



November 4, 2019

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Notice of Ex Parte Communication, MB Docket No. 17-105

Dear Ms. Dortch:

On October 31, 2019, representatives of the National Association of Broadcasters (NAB) and the Radio Television Digital News Association (RTDNA) met with staff of the Media and Enforcement Bureaus to discuss two issues previously raised in the above-captioned proceeding: proposals by NAB, RTDNA and others to eliminate the Telephone Broadcast Rule and an NAB proposal to streamline ownership report filings. A list of meeting attendees is attached, and a summary of the discussion is below.

Telephone Broadcast Rule. As discussed in previous filings in this proceeding, RTDNA, NAB and others support elimination of the Telephone Broadcast Rule.¹ The rule provides that, before broadcasting or recording a telephone conversation for later broadcast, a licensee must inform any party to the call of its intention to broadcast the conversation, except where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast.² The rule applies only to over-the-air broadcasters. When the Commission last upheld the rule in 1988 on the grounds that it was necessary to protect privacy, there were few means by which a phone conversation could be easily and widely disseminated to the public. Today, however, the landscape is far different. Apart from federal and state privacy protections that apply across platforms, other digital or print journalists are “free to record a telephone conversation without ever disclosing that they might later post audio or video on their website, disseminate the recording over ubiquitous social media platforms, or simply publish a verbatim transcript in print or online.”³ The rule only serves to restrict broadcast journalists’ communications and impede their ability to engage in investigative journalism. We explained that the federal wiretapping

¹ Comments of the Radio Television Digital News Association, MB Docket No. 17-105 (Jul. 5, 2017) (RTDNA Comments); Reply Comments of NAB, MB Docket No. 17-105 (Aug. 4, 2017) at 7. See *also* Comments of CBS Corporation, The Walt Disney Company, 21st Century Fox, Inc. and Univision Communications Inc., MB Docket No. 17-105 (Jul. 5, 2017) at 4.

² 47 C.F.R. § 73.1206.

³ RTDNA Comments at 2.

statute, state privacy laws, and prevailing tort law are better suited to address privacy concerns in a digital, multimedia, smartphone-equipped world (where audio and video recording and posting for wide public consumption is commonplace). An administrative agency regulation that applies solely to recording telephone conversations, and solely to over-the-air broadcasting as a distribution means, is an anachronism. Because the rule is antiquated, imposes discriminatory burdens on broadcast journalists, and fails to advance privacy goals, it should be eliminated.

Broadcast Ownership Reports (FCC Form 2100, Schedule 323/323-E). Currently, broadcast licensees and parties holding attributable interests in broadcast entities must file ownership reports: (i) within 30 days of initial licensing; (ii) biennially on December 1 of each odd calendar year (reflecting their ownership structure as of October 1 of that year); and (iii) within 30 days of consummation of an assignment or transfer of control.⁴

During the meeting, NAB observed that some licensees must file ownership reports multiple times during the biennial filing period because of transactions. To reduce burdens associated with multiple ownership report filings, we urged the Commission to grant a blanket waiver of the requirement to file post-consummation ownership reports that would be due in close proximity to a biennial filing. For example, if a licensee closed a transaction on April 1, 2019, it would not file a post-consummation ownership report on May 1, 2019. Instead, it would file only a biennial report that reflects its ownership structure as of October 1, 2019. We stated that this change would allow licensees and their attributable interest holders some relief from ownership reporting burdens without interfering with the Commission's ability to analyze ownership data over time.

NAB and RTDNA appreciate the Commission's ongoing efforts to modernize its media regulations. We look forward to working with FCC staff on additional modernization efforts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ERD', with a stylized flourish at the end.

Erin L. Dozier
Senior Vice President and Deputy General Counsel
Legal and Regulatory Affairs

cc: Michelle Carey, Jeffrey Gee, Brendan Holland, Jake Riehm, Holly Saurer, Christopher Sova, Sarah Whitesell

⁴ 47 C.F.R. § 73.3615.

Meeting Attendees

FCC Media Bureau

Michelle Carey
Brendan Holland
Jake Riehm
Holly Saurer
Sarah Whitesell

FCC Enforcement Bureau

Jeffrey Gee
Christopher Sova

National Association of Broadcasters

Erin Dozier
Rick Kaplan

Radio Television Digital News Association

Kathleen Kirby