

APPENDIX A**Petitions for Reconsideration**

Association of Public Television Stations and the Public Broadcasting Service (“APTS and PBS”)
Broadcasting Licenses Limited Partnership; Davis Television Clarksburg; Davis Television Wausau;
Eagle Creek Broadcasting of Corpus Christi; Eagle Creek Broadcasting of Laredo; Educational
Broadcasting Corporation; Journal Broadcast Corporation; Multicultural Television Broadcasting;
Mountain Licenses; Ramar Communications Ltd; Sarkes Tarzian; Shooting Star Broadcasting;
Stainless Broadcasting; Telecentro of Puerto Rico; Western Kentucky University; and WQED
Multimedia (collectively “Broadcasting Licenses Limited Partnership *et al.*”)
Campaign Legal Center (CLC), Common Cause, Benton Foundation, and New America Foundation
 (“CLC *et al.*”)
Block Communications; Cocola Broadcasting; Communications Corporation of America; Cox
Broadcasting; ION Media Networks; Jovon Broadcasting; Local TV LLC; McGraw-Hill
Broadcasting.; and Meredith Corporation (collectively “Joint Broadcasters”)
Joint Public Television Petitioners
Named State Broadcasters Associations
Northern California Public Broadcasting, Inc (“NCPB”)
Oklahoma Educational Television Authority (“OETA”)
Public Television Licensees
KHRP-LP*

Oppositions to Petitions for Reconsideration

CLC *et al.*
National Association of Broadcasters (“NAB”)
Telecommunications for the Deaf and Hard of Hearing, Inc., the National Association for the Deaf, and
the Deaf and Hard of Hearing Consumer Advocacy Network (“TDI *et al.*”)

Replies to Petitions for Reconsideration

APTS and PBS
CLC *et al.*
Named State Broadcaster Associations
NAB

* late filed

APPENDIX B

Proposed Rules

Part 73 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 73 – RADIO BROADCAST SERVICES

1. The Authority citation for Part 73 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303, 307, and 554.

2. Section 73.1201 is amended by adding § 73.1201(b)(3) as follows:

§ 73.1201 Station identification.

* * * * *

(b) Content.

* * * * *

(3) Three times a week, the station identification for television stations must include a notice stating that the station's public file is available for viewing at the FCC's website. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

3. Section 73.1212 is amended by deleting "by the licensee" in the second to last sentence of § 73.1212(e) to read as follows:

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. Where the material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, the station shall, in addition to making the announcement required by this section, require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity shall be made available for public inspection at the location specified under § 73.3526 of this chapter. If the broadcast is originated by a network, the list may, instead, be retained at the headquarters office of the network or at the location where the originating station maintains its public

inspection file under § 73.3526 of this chapter. Such lists shall be kept and made available for a period of two years.

4. Section 73.1943 is amended by adding § 73.1943(d) to read as follows:

§ 73.1943 Political File.

* * * * *

(d) *Location of the file.* A television station licensee or applicant must also place all of the contents of its political file on the Commission’s website. This electronic political file must be updated in the same manner as subsection (c) above.

5. Section 73.3526 is amended by revising §§ 73.3526(b) and adding (e)(18) and (e)(19) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be located as follows:

(i) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station. For television licensees, letters and emails from the public, as required by subsection (e)(9) below, shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(ii) A television station licensee or applicant shall place the contents required by subsection (e) below of its public inspection file on the Commission’s website, with the exception of letters and emails from the public as required by subsection (e)(9) below, which will be retained at the station in the manner discussed in subsection (i) above. A station must link to the public inspection file hosted on the Commission’s website from the home page of its own website, if the station has a website.

(iii) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: authorizations, applications, contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; the public and broadcasting; Children’s television programming reports; and DTV transition education reports. In the event that the online public file does not reflect such required information, the licensee will be responsible for posting such material.

* * *

(18) *Sharing agreements.* For commercial television stations, a copy of every agreement or contract involving sharing agreements for the station, including local news sharing agreements and shared services agreements, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate.

* * *

(19) *Sponsorship identifications.* For commercial television stations, a list of all sponsorship identifications that must be announced on-air pursuant to 47 C.F.R. § 73.1212.

* * * * *

6. Section 73.3527 is amended by revising §§ 73.3527(b) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be located as follows:

(i) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station. For television licensees, letters and emails from the public, as required by subsection (e)(9) below, shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(ii) A television station licensee or applicant shall place the contents of its public inspection file on the Commission's website, with the exception of letters and emails from the public, which will be retained at the station in the manner discussed in subsection (i) above. A station must link to the public inspection file hosted on the Commission's website from the home page of its own website, if the station has a website.

(iii) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; and the public and broadcasting.

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APPENDIX C

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”),

¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (“IRFA”) concerning the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (“*FNPRM*”) portion of this Order on Reconsideration and Further Notice of Proposed Rulemaking (“*ORFNPRM*”). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *ORFNPRM*. The Commission will send a copy of the *ORFNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”).² In addition, the *ORFNPRM* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rule Changes

2. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. Broadcasters are afforded considerable flexibility in how they meet that obligation. Among other things, they are required to maintain a public inspection file, which gives the public access to information about the station's operations.⁴ The *FNPRM* seeks to make information regarding how a television broadcast station serves the public interest easier to understand and more accessible.

3. The *FNPRM* seeks comment on rule changes that would:

- replace the requirement that television stations maintain a paper public file at their main studios with a requirement to submit documents for inclusion in an online public file, including the political file, to be hosted by the Commission;
- reduce the number of documents that television stations would be required to upload to an online public file, by automatically linking to information already collected by the Commission;
- streamline the information required to be kept in the file, such as by excluding letters and emails from the public;
- require that sponsorship identification, now disclosed only on-air, should also be disclosed online, and require disclosure of online shared services agreements; and
- make the online public file standardized and searchable, further improving the usefulness of the data.

B. Legal Basis

4. The proposed action is authorized pursuant to Sections 1, 2, 4(i), 303, and 405 of the Communications Act, 47 U.S.C §§ 151, 152, 154(i), 303, and 405.

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 – 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ See *id.*

⁴ *Review of the Commission's Rules regarding the Main Studio Rule and Local Public Inspection Files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691, ¶ 18 (1998), *recon. granted in part* Memorandum Opinion and Order, 14 FCC Rcd 11113 (1999).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁵ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁶ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁷ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁸ Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

6. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than \$14.0 million in annual receipts.⁹ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹⁰ The Commission has estimated the number of licensed commercial television stations to be 1,390.¹¹ According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of January 31, 2011, 1,006 (or about 78 percent) of an estimated 1,298 commercial television stations¹² in the United States have revenues of \$14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (“NCE”) television stations to be 391.¹³ We note, however, that, in assessing whether a

⁵ 5 U.S.C. § 603(b)(3).

⁶ 5 U.S.C. § 601(6).

⁷ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

⁸ 15 U.S.C. § 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

⁹ See 13 C.F.R. § 121.201, NAICS Code 515120 (2007).

¹⁰ *Id.* This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. See Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

¹¹ See News Release, “Broadcast Station Totals as of December 31, 2010,” 2011 WL 484756 (F.C.C.) (dated Feb. 11, 2011) (“*Broadcast Station Totals*”); also available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304594A1.pdf.

¹² We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra*, note 143; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹³ See *Broadcast Station Totals*, *supra*, note 143.

business concern qualifies as small under the above definition, business (control) affiliations¹⁴ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

7. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

8. Certain rule changes proposed in the *FNPRM* would affect reporting, recordkeeping, or other compliance requirements. Television broadcasters are currently required to maintain a copy of their public inspection files at their main studios.¹⁵ The *FNPRM* proposes to replace that requirement with a requirement to submit documents for inclusion in an online public file, including the political file, to be hosted on the Commission’s website. Items in the public file that must also be filed with the Commission, including FCC authorizations, applications and related materials, contour maps, ownership reports and related materials, portions of the equal employment opportunity file, the public and broadcasting manual, children’s television programming reports (Form 398), and DTV transition education reports (Form 388), will be automatically imported into the station’s online public file. Television stations will only be responsible for uploading and maintaining items that are not required to be filed with the Commission under any other rule. The *FNPRM* also proposes to exclude some items from the online public file requirement, such as letters and emails from the public, and proposes to add other items to the online public file requirement, such as whether sponsorship identification, now disclosed only on-air, should also be disclosed online, and whether to require disclosure of online shared services agreements.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

9. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁶

10. The *FNPRM* seeks to minimize reporting requirements on all television broadcasters, by having the Commission host the online public file. The previous *Report and Order* in this proceeding, which has been vacated, required stations to host their own public file. Having the Commission host the public file will ease the administrative burdens on all broadcasters. More than a third of the required

¹⁴ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 C.F.R. § 121.103(a)(1).

¹⁵ See 47 C.F.R. §§ 73.3526, 3527.

¹⁶ 5 U.S.C. § 603(c)(1)-(c)(4).

contents of the public file have to be filed with the Commission, and the *FNPRM* proposes to import and update information that must already be filed with the Commission automatically, creating efficiencies for broadcasters. Accordingly, since no significant economic impact is imposed by the proposed rules on small entities, no discussion of alternatives is warranted.

11. Overall, in proposing rules governing an online public file requirement, we believe that we have appropriately balanced the interests of the public against the interests of the entities who will be subject to the rules, including those that are smaller entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule

12. None.

APPENDIX D

Re-Codified Rules

Part 73 of Title 47 of the U.S. Code of Federal Regulations is re-codified to read as follows:

PART 73 – RADIO BROADCAST SERVICES

- 1. Section 73.1201 is re-codified by eliminating § 73.1201(b)(3)

- 2. Section 73.3526 is amended by eliminating § 73.3526(b)(1) and (2); § 73.3526(e)(9)(iii); and revising § 73.3526(b) and (e)(11)(i) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

* * *

(e)(11)(i) *TV issues/programs lists.* For commercial TV and Class A broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October—December, April 10 for the quarter January—March, etc.) The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

* * * * *

- 3. Section 73.3527 is amended by eliminating § 73.3527(b)(1) and (2); § 73.3527(e)(8)(i) and (ii); and revising § 73.3527(b) and (e)(8) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

* * *

(e)(8) *Issues/Programs Lists.* For nonexempt noncommercial educational broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October–December, April 10 for the quarter January–March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

* * * * *

**STATEMENT OF
CHAIRMAN JULIUS GENACHOWSKI**

Re: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations and Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398), MB Docket Nos. 00-168 and 00-44

On my first day as Chairman, I said the FCC should and would “use technology and new media to . . . improve [the] overall operations of the FCC – running efficiently [and] communicating effectively” with the American people and all stakeholders. Moving from paper to digital, and from offline to online, is central to this commitment.

We have been doing this consistently. Some examples:

- We’ve revised our rules for the filing of all tariffs electronically, decreasing burdens on carriers and the Commission.
- We now permit staff to notify parties electronically about docket filings instead of mailing copies.
- We’ve expanded the use of electronic notifications of fees owed.
- And we’ve harnessed modern technology to open our workshops, hearings and communications to people online, on multiple distribution platforms.

Moving processes and information online is important for several reasons. It drives additional broadband use; it empowers app developers and consumers to use public data in innovative ways; and it drives process efficiencies that reduce costs both for the private sector and for government.

Look at e-government. Our government spends hundreds of millions of dollars each year on paper communication with citizens, with most of those interactions with communities that are also low broadband adopters. By moving more services from paper to the Internet in smart and creative ways – showing citizens the value of Internet access – we can both incentivize broadband adoption and make government more efficient, ultimately generating significant savings that we can reinvest in knocking down barriers to adoption.

Today, we’re applying the common sense principles of moving information online to rules relating to television broadcasters.

Broadcasters have long been required to disclose certain information as part of its public interest obligations. This information is commonly known as the “public inspection file.” Right now, this information is disclosed in paper form. And the “public inspection file” is in a filing cabinet at the stations themselves.

In a broadband world, that just doesn’t make any sense.

With this item, we propose to move the public file from paper to the Internet, and to host this information at the Commission so there’s efficient public access, another important step in the Commission’s efforts to ensure effective public access to information.

Making this information easily accessible will let the public see the large number of broadcasters that are doing a strong job of meeting their public interest obligations, and also those that are not.

This disclosure proposal we adopt today was featured in a major FCC report on how the information needs of communities can best be met in the Internet age. And it has already drawn support from leaders of the broadcasting and public interest communities, who are often at odds, but agree that there should be a streamlined and non-burdensome online mechanism for broadcasters to disclose key information about their service to their communities. I am pleased that we are able to take action on this recommendation of the Information Needs of Communities Report, and we intend to act on another recommendation – the Enhanced Disclosure NOI – in the very near future. By moving these matters along, we expect to complete the process on both of these proposals by next spring.

I look forward to hearing from all stakeholders on our NPRM and of course additional ideas about how to continue integrating digital technology into the way we work here at the FCC.

I thank the staff of the Media Bureau and the Managing Director's Office for their excellent work on this issue.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations and Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398), MB Docket Nos. 00-168 and 00-44

One of the of the FCC-centric recommendations emanating from the Waldman Report on *The Information Needs of Communities* is to "Emphasize Online Disclosure as a Pillar of FCC Media Policy." So it is fitting that we have a disclosure item before us today.

The history of this proceeding goes back many, many years, but I will refrain from revisiting the full saga this morning, riveting though it is. To make the long story very short, the FCC in 1981 ended its requirement for broadcasters to keep a program log and to ascertain what were the programming and issues interests of their communities of service. The decision was premised upon a straight-forward, if rather narrow-minded, cost-benefit analysis. Those were some of the nadir years for public interest premises at the Commission—and that's putting it mildly. Rather, in an effort to deregulate at any cost, those Commissions made it ever more difficult for citizens not only to seek redress for poor station performance, but even to unearth the facts about what broadcasters were in fact doing. Concerned citizens had to go to a lot more trouble just to see a station's file, and even when they got to it, avenues of redress were closed off because so many of the public interest responsibilities of the stations had been eliminated by the FCC. I believe it is the responsibility of this Commission to move forward on both these fronts: (1) to provide for fuller and more adequate disclosure, and (2) to breathe life and meaning back into public interest responsibilities and guidelines. I have been pushing for action on both these fronts since I arrived here ten years ago. And, purely as an aside, there is still plenty of oxygen in my lungs that I will dedicate to breathing life into these critical issues going forward.

Many others have spoken up in favor of fuller disclosure and strengthened Commission oversight. These include the public interest community, President Clinton and Vice President Gore's Advisory Committee, Members of Congress, concerned broadcasters, and millions of citizens across the land. We are not trying to bring back yesterday, but to forge reasonable Twenty-first century expectations for Twenty-first century broadcasting. As Lyndon Johnson put it more eloquently, "Yesterday is not ours to recover, but tomorrow is ours to win or lose." So I hope that we can start down the road now of winning that tomorrow, late in the day though it is.

The Further Notice we are embarking upon holds promise. It proposes that television broadcasters move their public files online, to a site hosted by the FCC, which I hope will be searchable and aggregative and therefore offer real opportunity for comparative analysis and wide public understanding. Without that kind of searchability, online disclosure would be small improvement over having the file kept in the broadcast station's basement.

What we are moving online is in large measure the same information available in the current station files. We urgently need to consider expanding the range of required reporting. Too often the files are spare to the point of uselessness. And, indeed, a Notice of Inquiry currently on circulation tees up such issues. I hope that we complete this proceeding expeditiously so we can move on to common-sense rules responsive to the information needs of these communities.

There were some valid points made by broadcasters in regards to Form 355 and I have often remarked on the desirability of making some alterations to the Form and then getting on with the job. I had hoped that would be a far less time-consuming process than the one we have actually endured over the last few years—yes, I said years.

Instead we are for the most part starting over. The substantive action we take today is to vacate the previous Report and Order instead of looking for ways to revise our earlier work and expedite its completion. The Report and Order being vacated has been held in limbo for three years. I do hope we move beyond the NOI stage with dispatch, given this is a problem of the highest public interest priority. We just don't have more years to consider this, and I believe other Commission vehicles would have allowed us to travel a far quicker route.

Disclosure is sunlight and an important means to important ends. But I repeat what I said at the time of the release of the Waldman Report: *Disclosure is a means to an end—not an end in itself*. Making information accessible to the public, prerequisite that it is, serves the public interest only if there are consequences when the files disclose station shortfalls. So we have to ask ourselves what the public is able to do with the disclosed information. Bring a complaint? Based on what? Have a hearing designated? Have a more serious license renewal? It was interesting to me that in the conversation that resulted from Form 355 some broadcasters were willing to provide the information—but only if it would be anonymous—and with assurances that their licenses would not be affected. While many broadcasters work hard to serve the public, it would appear there are some who need to read the public interest bargain one more time. If disclosure brings to light behaviors that require redress, I'm for having redress on the books.

I happily acknowledge the additional requirement to include pay-for-play and shared services as information that the broadcasters need to put online. While I would be even more pleased if we made a decision that shared services are an end run around our media ownership rules, I do believe this information will nevertheless be revealing.

Lastly, I note that we propose moving the stations' existing political files online. This, too, will be revealing—but not as revealing as it could be. I believe citizens are entitled to more information about the political ads that bombard them at election time and, nowadays it seems, almost all the time. The Supreme Court articulated in its *Citizens United* decision that transparency is a vital counter-balance to the perceived influence of corporations in the campaign process. Opaque and misleading information is not what democracy thrives on. We are not well-served when those who are attempting to manipulate our political dialogue and determine election outcomes can disguise themselves and hide behind misleading names. If a group calling itself "Citizens for Purple Mountain Majesties" is in reality the mouthpiece of a special interest that is refusing to clean up a toxic dump or is pouring pollution into the Great Lakes, don't citizens have a right—yes, I said "a right"—to know that? Open government can only exist where people and groups trying to determine elections stand up and tell us who they are. That's not happening often enough. The fissures in our democracy will continue to widen if anonymous money retains its unchecked influence in our elections. So I would hope the Commission would find its way to using the authority it has to require fuller sponsorship identification of the interests bank-rolling so many of the ads we all watch all the time.

When the roll is called I will vote to approve and move ahead with this item, hopeful that my colleagues will work with dispatch to advance wider disclosure proceedings in the months ahead. I thank the Bureau for bringing up this item and I especially want to recognize the hard work that our public interest community did to emphasize both the importance and the urgency of public disclosure for the public interest.

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL
APPROVING IN PART, CONCURRING IN PART**

Re: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations and Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398), MB Docket Nos. 00-168 and 00-44

Today, I enthusiastically vote in support of vacating the 2007 Order that required television broadcasters to post their public inspection files on the Internet and adopted the so-called "Enhanced Disclosure Form" to replace the quarterly issues/programs list. In 2007, I cast the sole dissent against the imposition of this form. At the time, I cautioned that our action was treading towards reinstating an ascertainment regime discarded by the Commission in 1984. Such action risked infringing upon the First Amendment rights of broadcasters.

Moreover, this form was burdensome, excessively regulatory and – to quote the FCC's *Information Needs of Communities* report – "overly complex." It is not surprising that the form was challenged before the Commission, the courts, and even the Office of Management and Budget where the information collection was questioned under the Paperwork Reduction Act. Although our action today concludes this regulatory chapter, it appears to be only temporary as this order contains a further notice of proposed rule making that could result in additional burdens on television broadcasters. Furthermore, recently placed on circulation here at the Commission is a notice of inquiry that initiates a separate proceeding to create a replacement standardized form and reporting requirements – but more about that another day.

In the further notice, the Commission asks additional questions about placing the public file online. As was the case in 2007, I remain supportive of making "the public inspection file more accessible and more useful, thus improving communications between broadcasters and their local communities." Here, the Commission tentatively concludes that public inspection files should be centrally located on the FCC website. Hopefully, this proposal would reduce costs and burdens on broadcasters – a concern that was voiced by many – by placing the onus of creating and hosting the website on the Commission. But I will be attentive to a record that indicates otherwise.

We also ask for comment about the proposal that the political file should be posted online and that updates should be made "immediately absent unusual circumstances." Previously, the Commission decided to exempt the political file from the online requirement concluding that "the burden of placing this material on the Internet outweighs the benefits." Now, the Commission asserts that most political advertising transactions are electronic, so online availability may be less burdensome than previously thought. I look forward to hearing from stakeholders regarding the possible ramifications of an online political file.

Although the majority of the questions in the further notice are meant to elicit comment on moving the public file online, others serve as a means to expand the required disclosures made by broadcasters. I have significant concerns about the substance of some of these questions and the possible direction in which the Commission could be headed. We propose that broadcasters upload a list of all on-air sponsorship identification announcements and seek comment regarding whether "sharing agreements" – including those not currently required to be reported under our rules – should be included in the online public file. Such sweeping requirements may overly burden the broadcaster without sufficient corresponding benefits to the local citizens served by the station. Further, I wonder whether history is doomed to repeat itself. Are we once again heading down a path towards

needlessly burdensome rules, regulatory overreach, Paperwork Reduction Act challenges and unconstitutional intrusions? Stay tuned.

Despite the serious reservations I may have, it is important to develop a full record and allow public comment prior to forming conclusions and implementing any regulations. In this vein, I would like to thank the Chairman for seeking specific comment on the costs and benefits of the proposals contained in the further notice. I hope that participants will provide us with the information and data needed to balance the public interest in ready access to information with the costs and legalities of such disclosure. As always, I will keep an open mind and look forward to learning from all interested parties. For these reasons, I support this order and further notice, but concur on the questions expanding the scope of the materials required to be contained in the public inspection file. Many thanks to the Media Bureau for its work on this order and further notice.

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations and Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398), MB Docket Nos. 00-168 and 00-44

Disclosure and transparency: Words that inspire confidence, increase the public's trust, and convey good faith. We're seeing, hearing and focusing more and more each day, on ways to enhance these efforts in both our public and private sector engagement. So it greatly pleases me today, to join my colleagues in taking a meaningful leap to this end, when it comes to the media landscape.

Local television stations play a vital role in American communities. They provide us with daily updates on weather and traffic patterns, conduct in-depth reports about area officials and businesses, and expose us to rare views and personalities in our neighborhoods when we are often too busy to notice. While I wasn't personally involved in local TV reporting, the small newspaper that I owned and operated offered unique insights and reporting that had value worthy of protection.

Under current obligations that apply to commercial broadcast television stations, the program logs and files of any particular station can be accessed and inspected by the public.

Those files serve to assist not only media academics and scholars who assess the trends in local reporting and programming, but they also act as a verifiable means to hold stations accountable for their public interest obligations. If a broadcaster asserts that a certain show is educational, informational, and relevant to the community, these files serve as a means for others to evaluate that contention. Further, when a broadcast license comes up for renewal, community residents can examine the public file to determine if objections should be raised based on what they may conclude are the lack of cogent and frequent local reporting and community-based content. A community's desire to examine public files is only possible, if they have realistic, meaningful access.

I've seen such files. They reside deep within a broadcast station's inner-labyrinth, far from the reception area, in a vintage filing cabinet with letters marked only in small font. I make light of this, to stress a point. Now is the time to move these "PUBLIC" files out of cabinets and onto the web.

The public should have unfettered access to documents and records that affect them intimately, and I believe that local news does just that. Today, 74% of Americans turn to broadcast TV more frequently than any other source for local news, while 78% of Americans are online on a regular or semi-regular basis. That statistical overlap is striking.

Physically going to a station and sifting through documents is time-consuming, travel-intensive, and difficult. Creating a meaningful way for the public to view these files with an online engagement is, to quote a popular commercial, "priceless".

Despite these benefits, I am cognizant of the burdens that come with transitioning to web-based filing would result. To quote Steve Waldman's report on the Information Needs of Communities, "A transition to a digital system needs to be handled carefully and in a manner sensitive to the capacities of different broadcasters." Our item, therefore, asks probing and constructive questions in that regard, and I look forward to input and suggestions as we move toward full implementation.

In a separate but related proceeding, we will address the amount of programming content that should be contained in the online disclosure process. I certainly would like to see as much detail as possible. As I mentioned, I have seen the paper versions of these public files, and they leave much to be desired. And while I am an advocate for a streamlined process, submitting a flimsy description for an important story is neither okay, nor should be permitted. Thus, the submissions should have to meet a certain threshold, and I'm certain that broadcasters will be partners with me and my colleagues in that regard.

I have spoken to the Chairman, and I appreciate his assurances that we will move expeditiously on both the consideration and enactment of that item and the next steps for this one.

The Commission, I know is committed to devoting the necessary resources toward the construction of a host forum for these files and will get this up and running in a timely manner. With the inclusion of documents found in the FCC Consolidated Database System, the diligence of the able people behind our agency's website operations, and the related item concerning future form's layout and content, I am confident that we will develop a mechanism for a robust and thorough process.

And no matter what shape or form this offering takes, it must be accessible to those with sight and hearing impairments. We have made significant progress under the Communications and Video Accessibility Act, and this is another way where our agency can continue to lead by example.

I wish to thank all of the hard-working individuals behind this item, particularly Holly Saurer, and I look forward to the next iteration of this extremely important proceeding.