Before the
**FEDERAL COMMUNICATIONS COMMISSION**
Washington, D.C. 20554

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location | ) | MB Docket No. 16-161 |
| | ) | |

**COMMENTS**

The Broadcaster Coalition (the "Coalition"),[1] by its attorneys, hereby submits these comments in support of the Commission's proposal to eliminate commercial broadcast television stations' obligation to retain in their public inspection files copies of letters and e-mails from the public (the "correspondence file").[2]

## I. Introduction

Together, the Coalition's members own or operate 99 television stations and 59 radio stations in small, medium, and large markets across the country. The Coalition strongly supports the proposed elimination of the correspondence file because doing so will eliminate outdated, outmoded, and asymmetrical regulatory requirements, reduce station costs, and enhance the safety of station personnel without causing any concomitant harm to viewers or listeners.

Since 1973, Commission rules have required commercial radio and television stations to retain for a period of three years in the public inspection file written comments and suggestions

[1] The Coalition is comprised of Cox Media Group, Gray Television, Block Communications, Cordillera Communications, and Midwest Television.

[2] *See* Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location, *Notice of Proposed Rulemaking*, 31 FCC Rcd 5796 (2016) (the "*Notice*"); *see also* 47 C.F.R. §§ 73.1202, 73.3526(e)(9).

from the public about the operations of the station.[3] As discussed in the *Notice*, this requirement was intended "to permit a member of the public to better determine the nature of community feedback being received by the licensees and the extent to which his or her opinions regarding community problems and needs and/or the licensee's station operation might be shared by other members of the community."[4] Since the Commission instituted this requirement, just about everything about the way viewers and listeners communicate with broadcast stations and the wider community has changed, and the public correspondence file rule is no longer a reasonable way to achieve the Commission's intended goals. As the Chairman and each of the Commissioners unanimously agreed when voting on the *Notice*, the time has come to eliminate the correspondence file.[5]

## II. Eliminating the Public Correspondence File Will Not Harm Consumers' Ability to Register Their Views Regarding Station Operations or Monitor Other Consumers' Opinions.

Broadcasters have learned from experience that listeners and viewers no longer need or use the public correspondence file. In the collective experience of the Coalition, few, if any, members of the public ever review a station's correspondence file. This is unsurprising, because today there are many more easily accessible ways for consumers to register their opinion regarding station operations and determine if others share their opinions. For example, the Coalition's stations receive much of their feedback from interested viewers and commenters

---

[3] *See* 47 C.F.R. §§ 73.1202, 73.3526(e)(9).

[4] *See Notice* at ¶ 3 (citing Formulation of Rules and Policies Relating to the Renewal of Broadcast Licenses, *Memorandum Opinion and Order on Reconsideration*, 44 FCC 2d 405, 415 (1973).

[5] *See* Approving Statements of Chairman Thomas E. Wheeler, Mignon L. Clyburn, Jessica Rosenworcel, Ajit Pai, and Michael P. O'Rielly (*attached to* the *Notice*).

through public social media accounts that any interested party can monitor.[6] As they always have with letters and e-mails from the public, stations now monitor their social media accounts to understand viewers' reactions to stories, to generate discussions on issues of local importance, and to receive feedback about the operation of the station. Viewers and listeners, therefore, will not lose their connection to broadcast stations, nor will the public lose its ability to review public comments about the station should the Commission eliminate the correspondence file.[7]

Moreover, individual viewers and listeners will not lose their ability to communicate with stations by regular mail or email. Stations will continue to review and, when appropriate, respond to any concerns expressed through such communications. Indeed, The Coalition recognizes that the Telecommunications Act of 1996 requires licensees to submit a "summary of written comments and suggestions received from the public . . . that comment on the applicant's programming, if any, and that are characterized by the commenter as constituting violent programming."[8] Thus, stations will continue to review all correspondence and maintain a *non-public* file that contains correspondence from the public regarding, at a minimum, allegedly violent programming. This will enable licensees to respond accurately to the related question on the Form 303-S when applying for renewal of the broadcast license and ensure that the

---

[6] *See* Approving Statement of Chairman Thomas E. Wheeler (*attached to* the *Notice*).

[7] Elimination of the public correspondence file also will not impair the Commission's ability to obtain feedback regarding a station's obligation to serve the public interest. The Commission maintains a public website that permits viewers to file complaints directly with the Commission. *See* FCC Consumer Help Center, *Commission Complaints*, *available at* https://consumercomplaints.fcc.gov/hc/en-us. Furthermore, licensees are required to air announcements during the renewal cycle notifying their viewers that they have the opportunity to provide feedback during the Commission's review of the renewal application. *See*, *e.g.*, 47 C.F.R. § 73.3580(d). Therefore, the public's direct line of communication with the Commission remains available for any member of the public to provide comments regarding a television station's operations.

[8] 47 U.S.C. § 308(d).

Commission will not receive any less information during the next cycle of license renewal applications than it has in previous renewal cycles.[9]

## III. Significant Public Interest Benefits Will Flow From Removing the Public Correspondence File Requirement.

Removing the public correspondence file will provide important benefits to broadcasters and their audiences. First, this step would serve the Commission's perpetual goal of reducing regulatory compliance costs by repealing unneeded regulations. As the Commission explained in the *Notice*, eliminating the correspondence file will reduce the record keeping burden on commercial broadcasters.[10] Stations will no longer need to dedicate space at the main studio to maintain a general correspondence file, and station personnel will no longer be required to separately track and retain the written correspondence solely for the purpose of maintaining an unread and unused public file. These reduced administrative costs will free stations to use these savings to fund station services and programming that actually serve the public.[11]

Second, eliminating the public correspondence file will help to remove regulatory disparities between broadcasters and other Commission licensees. Commercial broadcasters are the only entities with public file obligations that are required to maintain a correspondence

---

[9] The Coalition, however, respectfully requests that the Commission make clear that written correspondence is limited to letters and e-mails from the public and that such correspondence need only be maintained in the station's non-public files for a period of three years. These reasonable limits on the retention of public comments mirror the current requirements for the correspondence file.

[10] *Notice* at ¶ 9.

[11] The proposed change also is consistent with the Commission's recent decisions to remove paper public inspection files from broadcast stations' local main studios. Following Commission decisions to require online public files rather than paper files at the station main studio, the vast majority of television stations and most radio stations in the top 50 markets no longer maintain a full public inspection file at their main studios. *See* Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order, 27 Commission Rcd 4535, 4566-67 ¶ 62 (2012). The correspondence file is the only material that must be maintained separately at a station's main studio.

folder. Cable operators, DBS providers, and satellite radio licensees face no such requirement. Every regulatory compliance cost advantage enjoyed by commercial broadcasters' competitors translates directly to unfair competitive advantages for these competing video providers and worse service to the public. The public will benefit from the elimination of the public file disparity here, which will bring regulatory uniformity among broadcasters and their video competitors.

Third, and perhaps most important, the proposed rule change will increase the safety of employees at each broadcaster's main studio, which is a very real and growing concern. Broadcast employees in today's society face real dangers. For instance, Coalition members' employees have faced personal threats to their health and safety, including:

- an angry listener considered to be a security risk demanded a meeting with station management and mentioned he could not be denied access to the station because he has a right to inspect the public file;
- a homeless person attempted to set fire to a television studio;
- a stalker harassed a television anchor;
- a member of the public threw a cinder block through a station's van;
- a man wanted for murder by the police entered a station to tell his side of the story;
- an intoxicated man entered a station and ran up the stairs in a delusional attempt to deliver water to people on the roof; and
- the horrific on-air murders of the WDBJ news reporter and photojournalist in Roanoke.[12]

[12] In addition to the listed experiences that have been faced by the Coalition's stations, there are numerous other examples of attacks on television station personnel faced by other broadcasters. *See, e.g.*, FoxNews, *Suspect in Custody After Threatening to Blow Up Baltimore Fox TV Station*, Apr. 28, 2016, *available at* http://www.foxnews.com/us/2016/04/28/fox-baltimore-station-evacuated-after-man-threatened-to-set-off-bomb.html.

To protect their employees, some Coalition members have implemented new safety protocols for their main studio employees including, in some cases, conducting training on the proper response to an active shooter.

The Coalition fears an occasion when a member of the public attempts to enter a station's main studio under the guise of needing to view the public file when the true purpose of the visit is to cause harm to one or more of the employees. Eliminating the correspondence file will provide one less way for those individuals to gain access to television stations under false pretenses. This will improve public safety and aid broadcasters in keeping their communities safe.

## IV. Conclusion

For the foregoing reasons, eliminating the broadcaster correspondence file will provide real benefits for broadcasters and their audiences and result in no harm to the public. The Coalition therefore urges the Commission to adopt its proposed removal of the public correspondence file obligation.

Respectfully submitted,

THE BROADCASTER COALITION

By __/s/ Christina H. Burrow_____

Christina H. Burrow
Henry H. Wendel
Cooley LLP
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004
(202) 776-2687

Its Attorneys

July 22, 2016