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 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

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

In the Matter of)
)
 Extension of the Filing Requirement) MM Docket No. 00-44
 For Children's Television Programming)
 Reports (FCC Form 398))

TO: The Commission

**COMMENTS OF
 THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ hereby files brief comments on the Commission's proposal to extend the Form 398 filing requirement for children's television programming to include posting the Form 398s on stations' websites.² As we have previously stated, NAB does not object to the continuation of an annual filing requirement of Form 398 with the Commission.³ And while NAB believes there is insufficient cause -- or evidence in the record -- to justify imposition of more reporting requirements, NAB raises no further objection to the *Report and Order's* new quarterly filing requirements, the new "preemptions report," the additional program guide information requirements and the addition of the license renewal date to Form 398.⁴ Further, and to the point of the *Further Notice*, NAB does not oppose the

¹ NAB is a nonprofit incorporated association of radio and television stations and broadcasting networks. NAB serves and represents the American broadcasting industry.

² *Report and Order and Further Notice of Proposed Rulemaking*, In the Matter of Review of Extension of the Filing Requirement for Children's Television Programming Reports (FCC Form 398), MM Docket No. 00-44 (released October 5, 2000).

³ NAB Reply Comments, In the Matter of Extension of the Filing Requirement for Children's Television Programming Reports (FCC Form 398), MM Docket No. 00-44, July 12, 2000.

⁴ See *Report and Order and Further Notice of Proposed Rulemaking, supra*, at ¶¶ 15, 20, 22 and 23.

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Commission's proposal for stations who have websites to create a link on their websites to either the FCC's children's television web page or to the station's most recent quarterly report on the FCC's children's television website.⁵ This option would achieve greater public access to stations' programming reports without burdening stations with posting all their Form 398s on their websites for eight years (or until license renewal).

To the Commission's proposal to adopt rules *requiring* the posting of the Form 398s on a station's website, however, NAB raises several objections. First, any such posting requirement would be entirely duplicative of the FCC's website.⁶ Second, for the same reason NAB has petitioned the Commission to reconsider its website posting requirement in the EEO Proceeding,⁷ we object here. As we noted in our *Petition*, the Commission's policy that the public file – and its contents – are intended to be available for the public that a licensee serves, was reiterated last year in reconsidering the main studio and public inspection file rules.⁸ In that proceeding the Commission rejected arguments that the public file be accessible to parties

⁵ See *Report and Order and Further Notice of Proposed Rulemaking* at ¶ 26.

⁶ On August 31, 2000, the Office of Advocacy, U.S. Small Business Administration (SBA) filed *ex parte* comments in this docket on the Commission's proposals to amend Form 398 requirements, in particular commenting on the Commission's instant proposal concerning posting of Form 398 on stations' websites. The SBA urged the Commission to consider two points: one, that the instant proposal may be duplicative because the forms are available on the Commission's website and, two, that the proposal could be a financial burden on small businesses to maintain this much information on their individual websites (hereinafter SBA Letter).

⁷ *Petition for Partial Reconsideration and Clarification of the National Association of Broadcasters, In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, March 16, 2000 at 12 (hereinafter *Petition*). This *Petition* was denied by the Commission on November 22, 2000.

⁸ *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, Memorandum Opinion and Order, 14 FCC Rcd. 11113, 11116 (1999).

outside of the service area through telephone requests. So here too, because the public file is maintained at a reasonably accessible location to the community of license, and because the FCC posts Form 398 on its website, requiring a licensee to post Form 398 on its website is unnecessary to the goals of informing a station's audience of its Form 398 information.

Third, because licensees often contract with web-site managers, and are charged based on the amount of material kept on a server, licensees could incur additional costs, substantial to some stations, in posting the Form 398s on their website. As NAB notes in its comments filed in the contemporaneous proceeding on public interest obligations,⁹ a requirement for a licensee to post Form 398 on a website could be financially burdensome to many stations. The cost of posting Form 398 will increase with the forthcoming revised Form 398 and the accompanying Preemption Report. Finally, any requirement that a licensee post *all* Form 398 reports until license renewal would be burdensome, particularly to small market stations and small stations in all markets.¹⁰ The inevitable result would be that each licensee would be forced to allocate and pay for server space for 32 separate reports (none of which reflect the licensee's current children's programming line-up) while its license renewal application was pending. There is simply no need to duplicate what is already accessible both on the Internet and in the public file.

⁹ See Comments of NAB, *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MM Docket No. 00-168, December 18, 2000 at 19-23.

¹⁰ See SBA Letter.

NAB, therefore urges the FCC not to require the burdensome website posting of all Form 398 reports.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

A handwritten signature in black ink, appearing to read "Valerie Schulte", written over a horizontal line.

Henry L. Baumann
Jack N. Goodman
Valerie Schulte
Ann Zuvekas

December 18, 2000