2018 these entities must place all existing public file material in the online public file, with the exception of existing political file material, and must begin placing all new public and political file material in the online file. Commercial broadcast radio licensees must continue to retain letters and emails from the public in the local public file and will not be permitted to upload those materials to the online public file.

106. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Report and Order including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

107. **IT IS FURTHER ORDERED** that the Commission **SHALL SEND** a copy of this Report and Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
List of Commenters

Comments filed in response to the *NPRM*

American Cable Association ("ACA")
Araiza Revival Ministries, Inc. (WVGW-FM)
Bethel Baptist Church (WYTJ-FM)
Blount Masscom, Inc., et al.
BroadcastSource
Campaign Legal Center, Common Cause, and the Sunlight Foundation ("CLC, et al.")
Centenary College (WNTI-FM)
Central Park Church of God
Christian Broadcasting Services, Inc.
Christian Ministries, Inc.
Colorado State University-Pueblo (KTSC-FM)
DIRECTV, LLC
Eagle Bluff Enterprises
Educational Media Foundation
First Dallas Media, Inc.
Gray Television, Inc., Media General, Inc., Meredith Corporation, Raycom Media, Inc. ("TV Broadcasters")
Hilo Christian Broadcasting, Inc.
Allan Hampton
Dennis Jackson
KERM, Inc.
Warren Kozireski
LeSEA Broadcasting Corporation
Local and Regional Small Radio Broadcasters
Max Media LLC
Mentors Partners, Inc.
Missouri & California Broadcasters Associations
Moody Bible Institute of Chicago, Houston Christian Broadcasters, Inc., Augusta Radio Fellowship Institute, Inc., The Praise Network, Inc., The Sister Sherry Lynn Foundation, Inc., Faith Broadcasting, Inc., Native American Christian Voice, Inc., Alabama Christian Radio, Inc., Ondas De Vida Network Inc., Big River (Alaska) Public Broadcasting Corporation, Inc., Revival Christian Ministries, Inc., Central Illinois Radio Fellowship, Inc., Ross Bible Church, Grace Baptist Temple Church, Life on the Way Communications Inc., The United Houma Nation, Good News Media, Inc., Northwestern Illinois Radio Fellowship, Inc., Camp Peniel, Inc., B. Jordan

Communications Corporation, Alaska Village Missions, Inc., Talkeetna Community Radio, Inc., Yukon Wireless, Inc., Biblical Ministries Worldwide, and the Hammock Educational and Environmental Community Services Association ("Joint NCE Commenters")

National Association of Broadcasters ("NAB")

National Cable and Telecommunications Association ("NCTA")

National Public Radio ("NPR")

Native Public Media and National Federation of Community Broadcasters

Palm Harbor Radio, Inc.

Radio Training Network, Inc.

Rio Grande Bible Institute, Inc.

Seton Hall University (WSOU-FM)

Sky Country Broadcasting

Star Educational Media Network, Inc.

University of Northwestern-St. Paul

Reply Comments filed in response to the *NPRM*

ACA

Kenneth Benner

CLC, *et al.*

Jensen Hwa

NAB

National Religious Broadcasters

NCTA

North Carolina, Ohio, and Virginia Associations of Broadcasters ("NC, Ohio, and VA Associations")

Torres Law Group

APPENDIX B

Final Rules

Part 25 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 25 – SATELLITE COMMUNICATIONS

1. The Authority citation for Part 25 continues to read as follows:

AUTHORITY: Interprets or applies sections 4, 301, 302, 303, 307, 309, 319, 332, 705, and 721 of the Communications Act, as amended, 47 U.S.C. 154, 301, 302, 303, 307, 309, 319, 332, 705, and 721, unless otherwise noted.

2. Section 25.601 is amended to read as follows:

§ 25.601 Equal employment opportunities.

Notwithstanding other EEO provisions within these rules, an entity that uses an owned or leased Fixed-Satellite Service or Direct Broadcast Satellite Service or 17/24 GHz Broadcasting-Satellite Service facility (operating under this part) to provide video programming directly to the public on a subscription basis must comply with the equal employment opportunity requirements set forth in part 76, subpart E, of this chapter, if such entity exercises control (as defined in part 76, subpart E, of this chapter) over the video programming it distributes. Notwithstanding other EEO provisions within these rules, a licensee or permittee of a direct broadcast satellite station operating as a broadcaster, and a licensee or permittee in the satellite DARS service, must comply with the equal employment opportunity requirements set forth in part 73.

3. Section 25.701 is amended by revising the section heading and paragraphs (d), (e)(3), and (f)(6) to read as follows:

§ 25.701 Other DBS Public interest obligations.

* * * * *

(d) Political file. Each DBS provider shall maintain a complete and orderly political file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for DBS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) All records required to be retained by this section must be placed in the political file as soon as possible and must be retained for a period of two years. After the effective date of this section, DBS providers shall place all new political file material required to be retained by this section in the online file hosted by the Commission.

(e) * * *

(3) DBS providers airing children's programming must maintain in the online file hosted by the Commission records sufficient to verify compliance with this rule. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

(f) * * *

(6) *Public file.* (i) In addition to the political file requirements in §25.701, each DBS provider shall maintain in the online file hosted by the Commission a complete and orderly record of:

(A) Quarterly measurements of channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its response to any capacity changes;

(B) A record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity;

(C) A record of entities that have requested capacity, disposition of those requests and reasons for the disposition.

(ii) All records required by subparagraph (i) of this paragraph shall be placed in the online file hosted by the Commission as soon as possible and shall be retained for a period of two years.

(iii) Each DBS provider must also place in the online file hosted by the Commission the records required to be placed in the public inspection file by §25.701(e) (commercial limits in children's programs) and by §25.601 and 47 C.F.R. Part 76, Subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules.

(iv) Each DBS provider must provide a link to the online public inspection file hosted on the Commission's website from the home page of its own website, if the provider has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider also must include in the online public file hosted by the Commission the address of the provider's local public file, if the provider retains documents in the local public file that are not available in the Commission's online file, and the name, phone number, and email address of the provider's designated contact for questions about the public file.

* * * * *

4. New section 25.702 is added to read as follows:

§ 25.702 Other SDARS Public interest obligations.

(a) *Political broadcasting requirements.* The following political broadcasting rules shall apply to all SDARS licensees: 47 C.F.R. §§ 73.1940 (Legally qualified candidates for public office), 73.1941 (Equal opportunities), 73.1942 (Candidate rates), and 73.1944 (Reasonable access).

(b) *Political file.* Each SDARS licensee shall maintain a complete and orderly political file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for SDARS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) SDARS licensees shall place all records required by this section in the political file as soon as possible and shall retain the records for a period of two years. After the effective date of this section, SDARS licensees shall place all new political file material required to be retained by this section in the online public file hosted by the Commission.

(c) *Public inspection file.* Each SDARS applicant or licensee must also place in the online public file hosted by the Commission the records required to be placed in the public inspection file by 47 C.F.R. §§ 25.601 and 73.2080 (equal employment opportunities (EEO)) and retain those records for the period required by those rules.

Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the licensee has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee also must include in the online public file the address of the licensee's local public file, if the licensee retains documents in the local public file that are not available in the Commission's online file, and the name, phone number, and email address of the licensee's designated contact for questions about the public file.

* * * * *

Part 73 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 73 – RADIO BROADCAST SERVICES

5. The Authority citation for Part 73 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303, 334, 336, and 339.

6. Section 73.1943 is amended by revising paragraph (d) to read as follows:

§ 73.1943 Political File.

* * * * *

(d) Location of the file. A licensee or applicant must post all of the contents added to its political file after the effective date of this subsection in the political file component of its online public file hosted by the Commission. A station must retain in its political file maintained at the station, at the location specified in Section 73.3526(b) or 73.3527(b), all material required to be included in the political file and added to the file prior to the effective date of this subsection, unless the station elects voluntarily to place these materials in the Commission's online public file. The online political file must be updated in the same manner as subsection (c).

7. Section 73.3526 is amended by revising paragraph (b) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) Location of the file. The public inspection file shall be located as follows:

(1) For radio licensees temporarily exempt from the online public file hosted by the Commission, as discussed in paragraph (b)(2), a hard copy of the public inspection file shall be maintained at the main studio of the station, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2). For all licensees, letters and emails from the public, as required by paragraph (e)(9), shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(2) (i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of its public inspection file in the online public file hosted by the Commission, with the exception of letters and emails from the public as required by paragraph (e)(9), which shall be retained at the station in the manner discussed in paragraph (b)(1); and the political file as required by paragraph (e)(6), as discussed in paragraph (b)(3). Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the manner discussed in paragraph (b)(1) until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(ii) A station must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the station has a website, and provide contact information on its website for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

(3) (i) A licensee or applicant shall place the contents required by paragraph (e)(6) of its political inspection file in the online public file hosted by the Commission. Political inspection file material already in existence 30 days after the effective date of this provision, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period.

(ii) Any television station not in the top 50 DMAs, and any station not affiliated with one of the top four broadcast networks, regardless of the size of the market it serves, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) until July 1, 2014. For these stations, effective July 1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's website, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any station that is not required to place its political file in the online file

hosted by the Commission before July 1, 2014 may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(iii) Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) until March 1, 2018. For these stations, effective March 1, 2018, any new political file material shall be placed in the online public file hosted by the Commission, while the material already existing in the political file as of March 1, 2018, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any station that is not required to place its political file on the Commission's website before March 1, 2018, may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(4) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: authorizations, applications, contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; "The Public and Broadcasting"; Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself; Children's television programming reports; and DTV transition education reports. In the event that the online public file does not reflect such required information, the licensee will be responsible for posting such material.

* * * * *

8. Section 73.3527 is amended by revising paragraph (b) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) Location of the file. The public inspection file shall be located as follows:

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station until March 1, 2018, except that, as discussed in paragraph (b)(2)(ii), any radio station may voluntarily place its public inspection file in the online public file hosted by the Commission before March 1, 2018, if it chooses to do so, instead of retaining the file at the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(2) (i) A noncommercial educational television station licensee or applicant shall place the contents required by paragraph (e) of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(5), which may be retained at the station in the manner discussed in paragraph (b)(1) until July 1, 2014. Effective July 1, 2014, any new political file material shall be placed in the online public file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any noncommercial educational station that is not required to place its political file in the online public file hosted by the Commission before July 1, 2014 may choose to do so instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(ii) Beginning March 1, 2018, noncommercial educational radio station licensees and applicants shall place the contents required by paragraph (e) in the online public inspection file hosted by the

Commission. For these stations, effective March 1, 2018, any new political file material shall be placed in the Commission's online public file, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018, may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(iii) A station must provide a link to the online public inspection file hosted by the Commission from the home page of its own website, if the station has a website, and provide contact information for a station representative on its website that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file hosted by the Commission the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

(3) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: authorizations; applications; contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; and "The Public and Broadcasting."

* * * * *

9. Section 73.3580 is amended by revising paragraphs (d)(4)(i) and (ii) to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) * * *

(4) * * *

(i) Pre-filing announcements. During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by the application). Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should

file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, DC 20554.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

* * * * *

(ii) Post-filing announcements. During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, DC 20554.

* * * * *

Part 76 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 76 – MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

10. The Authority citation for Part 76 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

11. Section 76.630 is amended by revising paragraph (a)(2) to read as follows:

§ 76.630 Compatibility with consumer electronics equipment.

(a) * * *

(2) Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than 30 calendar days from the date the request for waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service, 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver shall be available for public inspection at www.fcc.gov.

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business).

Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

* * * * *

12. Section 76.1700 is revised to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a) *Public inspection file.* The following records must be placed in the online public file hosted by the Commission, except as indicated in § 76.1700(a)(6) and 76.1700(d) and except that the records listed in 76.1700(1) (political file) that are in existence 30 days after the effective date of this provision, if not placed in the online file, shall continue to be retained at the system and made available to the public in the manner discussed in paragraph (e) of this section until the end of the retention period. In addition, any cable system with fewer than 5,000 subscribers shall continue to retain the political file at the system in the manner discussed in paragraph (e) of this section until March 1, 2018. For these systems, effective March 1, 2018, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of March 1, 2018, if not placed on the Commission's website, shall continue to be retained at the system in the manner discussed in paragraph (e) of this section until the end of its retention period. However, any system that is not required to place its political file on the Commission's website before March 1, 2018 may choose to do so, instead of retaining the political file at the system in the manner discussed in paragraph (e) of this section.

(1) *Political file.* All requests for cablecast time made by or on behalf of a candidate for public office and all other information required to be maintained pursuant to §76.1701;

(2) *Equal employment opportunity.* All EEO materials described in §76.1702 except for any EEO program annual reports, which the Commission will link to the electronic version of all systems' public inspection files;

(3) *Commercial records on children's programs.* Sufficient records to verify compliance with §76.225 in accordance with §76.1703;

(4) *Performance tests (channels delivered).* The operator of each cable television system shall maintain a current listing of the cable television channels which that system delivers to its subscribers in accordance with §76.1705;

(5) *Leased access.* If a cable operator adopts and enforces written policy regarding indecent leased access programming, such a policy shall be published in accordance with §76.1707;

(6) *Principal headend.* The operator of every cable system shall maintain in its public inspection file the designation and location of its principal headend in accordance with §76.1708. Cable systems may elect not to post this information to the Commission's online file but instead retain this information in their local public file maintained in the manner discussed in paragraph (e) of this section.

(7) *Availability of signals.* The operator of every cable television system shall maintain a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements in accordance with §76.1709;

(8) *Operator interests in video programming.* Cable operators shall maintain records regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interests in accordance with §76.1710;

(9) Sponsorship identification. Whenever sponsorship announcements are omitted pursuant to §76.1615(f) of subpart T, the cable television system operator shall maintain a list in accordance with §76.1715;

(10) Compatibility with consumer electronics equipment. Cable system operators generally may not scramble or otherwise encrypt signals carried on the basic service tier. Copies of requests for waivers of this prohibition must be available in the public inspection file in accordance with §76.630.

(b) *Information available to the franchisor.* These records must be made available by cable system operators to local franchising authorities on reasonable notice and during regular business hours, except as indicated in § 76.1700(d).

(1) Proof-of-performance test data. The proof of performance tests shall be made available upon request in accordance with §76.1704;

(2) Complaint resolution. Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with §76.1713.

(c) *Information available to the Commission.* These records must be made available by cable system operators to the Commission on reasonable notice and during regular business hours, except as indicated in § 76.1700(d).

(1) Proof-of-performance test data. The proof of performance tests shall be made available upon request in accordance with §76.1704;

(2) Signal leakage logs and repair records. Cable operators shall maintain a log showing the date and location of each leakage source in accordance with §76.1706;

(3) Emergency alert system and activations. Every cable system shall keep a record of each test and activation of the Emergency Alert System (EAS). The test is performed pursuant to the procedures and requirements of part 11 of this chapter and the EAS Operating Handbook. The records are kept in accordance with Part 11 and §76.1711 of this chapter;

(4) Complaint resolution. Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with §76.1713;

(5) Subscriber records and public inspection file. The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request in accordance with §76.1716.

(d) *Exceptions to the public inspection file requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the online public file and from the public record requirements contained in §76.1701 (political file); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); §76.1706 (signal leakage logs and repair records); §76.1714 (FCC rules and regulations); and §76.1715 (sponsorship identification).

(e) *Location of records.* Public file material that continues to be retained at the system shall be retained in a public inspection file maintained at the office in the community served by the system that the system

operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business and, if the system operator does not maintain such an office in the community, at any accessible place in the communities served by the system (such as a public registry for documents or an attorney's office). Public file locations will be open at least during normal business hours and will be conveniently located. The public inspection file shall be available for public inspection at any time during regular business hours for the facility where they are kept. All or part of the public inspection file may be maintained in a computer database, as long as a computer terminal capable of accessing the database is made available, at the location of the file, to members of the public who wish to review the file.

(f) *Links and contact and geographic information.* A system must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the system has a website, and provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system. To the extent this section refers to the local public inspection file, it refers to the public file of a physical system, which is either maintained at the location described in paragraph (e) or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

(g) *Reproduction of records.* Copies of any material in the public inspection file that is not also available in the Commission's online file shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

* * * * *

13. Section 76.1702 is amended by revising paragraph (a) to read as follows:

§ 76.1702 Equal employment opportunity.

(a) Every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission pursuant to §76.77 and the equal employment opportunity program information described in paragraph (b) of this section. These materials shall be placed in the Commission's online public inspection file(s), maintained on the Commission's database, for each cable system associated with the employment unit. These materials shall be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained in the online public inspection file(s), maintained on the Commission's database, for every cable system associated with the headquarters employment unit.

* * * * *

14. Section 76.1709 is amended by revising paragraphs (a) and (b) to read as follows:

§76.1709 Availability of signals.

(a) The operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to §76.56. Such list shall include the call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

(b) Such records must be maintained in accordance with the provisions of §76.1700.

(c) A cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of §76.56.

* * * * *

APPENDIX C

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (“RFA”),¹ an Initial Regulatory Flexibility Analysis (“IRFA”) was incorporated in the *Notice of Proposed Rulemaking* (“NPRM”) in MB Docket 14-127.² The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA.³ We received no comments specifically directed toward the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Second Report and Order

2. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. To ensure that stations meet this obligation, the Commission relies on viewers and listeners as an important source of information about the nature of a station's programming, operations, and compliance with Commission rules. To provide the public with access to information about station operations, the Commission's rules have long required television and radio broadcast stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations.⁴ Cable operators, satellite TV (also referred to as “Direct Broadcast Satellite” or “DBS”) providers, broadcast radio licensees, and satellite radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees also have public and political file requirements modeled, in large part, on the longstanding broadcast requirements.⁵

3. In 2012, the Commission adopted online public file rules for broadcast television stations that required them to post public file documents to a central, FCC-hosted online database rather than maintaining the files locally at their main studios.⁶ Our goal was to modernize the procedures television

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See *NPRM* at Appendix C.

³ *Id.* at ¶ 1.

⁴ See 47 C.F.R. §§ 73.3526, 73.3527, 73.1943. Every permittee or licensee of an “AM, FM, TV or Class A TV station” in the commercial and noncommercial educational broadcast services must maintain a public inspection file. The material required to be retained in the public inspection file is substantially similar for radio and television stations, with some differences. Among other materials, both television and radio licensees must retain FCC authorizations, license applications, ownership reports, issues/programs lists, time brokerage agreements and joint sales agreements. Unlike television licensees, however, radio licensees do not have children's programming obligations or limitations on commercial time in children's programming and are not required to retain records in the file related to compliance with these obligations. In addition, television and radio stations must also retain a political file as part of their public inspection files. See 47 C.F.R. §§ 73.3526(e)(6), 73.3527(e)(5). The political file chiefly consists of “a complete and orderly record... of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. The ‘disposition’ includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.” 47 C.F.R. § 37.1943(a).

⁵ Section 315 of the Communications Act, as amended by the Bipartisan Campaign Reform Act of 2002, applies political advertising rate disclosure and public file requirements to broadcast stations, cable systems, and DBS operators. See 47 U.S.C. § 315.

⁶ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535 (2012) (“*Second Report and Order*”).

broadcasters use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public and, over time, to reduce the cost of broadcasters' compliance.⁷ This *Report and Order* extends our modernization effort to include the public file documents that cable operators, satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees are required to maintain. By including these services in our transition to an online public inspection file regime, our goal is to continue our effort to harness the efficiencies made possible by digital technology to make public file information more readily available while at the same time minimizing the burden of maintaining the file.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. No comments were filed in response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁸ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹⁰ 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 SBA.¹¹ Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

6. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.¹² Industry data shows that there were are currently 660 cable operators.¹³ Of this total, all but ten cable operators nationwide are small under

⁷ *Id.* at 4536, ¶ 1.

⁸ 5 U.S.C. § 603(b)(3).

⁹ 5 U.S.C. § 601(6).

¹⁰ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 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." 5 U.S.C. § 601(3).

¹¹ 15 U.S.C. § 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission's statistical account of television stations may be over-inclusive.

¹² 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. *Implementation of Sections of the Cable Television Consumer Protection And Competition Act of 1992: Rate Regulation*, MM Docket No. 92-266, MM Docket No. 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, ¶ 28 (1995).

¹³ NCTA, Industry Data, Number of Cable Operators and Systems, <http://www.ncta.com/industry-data/number-of-cable-operators-and-systems/> (visited October 13, 2014). Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service. See *Annual Assessment of the Status of*

(continued...)

this size standard.¹⁴ In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.¹⁵ Current Commission records show 4,629 cable systems nationwide.¹⁶ Of this total, 4,057 cable systems have less than 20,000 subscribers, and 572 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

7. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."¹⁷ There are approximately 54 million cable video subscribers in the United States today.¹⁸ Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.¹⁹ Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard.²⁰ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.²¹ Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. *Direct Broadcast Satellite (DBS) Service*. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers,²² which was developed for small wireline

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Competition in the Market for Delivery of Video Programming, MB Docket No. 12-203, Fifteenth Report, 28 FCC Rcd 10496, 10505-6, ¶ 24 (2013) ("15th Annual Competition Report").

¹⁴ See SNL Kagan, "Top Cable MSOs – 12/12 Q"; available at <http://www.snk.com/press-releases/2013/12/12-top-cable-msos-12-12-q/>.

¹⁵ 47 C.F.R. § 76.901(c).

¹⁶ The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on October 10, 2014. A cable system is a physical system integrated to a principal headend.

¹⁷ 47 U.S.C. § 543(m)(2); see 47 C.F.R. § 76.901(f) & nn. 1-3.

¹⁸ See NCTA, Industry Data, Cable's Customer Base, <http://www.ncta.com/industry-data/cables-customer-base/> (visited October 13, 2014).

¹⁹ 47 C.F.R. § 76.901(f); see *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (Cable Services Bureau 2001).

²⁰ See NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), <http://www.ncta.com/industry-data/top-25-multichannel-video-service-customers-2012/> (visited Aug. 30, 2013).

²¹ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. See 47 C.F.R. § 76.901(f).

²² See 13 C.F.R. § 121.201, 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *Bv*

(continued...)

businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees.²³ Census data for 2007 shows that there were 3,188 firms that operated for that entire year.²⁴ Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees.²⁵ Therefore, under this size standard, the majority of such businesses can be considered small entities. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled “Cable and Other Program Distribution.” As of 2002, the SBA defined a small Cable and Other Program Distribution provider as one with \$12.5 million or less in annual receipts.²⁶ Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network.²⁷ Each currently offers subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined under the superseded SBA size standard would have the financial wherewithal to become a DBS service provider.

9. *Radio Broadcasting.* The SBA defines a radio broadcast station as a small business if such station has no more than \$38.5 million in annual receipts.²⁸ Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.”²⁹ According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of the then number of commercial radio stations (11,341) have revenues of \$35.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial radio stations to be 4,090.³⁰ The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. These stations rely primarily on grants and contributions for their operations, so we will assume that all of these entities qualify as small businesses. We note that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included.³¹ This estimate, therefore, likely

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exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” (*Emphasis added to text relevant to satellite services.*) U.S. Census Bureau, 2012 NAICS Definitions, “517110 Wired Telecommunications Carriers,” at <http://www.census.gov/ipeds/data/naics/2012/517110.html>.

²³ 13 C.F.R. § 121.201; 2012 NAICS code 517110.

²⁴ U.S. Census Bureau, 2007 Economic Census. See U.S. Census Bureau, American FactFinder, “Information: Subject Series – Estab and Firm Size: Employment Size of Establishments for the United States: 2007 – 2007 Economic Census,” NAICS code 517110, Table EC0751SSSZ5; available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

²⁵ *Id.*

²⁶ See 13 C.F.R. § 121.201, NAICS code 517510 (2002).

²⁷ See *15th Annual Competition Report*, 28 FCC Rcd at 10507, ¶ 27. As of June 2012, DIRECTV is the largest DBS operator and the second largest MVPD in the United States, serving approximately 19.9 million subscribers. DISH Network is the second largest DBS operator and the third largest MVPD, serving approximately 14.1 million subscribers. *Id.* at 10507, 10546, ¶¶ 27, 110-11.

²⁸ 13 C.F.R. § 121.201, 2012 NAICS code 515112.

²⁹ U.S. Census Bureau, *2012 NAICS Definitions: 515112 Radio Broadcasting*, <http://www.census.gov/ipeds/data/naics/2012/515112.html> (last visited October 13, 2014).

³⁰ See *Broadcast Station Totals as of September 30, 2015*, FCC News Release, October 9, 2015.

³¹ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has power to control both.” 13 C.F.R. § 121.103(a)(1).

overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

10. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

11. *Satellite Radio.* The rules proposed in this *NPRM* would affect the sole, current U.S. provider of satellite radio (“SDARS”) services, XM-Sirius, which offers subscription services. XM-Sirius reported revenue of \$3.8 billion in 2013 and a net income of \$377 million.³² In light of these figures, we believe it is unlikely that this entity would be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

12. The rule changes adopted in the *Report and Order* affect reporting, recordkeeping, or other compliance requirements. Cable, DBS, broadcast radio, and SDARS entities are currently required to maintain a “local” copy of their public inspection files. The *Report and Order* requires these entities to submit documents, including political file materials, for inclusion in an online public file hosted on the Commission’s website. Items in the public file that are required to be filed with the Commission will be automatically imported into the entity’s online public file. Entities will only be responsible for uploading to the online file items that are not required to be filed with the Commission under any other rule. The *Report and Order* also excludes some items from the online public file requirement, such as the existing political file, which must continue to be maintained locally until the end of the retention period unless voluntarily uploaded to the online file. Office staff will be able to upload documents to the online file in most cases; no professional skills will generally be necessary to perform that task.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into

compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.³³

14. The *Report and Order* includes a number of measures designed to minimize the effort and cost entities must undertake to move their public files online. Specifically, we require entities to upload to the online file only public file documents that are not already on file with the Commission or that the Commission maintains in its own database. We also exempt existing political file material from the online file requirement and require only that political file documents be uploaded on a going-forward basis. In addition, with only minor exceptions – requiring cable operators to provide information about

³² See [http://www.fcc.gov/om/eas/eas.html](#).

³³ 5 U.S.C. § 603(e)(1)-(e)(4).

the geographic areas they serve and the employment units associated with each cable system, clarifying the documents required to be included in the cable public file, and requiring cable, DBS, broadcast radio, and SDARS entities to provide certain location and contact information for their local file – we do not adopt new or modified public inspection file requirements in this proceeding. Our goal is to adapt our existing public file requirements to an online format. While we recognize that entities may incur a modest, one-time transitional cost to upload some portions of their existing public file to the online database, we believe this initial expense will be offset by the public benefits of online disclosure. We also believe that, over time, entities will benefit from the lower costs of sending documents electronically to the Commission as opposed to creating and maintaining a paper file at the local or headquarters' office or main studio and assisting the public in accessing it.

15. In addition, with respect to radio licensees the *Report and Order* commences the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing for two years all online file requirements for other radio stations. This delay will give these stations additional time to familiarize themselves with the online filing requirements and will permit them to spread out their transition to the online file over a period of two years. The *Report and Order* also exempts small cable systems temporarily from the requirement to commence uploading new political file material to the online public file and exempts very small cable systems from all requirements to upload documents to the Commission's online database.

16. Overall, we believe that the *Report and Order* appropriately balances the interests of the public against the interests of the entities who will be subject to the rules, including those that are smaller entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule

17. None.

**STATEMENT OF
CHAIRMAN THOMAS E. WHEELER**

Re: Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. MB Docket No. 14-127.

One of the most consistent themes of the Commission's recent agenda has been updating rules to reflect advances in technology in order to unleash new benefits for the American people. The FCC's "public file" rules offer a clear example of this principle in practice. Today, the Commission takes another step to modernize this pro-transparency policy for the digital age.

For decades, the Commission has required broadcasters, cable operators, DBS providers, and satellite radio licensees to maintain public inspection files, which disclose community-relevant information such as political advertising sold and data on ownership and equal employment opportunities. But there's a catch. For too long, the public could barely access the "public" file. It was maintained only on paper in file cabinets at the actual radio and TV stations. In the Internet era, that doesn't make any sense.

In 2012, the FCC took the first step to fix this problem. It adopted rules moving television station's paper public files online. Rather than being squirreled away in a file cabinet, the information is available online in a central, Commission-hosted database. TV broadcasters of all sizes completed their transition to the online file in July 2014. In December 2014, the Commission proposed to extend this policy by expanding the online public file database to include cable, DBS, broadcast radio, and satellite radio companies.

The Order adopted today finalizes that transition by requiring the remaining media services to join the TV station colleagues and post their public file documents to the FCC's online database.

To be clear, this Order includes no new disclosure requirements. It does nothing more than move the documents these companies are required to keep in paper, online. All information that the public already had access to will now just be available to the public via a different medium.

Our action is also cognizant that these companies have varied levels of resources, so we take common-sense steps to lessen the burden on the smallest of these companies by giving them more time to upload their materials.

This move to an online public file will not only make accessing the file much more convenient for members of the public, it will actually lower long-term costs for industry. The public will be able search the file without requiring assistance from station or headquarters staff, reducing the burden of maintaining the public file.

The evolution of the Internet and the expansion of broadband infrastructure have transformed the way society accesses information today. Today's action keeps pace with these changes and takes advantage of this progress.

Thank you to the Media Bureau for their work on this item.

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, MB Docket No. 14-127.

When I voted four years ago to make public files that were then stored in broadcast television station headquarters available over a Commission-hosted online public file platform, I said that “disclosure and transparency inspire confidence, increase the public’s trust, and convey good faith. The American people not only want those things,” my statement read, “they demand them, and that is the basis for my approval of this item.”

Those expressions for me are just as true today as when I said them then, which is why I support the expansion of online public file obligations to include radio broadcasters, cable companies and satellite radio and television properties.

Our experience with the television online file transition has been, in a word, positive. At my request, the television online file migration was evaluated one year after the largest stations transitioned, and what we found, was that there was no reason to delay the transition for smaller stations. Broadcasters saw the online database as easy to use and reliable, but most importantly, the public has found it incredibly valuable, judging by the almost 12 million visits to the hosted site since then.

With this as a backdrop, the time has come for the remaining media entities to transition their public files online. Radio, cable, and satellite providers will be phasing into the online system in the same manner as we did for television stations. Once again, we will start with the larger stations and systems, giving smaller entities additional time, and if past is prologue, all providers should be at ease. The FCC listened to television broadcasters while it developed a system that is not only user friendly, it kept the burden of this online shift low. Our IT professionals should be commended for their diligent work in this regard.

Today, we are once again simply modernizing the procedures of the existing public file requirements by moving from reams of papers and files stored in offices to the Internet, which has quickly shown to minimize the burdens on users while ensuring public access to valuable information.

But not all of our stations and systems live in an online connected world, so for those properties that remain on the other side of the digital divide, provisions are in place for you to seek a waiver of this rule, giving additional time to join those of us who take being online for granted.

Today’s item balances the needs of the public with the burdens imposed on the regulated, but it is not accidental that the main beneficiary of this online database is the American public. We rely on them as our primary source when it comes to a station’s programming, operations and compliance with the Commission’s rules and they will always be an integral part of our democratic fabric. So if the FCC can be instrumental in giving the public enhanced tools to do so, then we must make it so.

I want to thank the Media Bureau for their work on this item, especially Kim Matthews and Mary Beth Murphy.

STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL

Re: *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, MB Docket No. 14-127.

We live in the information age. As a result, we demand—and expect—all sorts of data and intelligence to be available at our fingertips virtually anytime, anywhere. So it strikes me as pretty retrograde that this Commission still has on its books a requirement that radio, cable, and satellite providers can keep their public files on paper, in dusty file cabinets locked in the information practices of the past. This kind of requirement may have made sense in the *Mad Men* era, but it makes no sense in the digital age.

Today we update our public file practices so that across the board those who are required to maintain these records can file them in a Commission-hosted, cloud-based online system. This is the right thing to do. This is the modern thing to do. It has my full support.

**STATEMENT OF
COMMISSIONER AJIT PAI
APPROVING IN PART AND CONCURRING IN PART**

Re: Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, MB Docket No. 14-127.

Parsons, Kansas is a world away from San Francisco. And yet, thanks to TuneIn, I was able to listen to my hometown radio station, KLKC 1540 AM, while driving around the Bay Area earlier this month. I happened to visit TuneIn during my trip, and I learned how its app allows you to stream over 100,000 radio stations from across the country and around the world. I've also used KLKC's own app to listen to the station's livestream.

This is just one example of a broader trend in media: the amount of content available online is exploding. Last year, the Commission took account of this change when we modified our contest rules to permit broadcasters to disclose the material terms of contests on a publicly accessible website. And today, we further recognize the digital revolution by requiring cable operators, DBS providers, and broadcast and satellite radio companies to post their public files online.

In the digital age, it doesn't make sense for hardcopies of these documents to gather dust in forlorn file cabinets. When I've visited radio stations, I've inspected some public files. And when I do, I'm usually told that I'm one of the few people who has ever done so.

By posting the public file online, we will make it much easier for the American people to access that information. No longer will you have to make a special trip to see a public file. You will now be able to access the file where you want, when you want, and on the Internet-connected device you want. Indeed, with today's decision, one could say that we are helping to put the "public" back in the public file.

Of course, posting documents online isn't costless. So throughout this proceeding, I have been particularly concerned about the impact of new requirements on small cable operators and radio stations. Although the FCC doesn't go as far as I would have preferred in this regard, it does cut them some slack. In particular, we exempt cable systems with fewer than 1,000 subscribers from all online public file requirements. And we make clear that the Commission will give serious consideration to waiver requests filed by very small radio stations (that is, those with less than five employees).

We also made progress in two areas where I otherwise had qualms about posting information online. First, I believe that including the specific location of cable headends in the online file would raise unnecessary security concerns without providing any benefit to the public. I am therefore pleased that my colleagues agreed with my request to remove such information from the online public file.

Second, I have serious reservations about requiring noncommercial educational (NCE) stations to include lists of donors supporting specific programs in their online public file. Numerous NCE stations told the Commission that posting those names online would discourage people from making donations. As the National Religious Broadcasters put it, "donors may choose to refrain from contributing either because they do not wish to have their privacy violated, or because they fear retaliation for supporting noncommercial radio stations that take unpopular or controversial positions (or who broadcast talk shows that do), or possibly both."

The point about retaliation is one that I take very seriously. Recently, it has become disturbingly common for people with unpopular or controversial positions to be harassed, shouted down, or intimidated. Some have even lost their jobs or seen their businesses boycotted. I do not believe that the FCC should do anything that could enable this kind of bullying. It principally serves to chill public debate and impoverish the marketplace of ideas, and it is unbecoming of a nation that cherishes its First Amendment freedoms.

Now, I have no doubt some will shrug off this concern because it rarely seems to harm people whose views they agree with. But when this deliberate indifference is reinforced by a government

mandate, it effectively leaves us with the Orwellian notion that “all viewpoints are equal, but some are more equal than others.” And it ignores our nation’s history. For example, in the landmark 1958 case of *NAACP v. Alabama*, the U.S. Supreme Court rebuffed the State of Alabama’s attempt to require the NAACP to disclose the names and addresses of its Alabama members, an effort that was clearly designed to discourage Alabamians from supporting the civil rights organization.

For these reasons, I do not believe that NCE stations should be required to post their donor lists online. Unfortunately, there wasn’t majority support for that position. But we were able to agree on a process that allows NCE stations to seek waivers of this requirement if they believe that posting donors’ names online would discourage financial support for particular programs. Critically, an NCE station filing such a waiver request would not have to post donor lists to its online file until after the Commission and the courts have finished reviewing that request. This ensures that any NCE station will get full and fair consideration of its position (if it so desires) before donor names are published online.

To be sure, this outcome isn’t ideal. But we stand in far better stead than we did three weeks ago. And since the online public file requirement will not take effect until 2018, it’s also my hope that the Commission will revisit this question before it is implemented.

In short, I agree with most of this *Order*. Where I do not, we’ve been able to improve it. I am therefore voting to approve in part and concur in part.

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**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, MB Docket No. 14-127.

As my colleagues have highlighted, moving the required public inspection files online should benefit regulated entities and the public alike, providing better access to information while eventually reducing the cost of compliance. I have been an advocate of using the power of the Internet in many ways to make life a little easier for all parties who want to participate in Commission proceedings, and this order should ultimately help achieve that goal.

For some of our regulatees, placing all of their public files online will not only reduce costs, it will also enhance the security of their facilities, since they will no longer need to maintain a local, physically accessible public file. A few months ago, I wrote about the potential impact of this major security loophole specifically on broadcasters. Unlike cable and satellite operators, commercial broadcast licensees will not have the immediate option of transitioning to an online-only public file, due to the Commission's rule pertaining to the correspondence file that arguably cannot be made available online for privacy reasons. I very much appreciate the Chairman's attention to this important issue and commitment to move forward on a proposal to eliminate correspondence file requirements so that broadcasters, too, can have an online-only option for public file requirements. I also appreciate his willingness to address a similar security issue for cable headend locations.

Likewise, I think we need to be very careful not to expose NCE station donors to potential privacy and security risks, and asked that these donor lists be exempted from online public files. While not willing to go that far, the Chairman did allow for a waiver process, which I hope will ultimately serve as a real option to provide some protection where there is any indication it is warranted. No one should construe my willingness to allow this here to be applicable for any future situations.

I have frequently shared my concerns about the need for more rigorous cost-benefit analysis in the Commission's work, and this item raised some similar concerns. Some of my suggestions on this front were included here, but I will revisit this issue in the future.