

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

In the 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)	

**JOINT REPLY COMMENTS OF THE
NORTH CAROLINA ASSOCIATION OF BROADCASTERS,
THE OHIO ASSOCIATION OF BROADCASTERS, AND
THE VIRGINIA ASSOCIATION OF BROADCASTERS**

The North Carolina Association of Broadcasters (“NCAB”), the Ohio Association of Broadcasters (“OAB”), and the Virginia Association of Broadcasters (“VAB”) (collectively, the “Associations”)¹ hereby jointly submit these reply comments in response to the Commission’s Notice of Proposed Rulemaking, FCC 14-209, released December 18, 2014 (the “*Notice*”)² in the above-captioned proceeding. Among other things, the *Notice* proposes to extend the online public inspection file requirement to most radio stations.

The Associations agree with the comments of various broadcasters and their representatives pointing out that an online public inspection filed requirement will be unduly burdensome on smaller radio stations and, at this phase of the Commission’s reform efforts, is premature. Specifically, the Associations submit these reply comments to emphasize their support for the recommendation of the Named State Broadcaster Associations (NSBA) that the Commission adopt as its exemption standard the “ten or fewer” threshold designed by the FCC in the EEO context specifically to protect small

¹ The Associations are non-profit organizations representing the interests of broadcasters in their respective states.

² 29 FCC Rcd 15943 (2014).

radio stations with limited staff and resources from harmful regulatory burdens.³ The Commission’s proposal to temporarily exempt stations with fewer than five full-time stations—while benefiting from a certain symmetry with exclusion from many EEO requirements—does not provide sufficient insulation from the burdens associated with the online public inspection file requirements and suffers from practical issues that will exacerbate compliance difficulties.

The Associations have significant concern regarding the additional burden that would be placed on small broadcasters by application of the online public inspection file requirements. Certainly there is no question but that the burden of compliance will be felt disproportionately by small radio stations. Elements of the proposals in the *Notice* would consume significant financial and human resources, diverting those resources from station operations and the production of programming. Thus, the practical, albeit unintended, consequence of the proposals, if adopted, would be to undermine the ability of local broadcasters to address the very local needs and concerns which the Commission seeks to promote through its public file and related requirements.⁴

As has been noted by various commenters,⁵ the Commission has already acknowledged the special burden that would be placed on small broadcasters. In establishing this rulemaking proceeding, the Commission noted that “the majority of

³ Joint Comments of Named State Broadcasters Associations, March 16, 2015, at 7.

⁴ See, e.g., Philip M. Napoli, *Television Station Ownership Characteristics and Local News and Public Affairs Programming: An Expanded Analysis of FCC Data*, Fordham Univ. (2004) (avail. at www.emeraldinsight.com/journals.htm?articleid=874003&show=html) (demonstrating correlation between profitability of station and its ability to provide local news and public affairs coverage).

⁵ See generally Joint Comments of Local and Regional Small Radio Broadcasters, at 5; Joint Comments of Native Public Media and National Federation of Community Broadcasters, at 3-4.

commenters addressing [the issue of whether to extend the online file requirement to radio] either objected to extending the online filing requirement to radio and/or argued that the Commission should carefully consider the financial burden on struggling radio stations as well as the technical and financial challenges to the FCC that would be posed by expanding the online file to include radio.”⁶ Further, the Commission specifically acknowledged that “many radio stations are very small and have limited financial resources and small staffs”⁷ and that “many small stations already face significant economic challenges simply to stay on the air.”⁸ Moreover, the Commission has acknowledged that these concerns have more persuasive power in the radio context, as opposed to television, as small radio stations generally “have fewer resources than small television stations.”⁹

The NSBA recommendation to adopt an exclusion based on a ten-or-fewer threshold will better accord with the realities of the radio, as compared with television, market and will better protect against adverse impacts on smaller radio stations. The application of the online public inspection rules to radio stations is, of course, experimental in nature and will impact a much greater number of individual licensees than the application of the rules only to television stations.¹⁰ Given this, the Commission should proceed cautiously to avoid unintended adverse effects. Moreover, the proposed

⁶ Notice of Proposed Rulemaking, MB Docket No. 14-127 (rel. Dec. 18, 2014), at ¶ 12 (footnote omitted).

⁷ *Id.* at ¶ 19.

⁸ *Id.*

⁹ *Id.* at ¶ 20.

¹⁰ *See* NSBA Comments at 4 (noting 15,432 radio stations, as compared to 2,216 television stations).

five-full-time-employee standard is more likely to raise definitional complications such as where stations fluctuate below the standard due to circumstances beyond their control or due to evolving business constraints.

Further the Commission's purported justification to extend the online public inspection file requirement—improving access to public file information—has less resonance for small radio stations, particularly in rural areas. Small broadcasters are, by definition, highly attuned to their local community. In such circumstances, there is little evidence in the record that providing online access to public file information will substantially and materially advance the cause of localism in broadcast operations, especially where the owners and operators of the local station live and work in the local community, as is common with smaller radio stations.¹¹ Additionally, many smaller stations, particularly in rural areas, may face challenges in obtaining high-speed Internet lines to interface with the FCC's systems. In its latest broadband deployment report, the FCC has concluded that 55 million Americans (17% of the population) lack access to advanced broadband and that a significant digital divide remains between urban and rural America, with over half of all rural Americans lacking access to broadband services.¹² Given these challenges identified by the Commission, it would seem premature for the Commission to impose requirements on smaller broadcasters that presume access to technology that the Commission has concluded is not available, particularly in rural America.

¹¹ *See, e.g.*, Comments of Sky Country Broadcasting (noting the possibility that outside interest groups may utilize the information in online files in an attempt to influence local programming decisions, contrary to the Commission's localism mandate).

¹² 2015 Broadband Progress Report, GN Docket No. 14-126 (rel. Feb. 4, 2015).

