



January 21, 2016

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

Re: Notice of Ex Parte Communication, MB Docket No. 14-127

Dear Ms. Dortch:

On Wednesday, January 20, 2016, Rick Kaplan and the undersigned of the National Association of Broadcasters (NAB) met with Commissioner Clyburn, interim legal advisor Holly Saurer, and intern Anna Gentry to discuss the transition of radio stations' public files online.

During the meeting, we renewed NAB's proposal to permanently exempt the very smallest radio stations (those with fewer than five employees) from the requirement to maintain an online public file.<sup>1</sup> We observed that some of these stations operate with only a single full time employee, which would make the additional regulatory requirement particularly burdensome. I also observed that such stations are much less likely to air significant amounts of political advertising. Thus, exempting these very small stations is unlikely to promote the Commission's goal of improving public access to information about such ads, which it has cited as the principal benefit of online access to media outlets' public files.<sup>2</sup> We stated that, at a minimum, it would be helpful for smaller stations to have established guidelines that govern requests for waiver of the online filing requirement.

NAB also urged the Commission to use a different threshold for phasing in the new online filing requirement. Specifically, NAB proposes that the initial online filers be commercial

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<sup>1</sup> NAB Comments in MB Docket No. 14-127 (Mar. 16, 2015) at 8-10.

<sup>2</sup> *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Notice of Proposed Rulemaking, 29 FCCR 15943 ¶16 (2014) ("Expansion of the online public file to more media is particularly important with respect to improving public access to political files...Adding cable, satellite television, and broadcast and satellite radio political file material to the existing television online database would facilitate public access to disclosure records for all these media and allow the public to view and analyze political advertising expenditures more easily in each market as well as nationwide.").

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radio stations within the Top 50 radio markets that have 11 or more employees.<sup>3</sup> As the Named State Broadcasters Associations observed in their comments, this staffing standard was applied by the Commission in exempting certain stations from certain Equal Employment Opportunity (EEO) program requirements, including midterm compliance filings.<sup>4</sup> In adopting this exemption, the Commission sought to avoid placing undue burdens on stations with smaller staffs.<sup>5</sup> The same rationale applies in the online filing context.

We stated that adopting an online filing phase-in that initially exempts stations with ten or fewer employees also would be consistent with phase-in for television licensees. The television online filing requirement initially applied only to stations in the Top 50 markets that were affiliated with the four major broadcast networks—approximately 200 full power stations, or 11% of all full power television broadcast stations.<sup>6</sup> NAB believes, based on research in the FCC's Consolidated Database System and informal conversations with FCC staff, that approximately 43% of the nation's 15,480 radio stations currently file midterm EEO reports. Stations with larger staffs are far more likely to be located in larger radio markets. Assuming, for example, that even one-fourth of stations that currently file EEO midterm reports are located in the 50 largest radio markets, the initial online filing requirement would affect 11% of all radio stations, which is exactly the same percentage as in the television context. Starting the online filing requirement with a similar percentage of stations should help facilitate a smooth transition for the FCC, affected licensees, and those

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<sup>3</sup> Joint Comments of the Named State Broadcasters Associations in MB Docket No. 14-127 (Mar. 16, 2015) at 6-10 (proposing a permanent exemption from the online filing requirement for stations operating in "station employment units" with ten or fewer employees).

<sup>4</sup> *Id.*, citing *Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Report and Order, 15 FCC Rcd 2329 ¶ 129 (2000).

<sup>5</sup> *Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Report and Order, 15 FCC Rcd 2329 ¶ 129 (2000) ("[W]e believe that small staff stations warrant some additional relief from the EEO Rule adopted in this Report and Order because, as argued by some commenters, such stations have limited personnel and financial resources to carry out those requirements. In particular, we believe stations that are part of employment units with five to ten employees ... would encounter these difficulties to such an extent that additional relief for these stations from EEO program requirements is warranted.").

<sup>6</sup> Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order, 27 FCC Rcd 4535 (2012). See also FCC Public Notice, *Broadcast Station Totals as of June 30, 2012* (there were 1,783 full power television stations when the online filing requirement took effect).

who wish to access radio station public files online.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ERL Dozier', written in a cursive style.

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

cc: Commissioner Clyburn, Holly Saurer, Anna Gentry