

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

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| In the Matter of |) | |
| |) | |
| Amendment of Section 73.3613 of the |) | |
| Commission's Rules Regarding |) | |
| Filing of Contracts |) | MB Docket 18-4 |
| |) | |
| Modernization of Media |) | MB Docket No. 17-105 |
| Regulation Initiative |) | |

**COMMENTS OF AMERICA'S PUBLIC TELEVISION STATIONS,
CORPORATION FOR PUBLIC BROADCASTING,
PUBLIC BROADCASTING SERVICE AND
NATIONAL PUBLIC RADIO**

America's Public Television Stations ("APTS")¹, Corporation for Public
Broadcasting ("CPB")², Public Broadcasting Service ("PBS")³ and National Public
Radio⁴ (collectively, "Public Broadcasting") submit these comments in response to the
Commission's Notice of Proposed Rulemaking ("NPRM") seeking to eliminate the

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation's CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American people.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with its 350 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

⁴ NPR is a non-profit membership corporation that produces and distributes noncommercial educational radio programs, including All Things Considered® and Morning Edition®, through more than 1000 radio stations nationwide. Each week, some 42 million Americans listen to public radio stations with millions more consuming programming on digital platforms and via podcasts. NPR's member stations are themselves significant producers of local, regional and national news, information and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its member station licensees.

“paper copy” filing requirements for broadcast station contracts and similar documents and further modernize Section 73.3613 of the FCC’s rules.⁵ This NPRM is related to the Commission’s Modernization of Media Regulation Initiative (MB Docket 17-105).

Comments. Public Broadcasting supports eliminating the paper copy filing requirement as unnecessary and burdensome. The FCC has now fully implemented its online public inspection file (“OPIF”) requirement for broadcasters and all such contracts and similar documents (currently required to be filed with the FCC pursuant to Section 73.3613 of the FCC rules) are now available to the public through the FCC’s OPIF system, either directly or upon request.⁶ Accordingly, the FCC and the public have easy online access to the documents at issue. The implementation of OPIF makes the decades-old paper filing requirement redundant.

Public Broadcasting agrees that the inventory of 73.3613 documents in OPIF files should be updated by public broadcasters, but suggests that periodic updates are sufficient, particularly given how infrequently such paper documents were accessed at the FCC’s reference room or were requested by the public from the old “paper” public inspection files maintained by public broadcasters.

Public Broadcasting suggests modernization of the 73.3613 document and online public file rules for attributable TBAs and JSAs with regard to noncommercial educational broadcast stations. The current public file rules do not address TBAs or JSAs for noncommercial stations for good reason – those sorts of documents are not used by noncommercial broadcasters due to the statutory and regulatory regime governing

⁵ *Amendment of Section 73.3613 of the Commission’s Rules Regarding Filing of Contracts*, Notice of Proposed Rulemaking, FCC 18-8 (rel. Jan. 30, 2018) (*NPRM*).

⁶ 47 CFR Section 73.3526(e)(5).

noncommercial broadcasting.⁷ Section 399 of the Communications Act prohibits noncommercial stations from selling “advertising.” Similarly, pursuant to Section 73.503 and 73.621 of the FCC’s rules, as well as well-established FCC precedent, noncommercial stations are not permitted to “time broker.” Thus, the TBA and JSA concepts, as regulated by the FCC, simply do not pertain to noncommercial stations.⁸

Furthermore, noncommercial stations are not “attributable” for purposes of the FCC’s commercial broadcasting multiple ownership regime set forth in Section 73.3555 of the FCC rules, which obviates any regulatory need for noncommercial stations to maintain attributable TBAs or JSAs or similar contracts in OPIF – there is no underlying FCC multiple ownership rationale for regulating those types of contracts for noncommercial broadcast stations.⁹

Conclusion. Elimination of the paper copy filing requirement will reduce regulatory burdens on broadcasters (and save paper) without impact on the FCC’s or the public’s ability to review such documents. While noncommercial broadcasters should be required to keep documents in OPIF up to date, periodic updates are sufficient. Any filing requirements for TBAs or JSAs for noncommercial stations should be eliminated to harmonize with the applicable statute and existing FCC regulations governing noncommercial broadcasting and to avoid confusion.

⁷ See *NPRM* at Footnote 40.

⁸ See *NPRM* at footnote 37.

⁹ 47 CFR Section 73.3555(f).

Respectfully submitted,

/s/ Lonna Thompson

Executive Vice President, Chief Operating Officer, and General Counsel
AMERICA'S PUBLIC TELEVISION STATIONS
2100 Crystal Drive, Suite 700
Arlington, VA 22202

/s/ J. Westwood Smithers, Jr.

Senior Vice President and General Counsel
CORPORATION FOR PUBLIC BROADCASTING
401 Ninth Street, NW
Washington, DC 20004

/s/ William Weber

Vice President, Government Affairs and Associate General Counsel
Talía Rosen
Assistant General Counsel and Senior Director, Standards & Practices
PUBLIC BROADCASTING SERVICE
2100 Crystal Drive
Arlington, VA 22202

/s/ Gregory A. Lewis

Deputy General Counsel
Michael Riksen
Vice President for Policy and Representation
Joni Lupovitz
Senior Director, Public Policy
NATIONAL PUBLIC RADIO, INC.
1111 North Capitol Street NE
Washington, DC 20002

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