

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Expansion of Online Public File Obligations) MB Docket No. 14-127
To Cable and Satellite TV Operators and)
Broadcast and Satellite Radio Licensees)
)
)

COMMENTS OF DIRECTV, LLC

DIRECTV, LLC (“DIRECTV”) hereby submits these comments in response to the Notice of Proposed Rulemaking (“*Notice*”) in which the Commission has proposed requiring direct broadcast satellite (“DBS”) providers, cable operators, broadcast radio licensees, and satellite radio licenses to relocate the majority of their local public inspection files to an FCC-hosted online public file.¹

As a nationwide DBS provider, DIRECTV is required to maintain numerous documents in publicly available files at its headquarters in El Segundo, California. These files include channel capacity measurements, political file materials, EEO materials, and children’s programming records.² Many of these files are maintained electronically already. DIRECTV is required to make available by fax, e-mail or mail (upon telephone request) photocopies of documents in its political file. In addition, DIRECTV annually uploads information to the Commission’s Consolidated Database System regarding EEO compliance matters. All of these

¹ *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Notice of Proposed Rulemaking, MB Docket No. 14-127, FCC 14-209, 29 FCC Rcd 15,943 (rel. Dec. 18, 2014) (“*Notice*”); *see also* 80 Fed. Reg. 8031 (Feb. 13, 2015).

² *See* 47 C.F.R. §§ 25.701(f)(6), 25.701(d)(3), 25.601, and 25.701(e)(3).

disparate paperwork requirements would be consolidated into an online public file under the Commission's proposal, which would require DIRECTV to upload public file materials that are not already on file with the Commission.³

For purposes of administrative convenience, DIRECTV generally supports the Commission's proposal to move more public information online. Specifically, DIRECTV supports the Commission's proposal to phase-in the online public file obligations on a prospective basis once the new rules have been implemented. In addition, the Commission should tailor the existing public file rules by (i) eliminating the fax, email, and mail rule, (ii) reiterating that political advertisers must provide DBS providers with sufficient information to comply with political file obligations under the time constraints required by the Commission, and (iii) giving DBS providers the flexibility to organize their political files in any manner that reasonably allows the public to review the contents of those files.

I. THE COMMISSION SHOULD PHASE-IN ONLINE PUBLIC FILE OBLIGATIONS FOR DBS PROVIDERS

DIRECTV supports the Commission's proposal not to require existing political file information to be uploaded to the online public file. Instead, the Commission rationally proposes to phase-in the political file requirement so that only new political file materials created after the new rules become effective would need to be uploaded to the online public file.⁴ The Commission took a similar approach with respect to television broadcasters in 2012, and this

³ Notice ¶ 58.

⁴ *Id.* ¶ 60 (“We tentatively conclude, consistent with our approach for television stations and our proposal herein for cable systems and broadcast radio licensees, that DBS providers should not be required to upload their existing political files to the online file but rather should be permitted to maintain existing material in their physical political file and only upload documents to the online political file on a going-forward basis.”).

going-forward approach proved successful.⁵ Such an approach recognizes the significant burden that would be presented by an obligation to upload the huge volume of political advertising materials from past political campaigns, with limited public interest benefits because those campaigns have now ended. Moreover, creating an exemption for existing political materials in the paper file will substantially reduce the burden of transitioning to an online public file while allowing online access to the political file material that is most likely to be of interest to the public.⁶ Deviating from this flexible approach in the DBS context would be overly burdensome and is unwarranted, particularly if the Commission were to adopt a phase-in approach for cable operators as proposed.⁷

As part of the transition to an online public file, DIRECTV supports the Commission's proposal not to require DBS providers to upload material to the online file that is already filed with the Commission or available through a Commission database.⁸ Duplicating efforts by reposting materials that are otherwise available from the Commission would raise costs without providing any material benefits. DIRECTV commends the Commission for recognizing this fact by proposing that the Commission be responsible for uploading DBS annual EEO program reports to the online public file.⁹ This approach has proved successful with television stations

⁵ See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, 4541 ¶ 11 (2012). The *Notice* asks if an effective date of 30 days from OMB approval would provide sufficient time for entities to implement the new rules. *Notice* ¶ 28. A 30-day implementation period was the timeframe allowed for television stations converting to online public files, and DIRECTV believes it to be an acceptable implementation period for DBS providers, assuming that DIRECTV is obligated to upload only new political file materials.

⁶ See *Notice* ¶¶ 47, 60.

⁷ *Id.* ¶ 47.

⁸ *Id.* ¶ 58.

⁹ *Id.*

and would treat DBS providers “in the same manner as television, cable, and broadcast and satellite radio entities.”¹⁰ A phased-in, non-duplicative approach to implementation will best fulfill the Commission’s goals while minimizing the regulatory burden to DBS providers.

II. CERTAIN TARGETED CHANGES TO ONLINE PUBLIC FILE PROCEDURES WILL MAGNIFY THE BENEFITS OF THE NEW ONLINE SYSTEM

A. THE FAX, EMAIL, AND MAIL REQUIREMENTS FOR DBS PROVIDERS SHOULD BE ELIMINATED.

DIRECTV supports the Commission’s proposal to eliminate the requirement that DBS providers fax, email, or mail photocopies of documents in the political file to individuals requesting copies.¹¹ Once uploaded, all political file information will be readily available, 24 hours per day, without the delay of traditional mail. According to the Commission, it imposed these outmoded delivery requirements as a response to concerns regarding a lack of access to political files:

Because DBS is a national service and each provider's headquarters is not necessarily readily accessible to most of its viewers and to candidates, we require DBS providers to make their political files available upon telephone or electronic request. They may provide access to the file by fax, e-mail, via Internet website access, or, if so requested, by mailing photocopies of the documents in their political files.¹²

¹⁰ *Id.*

¹¹ *Id.* ¶ 60 (“If we require DBS providers to upload their political files, we propose to eliminate the requirement that they mail photocopies of documents in that file to individuals requesting copies, as these materials would be available online.”).

¹² *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992*, 19 FCC Rcd 5647, 5661-62 ¶ 35 (2004).

While such forms of delivery may have been deemed necessary more than 10 years ago, online access has now become so ubiquitous as to render these other forms of delivery unnecessary in 2015.¹³

B. DBS PROVIDERS NEED SUFFICIENT INFORMATION FROM POLITICAL AD BUYERS TO COMPLY WITH THE POLITICAL FILE REQUIREMENTS.

The political file rules require DBS providers to record, and immediately place in the political file, a significant amount of information about certain political ad buyers and, where necessary, the nature of the issue being advertised.¹⁴ Such information is not requested or required for advertising buys that are non-political in nature. DIRECTV's obligation to disclose this information in certain political ad buys (and not others) has created confusion among political ad buyers and their agents. DIRECTV frequently has been questioned about the need for ad buyers to supply this information to DIRECTV, and in some instances buyers have simply refused to provide the required information. As part of this proceeding, the Commission should help regulated entities fulfill their political file requirements by specifically clarifying that political advertisers must present DBS providers with sufficient information to comply with the political file requirements.

C. DBS PROVIDERS SHOULD HAVE THE FLEXIBILITY TO ORGANIZE THEIR POLITICAL FILES IN A REASONABLE MANNER.

DBS providers should be given the flexibility to organize their political files in any manner that reasonably allows users to review their contents. This is the same flexibility

¹³ See, e.g., Commissioner O'Rielly blog, "Embrace the Internet for EEO 'Widely Disseminated Rule,'" available at <http://www.fcc.gov/blog/embrace-internet-eo-widely-disseminated-rule> (posted Feb. 20, 2015) (noting that 100% of public libraries now offer public Internet access, and that 99 percent of Americans have access to wired and/or wireless broadband at advertised speeds of 6 Mbps downstream and 1.5 Mbps up).

¹⁴ 47 C.F.R. §25.701(d).

afforded to television broadcasters and is reflected in the current DBS political file rules.¹⁵ Unlike most cable and television operators, DIRECTV provides advertisers with a unique opportunity to purchase advertising on a nationwide platform. Simultaneously, DIRECTV also offers localized advertising opportunities to ad buyers. In recognition of the large number of advertisers and their disparate buying patterns, the Commission should continue to afford DBS providers the flexibility to maintain their political files in a way that is both reflective of the business and responsive to the needs of public. As long as DBS providers maintain a “complete and orderly” political file, they should be given the flexibility to arrange the political files in any reasonable manner that they choose. Any complaints about the failure of DBS providers to maintain a complete and orderly political file should be dealt with on a case-by-case basis rather than through regulatory strictures.

D. THE LOCAL PUBLIC FILE REQUIREMENT SHOULD BE ELIMINATED OR AT LEAST PHASED OUT

DIRECTV also believes that one aspect of the rules proposed in the *Notice* is unnecessary. Specifically, proposed rule Section 25.701(f)(6)(C)(iv) would require each DBS provider to “include in the online public file the address of the provider’s *local public file* and the name, phone number, and email address of the provider’s designated contact for questions about the public file.”¹⁶ To the extent that DIRECTV’s files are moved online and become publicly accessible 24 hours a day, 7 days per week, there should be no need for DIRECTV to maintain a separate local public file. Moreover, the Commission itself noted in the *Notice* that “limiting online file requirements to certain components of the public file would require entities to upload

¹⁵ Broadcasters, cable operators, and DBS providers must maintain “a complete and orderly” political file. *See* 47 C.F.R. §§ 73.1943(a), 76.1701(a), 25.701(d).

¹⁶ *Notice* App. B at 45 (emphasis added).

certain documents and maintain others in the local public file, thereby potentially imposing a greater burden than moving documents to the online file over time.”¹⁷ Local public file obligations should cease once online public file obligations begin. At the very least local public file obligations should be phased out after the retention period has expired for any local public file materials that are not required to be placed in the online public file.

III. CONCLUSION

For the reasons discussed herein, DIRECTV generally supports the proposals in the *Notice*. The Commission should take the common sense steps discussed above to ease implementation and ensure that the rules best reflect the benefits of moving to an online file system.

Respectfully submitted,

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¹⁷ *Id.* ¶ 18.