

*Before the  
Federal Communications Commission  
Washington, DC 20554*

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

**Directed To:** The Commission

**COMMENTS OF KERM, INC.**

KERM, Inc., by its attorney, hereby submits Comments with respect to the above-referenced proposal to expand the online public file requirement to radio broadcasters. KERM questions the necessity of expanding the Commission’s online public file requirements, and believes the proposed exemption should be a permanent exemption.

KERM is licensee of small markets stations KARV(AM), Rogers, Arkansas; KARV(AM), Russellville, Arkansas; KARV-FM, Ola, Arkansas, and KURM-FM, Gravette, Arkansas. KERM believes that while the FCC’s proposal obviously is made with good intention, the net effect of the FCC’s well-intentioned proposals is to place unreasonable, unfair demands upon broadcasters, particularly the small broadcaster. The unintended effect of such regulation is to force such broadcasters to pare back or abandon operations altogether. The end result is that the FCC will unwittingly cause a diminishment of service to the very constituencies to which they pledge to protect and serve. In short, if ever imposed upon small broadcasters, the FCC’s proposed rules will make it more difficult for radio stations to serve the public interest.

It is a simple fact of life that broadcasters must be allowed to balance economics in considering the best way they can fulfill their basic public interest requirement. In addition, one must consider the current media landscape. Today's media market is significantly more fragmented than ever before. Twenty years ago, media was, by and large, driven by success in the mass market. However, in the past ten years, media has become increasingly diversified. There is a plethora of radio and television stations, including broadcast, cable and satellite. There is a plethora of print publications, ranging from the major market daily newspaper to free weeklies. There are numerous magazines, ranging from mass market publications to niche publications built around a specific consumer interest. Similarly, radio stations are devoted to a particular content such as talk-radio or classical music or are devoted to a particular theme such as a Spanish-centric focus. Increasingly, it is the niche medium that is catering to a specific interest that is flourishing. More and more, the mass market media is under attack. This is a natural evolution of market forces.

And then there is the question as to the fundamental fairness of imposing unduly burdensome regulations when other media are not or cannot be held to anything resembling the same standards. If these content providers are not held to the same standard, additional regulation by the FCC of the broadcaster alone will force many out of business altogether. A first step will be to force them to pare back programming or hours of availability, due to the increased costs of operations required by the new proposal with little or no offsetting incremental revenues, to the point where listeners are encouraged to migrate to other sources of information and entertainment. If stations do not choose to immediately shut down, continued erosion over time will force a number of stations out of business. Thus, in its proposed rulemaking, the FCC is creating regulatory hurdles for broadcasters that are fundamentally unfair.

It is firmly believed that the burdensome new filing requirements will require stations that are subject to the new regulations to hire additional staff. The administrative load will increase significantly and will have little effective payback. It is likely that time and resources now spent in community outreach and participation may decrease as attention is diverted towards administrative filing requirements.

In particular, KERM believes that the expansion of the public file rules to require online public file obligations generally is not necessary. It is the experience of KERM, for example, in the operation of KURM(AM), Rogers, Arkansas, that in 35 years of operation, there has been exactly one person who has requested information from the public file – a candidate for city council inquiring who was purchasing advertising for his opponent, and how much.

If this history is typical, the burdens of maintaining the public file already outweigh the benefits that are being achieved. This burden will be increased by adding an online electronic regimen to the public file requirements.

As to what parties should be subject to the new requirements, if new requirements are adopted, from a broadcaster with 62 years of experience in the business, KERM strongly recommends classifying stations according to size, and exempting those with fewer than 15 employees from these onerous requirements. Large organizations (such as publicly-traded station owners) that own dozens or hundreds of stations may well be capable of compiling and uploading such information. However, small operations which are just barely getting by economically will be hard-pressed to take on yet another regulatory burden to maintain such information online. In short, the small station needs to allocate its personnel and resources to the *actual operation* of its radio station, and to present as much programming in possible in the way

of entertaining or informational programming to its listening audience. In today's climate, that is hard enough to do already, without adding additional regulatory burdens upon such broadcasters.

To the extent such obligations nevertheless are adopted, KERM supports (i) the FCC proposal to itself upload much of the information to the online public file (NPRM ¶ 63); and (ii) the FCC proposal to not establish any particular formatting for documents (such as issues/programming lists) posted to the online public file. NPRM ¶ 31. It also is proposed that to the extent files are posted online, to balance the burdens on broadcasters, that the FCC eliminate the requirement for such broadcasters to maintain physical copies of their public files at their main studios.

### **Conclusion**

There is no question as to the role required of broadcasters by the FCC. As stated by the FCC in its "Report on Broadcast Localism and Notice of Rulemaking" released January 24, 2008, the "Commission has consistently held that, as temporary trustees of the public's airwaves, broadcasters are obligated to operate their stations to serve the public interest – specifically, to air programming responsive to the needs and issues of the people in their communities of license." The FCC further noted that the "broadcast regulatory framework is designed to foster a system of local stations that respond to the unique concerns and interests of the audiences within the stations' respective service areas." *Id.*

It is the goal of the proposed FCC rules to ensure that broadcasters provide information to members of the public to show that stations meet the needs of the local audience, including those communities that are traditionally underserved. It is the small market radio stations that do this well, offering specialized programming, including religion, religion, foreign language, ethnic and alternative programming of a variety of forms. These types of stations also serve as gateways for

new entrants seeking business opportunities in broadcasting, increasing ownership among those traditionally underrepresented. The financial disincentives created by the FCC's proposed rules will create barriers to entry that will threaten these segments. The net effect is the opposite of that intended by the FCC, and service will be both diminished and less diverse.

In summary, the FCC should not punish or impose burdens on the many when only a few may require it. Broadcasters need the flexibility to adapt the FCC's well-intentioned goals to the dynamics of the individual markets served. While there is no disagreement with the underlying intent of the FCC's proposal, it is necessary for broadcasters to have flexibility in how the goals are met.

**WHEREFORE**, it is respectfully requested that these Comments be accepted.

Respectfully submitted,

**KERM, INC.**

By: \_\_\_\_\_/Dan J. Alpert/\_\_\_\_\_  
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