

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Standardized and Enhanced Disclosure)	MM Docket No. 00-168
Requirements for Television Broadcast)	
Licensee Public Interest Obligations)	

COMMENTS OF THE JOINT BROADCASTERS

**Allbritton Communications Company
Communications Corporation of America
Cordillera Communications, Inc.
Cox Media Group
Granite Broadcasting Corporation
LIN Television Corporation
Local TV, LLC
Malara Broadcast Group, Inc.**

**Media General, Inc.
Meredith Corporation
MPS Media
New Age Media Broadcasting Group
Scripps Media, Inc.
Tribune Broadcasting Company
White Knight Broadcasting, Inc.
WBOC, Inc.**

December 22, 2011

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SUMMARY

While the Joint Broadcasters generally support the Commission's interest in trying to match technological "fixes" to regulatory concerns, three of the *Further Notice's* proposals either are unduly burdensome or premature and should not be adopted.

First, the Commission should reconsider its proposal that television stations maintain and continuously update online political files on an FCC-hosted political advertising database. Contrary to the Commission's tentative conclusions, this proposal would impose immense burdens on stations with little corresponding public interest benefit. The diverse advertising traffic systems currently used by broadcasters are not designed to export information to an FCC server and would have to be reconfigured or replaced to meet whatever standards the FCC might adopt, which could be a very lengthy process. Any near-term adoption of an online political file requirement would therefore require stations to use a manual system, scanning and uploading thousands of pages of material to an FCC-hosted database during a period when staff time is more urgently needed to serve candidate advertising requests. Since an automated online political file regime cannot be implemented quickly and the staffing costs of scanning political files in "real time" are considerable – while the public benefits are negligible, no online political file requirement should be adopted at the present time. Twice in the recent past, the Commission has recognized that the high volume of political activity during campaigns and the greater resources available to candidates and their representatives support exemptions from general public file requirements for the political file, and such an exemption is appropriate in this case.

Second, the Commission's proposal to require stations to report sponsorship identification disclosures online is premature and should be rejected. A Commission rulemaking on the scope of the FCC's sponsorship identification standards remains outstanding. Until the Commission resolves that proceeding and articulates clearer standards, labeling requirements

will remain unsettled. This need for clarity is particularly acute in light of a number of sponsorship identification investigations over the last five years that involved issuances of Notices of Apparent Liability but did not result in published decisions. No expansion of disclosure obligations related to sponsorship identification should be undertaken until the Commission resolves the many open questions regarding the scope of broadcasters' obligations.

Third, the Commission's proposal to require public file placement of certain "sharing agreements" not currently subject to disclosure obligations is likewise premature. The Commission has committed to reviewing a broad range of inter-station agreements as part of its 2010 Quadrennial Review of media ownership regulations. Any new disclosure requirements concerning these agreements should be postponed until the matters in that proceeding are concluded.

Finally, the Commission should apply any new rules prospectively and should not require stations to scan and upload archival materials to the new station online public file portal. The burdens of retrospective application of the online requirement far outweigh the benefits. If the Commission does insist on retrospective application, broadcasters should be permitted a reasonable time to comply.

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The Joint Broadcasters hereby offer these Comments in response to the Federal Communications Commission’s *Further Notice of Proposed Rulemaking*, released October 27, 2011, which proposes to require television broadcast stations to place their public files on an FCC-hosted Internet database.¹ The Joint Broadcasters are comprised of numerous television broadcast groups that have had decades of experience in maintaining public inspection files. Together, they own over 180 full-power television stations which operate in a wide cross-section of television markets throughout the country, from New York, New York (DMA #1) to Butte-Bozeman, Montana (DMA #189).² Based on their experience in operating this large number of stations, the Joint Broadcasters bring a wide range of important viewpoints to this proceeding.

The Joint Broadcasters support the Commission’s interest in trying to match technological “fixes” to regulatory concerns; however, while the Joint Broadcasters generally support the Commission in such efforts, a number of the proposals set forth in the *Further Notice*

¹ Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, *Order on Reconsideration and Further Notice of Proposed Rulemaking*, FCC 11-162, MM Docket No. 00-168, *et al.* (rel. Oct. 27, 2011) (the “*Further Notice*”). See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, 76 Fed. Reg. 72144 (proposed Nov. 22, 2011) (“*Further Notice*”).

² See Appendix A for a list of stations.

are either unduly burdensome or premature and, thus, should not be adopted at the present time. Over the past 15 years, the Commission has made great strides in utilizing new technologies to benefit the parties it regulates, including broadcasters. Today, Commission and Bureau decisions of wide applicability are generally available on-line the day that they are issued. The Commission's website makes researching past decisions and releases relatively easy not only for broadcasters and those representing them, but for the public at large. Some 10 years ago, the Media Bureau adopted electronic filing for broadcast applications, a change that has shortened processing time and saved broadcasters the expense of preparing, delivering, and filing paper applications. Most recently, the FCC has enabled the exporting of certain files, such as ".kml" files depicting station contours, to allow their use with other software and applications. Among the most useful advances has been the ability broadcasters have acquired to "marry" contour maps with services like Google Earth.

At the same time, broadcasters have seen their burdens increased by other Commission electronic initiatives. The changes involving the submission of biennial ownership reports have been particularly difficult on broadcasters. Not only have these changes greatly increased the time required to enter each individual ownership report, but they have vastly expanded the number of reports that must be drafted, entered, uploaded, and filed. Among other reasons, this increase has been caused by the fact that, if two commonly-owned stations -- no matter whether in the same market or different parts of the country -- have different licensees, the reports for corporate parent or owners "upstream" in the ownership chain must be separately and repetitiously filed, with slight variation, for each licensee. Station groups that in the past might have filed a handful of reports have seen the number they must submit rise to dozens, creating days of work for station personnel and outside advisors.

The specific proposals in the *Further Notice* similarly have the potential to multiply significantly the reporting and filing obligations with which stations already must comply. Some of the *Further Notice*'s proposals also are premature. These proposals would require broadcasters to place certain documents in the public file before the Commission has completed other proceedings addressing substantive legal issues related to the documents and licensees' obligations to disclose them. The Commission should not be ruling on such threshold issues in a proceeding related to ministerial public file disclosure. For these reasons, the Joint Broadcasters urge the Commission to rethink its proposals, amending them to remove the serious burdens discussed below given that they far outweigh any accompanying benefits. At a minimum, the Commission should only apply any new online public file rules it may adopt to material prospectively placed in station public inspection files or, failing that, give broadcasters at least a year to scan and print the material already in their public files.

I. THE BURDENS OF THE ONLINE POLITICAL FILE PROPOSAL FAR OUTWEIGH THE BENEFITS.

The most troubling of the FCC's online public file proposals are those relating to stations' political files. As discussed below, the *Further Notice*'s suggestion that a station's political file be converted to online files runs counter to the Commission's rejection just four years ago of this very same idea and its earlier precedent acknowledging that, for several reasons, political files should be exempt from many of the requirements related to public inspection files overall. In proposing that the Commission host online political files, the *Further Notice* mistakenly assumes the current availability of automated processes that make the goal of an online political file easily attainable. Unfortunately, as discussed below, a technological "fix" simply does not currently exist. Any alternative approach that relies upon manual posting would greatly strain already severely taxed station resources. When weighed against the contemplated

benefits of online access, these burdens -- which are discussed below -- make the proposal impossible to justify even if it could be implemented in one form or another.

A. As the Commission Has Correctly Determined in the Past, the Political File Should Be Exempt from Obligations, Such as Online Posting, That May Apply to Other Contents of the Public Inspection File.

On multiple occasions, the Commission has recognized that reasons unique to political files support treating their contents differently from other parts of the public inspection file. In 1998, when the Commission allowed stations to move their main studios and public inspection files outside their communities of license, it modified its rules to require broadcasters to make the contents of their public files available to individuals requesting such material by telephone.³ On reconsideration, the Commission exempted the contents of stations' political files from this requirement.⁴ The Commission offered two reasons for the exemption: (i) the heavy volume of daily, if not hourly, telephone requests for political file material from candidates and their representatives during a campaign could "unduly disrupt a station's operations,"⁵ and (ii) the greater resources available to candidates or their representatives mean that they are more able to access files in person than the average citizen.⁶ The Commission, however, did not base its decision solely on the needs of broadcasters and candidates, acknowledging that the exemption it created "balances the needs of broadcasters with the needs of the public."⁷

³ Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, *Report and Order*, 13 FCC Rcd 15691, 15702-04, ¶¶ 24-26 (1998), *recon. granted in part*, 14 FCC Rcd 11113 (1999) ("1999 Main Studio Recon Order").

⁴ *1999 Main Studio Recon Order*, 14 FCC Rcd at 11121-22, ¶¶ 20-22.

⁵ *Id.* at 11122, ¶ 22.

⁶ *Id.*

⁷ *Id.*

Just four years ago, the Commission used similar reasoning to conclude that the political file should be excluded from online posting.⁸ Repeating many of the rationales from 1999, the Commission reasoned that the potential volume of material involved, and the potential need for multiple daily updates, could make timely updating of an Internet political file impossible.⁹ In addition, because the resources available to candidates and their representatives allowed them to make their requests in person, the burden of requiring immediate online access to the political file outweighed the benefits.¹⁰

The facts underlying the Commission's previous conclusions are unchanged. In the Joint Broadcasters' experience, the overwhelming majority of requests for access to station political files continue to come from candidates and their representatives rather than from members of the general public, researchers, or public interest organizations. The volume of information that must be added to the files often amounts to multiple updates each day.¹¹

While the facts supporting the Commission's previous exemptions for political file obligations remain unchanged, the Commission has identified no support for its new proposal to reverse these earlier conclusions and require immediate online posting of the political file. Such an abrupt change in course requires clear and compelling evidentiary support and a detailed and persuasive explanation for reversing direction.¹² Here, however, the Commission has not

⁸ Standardized and Enhanced Disclosure Requirement for Television Broadcast Licensee Public Interest Obligations, *Report and Order*, 23 FCC Rcd 1274, 1281-82, ¶¶ 19-20 (2007).

⁹ *Id.* at 1282, ¶ 20.

¹⁰ *Id.*

¹¹ Indeed, political advertising makes up more than half of all spot television expenditures in the final weeks of an election cycle. *See, e.g.*, Harmelin Planning Advisory Group, Political Advertising and Spot TV in 2012, <http://www.harmelin.com/blog/2011/11/political-advertising-spot-tv-in-2012>.

¹² *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 402 U.S. 1007, (1971), 403 U.S. 923 (1971), 406 U.S. 950 (1972). *See also Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 43 (1983) (citing *Burling Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

provided any support for its newly changed conclusion that broadcasters should be required to place their political file materials online immediately, or that the benefits of such a rule outweigh its burdens. Instead, it rests its decision on the mistaken assumption that electronic traffic management software will reduce the burden of an online filing requirement.¹³ Unfortunately, as set forth in the next section, this assumption is ill-founded.¹⁴

B. Contrary to the Commission’s Assumptions, an Online Political File Requirement Will Increase the Burden on Broadcasters.

The *Further Notice* simply assumes that placing the political file online would reduce, rather than increase, the burden on broadcasters. Specifically, the *Further Notice* claims that stations’ use of electronic traffic management software would lessen the burden of an online filing requirement.¹⁵ In addition, the *Further Notice* presumes that online posting of political file materials would require fewer station resources than handling the in-person requests for such material.¹⁶ As discussed below, both assumptions are incorrect: existing electronic traffic management software does not come even close to providing broadcasters with the ability to engage in automated online posting to their political files, and the alternative of manually

¹³ *Further Notice* at ¶ 23.

¹⁴ In the past, as the material cited in the *Further Notice* attests, even the proponents of online political file access have not proposed that additions to political files be placed online *immediately*. Campaign Legal Center, *et al.*, Petition for Reconsideration, MM Docket 00-168, *et al.*, at 2-5 (filed Apr. 14, 2008). To the contrary, the Campaign Legal Center, *et al.*, proposed that station political files be placed online within thirty days following an election to “avoid imposing a substantial burden on broadcasters during their busiest time,” while allowing “the public and interested researchers to evaluate how stations met their public interest requirements.” *Id.* at 4-5. The Public Interest, Public Awareness Coalition similarly has recognized that “because during the campaign season the political file can change daily, the online requirement could include provisions for a reasonable delay in posting updated information.” Letter from Angela Campbell and Andrew Schwartzman, counsel for the Public Interest, Public Airwaves Coalition, to Julius Genachowski, Chairman, Federal Communications Commission, MM Docket 00-168, at 5 (Aug. 4, 2011).

¹⁵ *Further Notice* at ¶ 23.

¹⁶ *Id.* at n.68.

scanning and uploading political file materials entails burdens that far exceed those associated with handling in-person requests for the material.

1) An Automated Online Political File Process Is Infeasible Today and Will Require Significant Time To Develop.

The *Further Notice* tentatively concludes that the use by television stations of electronic tools to handle political advertising transactions allows an online political file requirement to “impose far less of a burden than previously thought”¹⁷ and requests comment on the logistics of making the political file available online.¹⁸ The *Further Notice* also requests comment on “methods and procedures that can be implemented to enable the near real-time upload of political file documents during periods of heightened activity” and asks which tools the agency should make available to “make such immediate filing as non-burdensome as possible.”¹⁹

Contrary to the assumptions in the *Further Notice*, the increased use by stations of computerized traffic management systems to sell and schedule television advertising time will not in any way facilitate compliance with an online political file requirement. Stations currently use numerous different automated traffic systems with widely varying capabilities. The lack of standardization among systems and stations make development of a simple, standardized, and automated process for Commission hosting online political file material impossible today and very difficult to attain in the coming years.

The Commission has previously acknowledged that the differences in the way stations sell television advertising time presented a barrier to standardized disclosure of political file materials. In 1992, in response to a request from the National Association of Broadcasters for guidance on the materials to be maintained in station’s political files, the Commission concluded

¹⁷ *Id.* at ¶ 23.

¹⁸ *Id.*

¹⁹ *Id.*

that “[b]ecause advertising time may be purchased or ordered in a variety of ways, we do not believe that we can mandate a definitive list of material that must be maintained in a political file.”²⁰ Standardized requirements were not possible because of “the vast variation in sales practices from station to station.”²¹

In the last two decades, the technology used to sell television time has changed, but the “vast variation” among station selling practices has only increased. As reflected in the carefully customized political disclosure forms typically adopted by commercial television stations, sales practices vary enormously. Levels of preemptibility (fixed, non-preemptible, preemptible-with-notice, immediately preemptible, run-of-schedule) are unique to each station as are the multiple program rotators, time blocks, and packages. This combination creates the applicable “classes of time” grid used for each station for “Lowest Unit Charge” classification and review. Each station codes the classes of time differently in its traffic system. For the Commission to design a system that recognizes and incorporates all the multiple variables and codes from different stations would be prohibitively expensive and ultimately ineffectual.

These diverse station sales practices are reflected in the very complex traffic management systems that stations have adopted to suit individual station needs. Today, television stations use a multiplicity of different traffic management software systems to sell advertising time, including those developed and sold by Harris (OSi and Paradigm), WideOrbit (WideOrbit Traffic and Orion), Myers Information Systems (Protrack TV), and Pilat Media (IBMS).²² Each of these

²⁰ Codification of the Commission’s Political Programming Practices, *Memorandum Opinion and Order*, 7 FCC Rcd 4611, 4621, ¶ 88 (1992).

²¹ *Id.* at 4621, ¶ 90.

²² See, e.g., Harris Corp., Paradigm Total Media Business Integration Software, <http://www.broadcast.harris.com/productsandsolutions/ProgrammingRightsSoftware/Paradigmreg.asp>; PilatMedia, IBMS Sales, <http://www.pilatmedia.com/products-a-services/ibms-sales.html>; Press Release, WideOrbit, Inc., WideOrbit Acquires Traffic Assets of VCI Solutions (Nov. 1, 2010), available at <http://www.wideorbit.com/index.php/company/press-a-news/497>; David F.

(continued . . .)

systems collect and track different information and process it in different ways. For example, a sample order entry screen from a Harris OSi system shows just some of the wide range of data elements reported in the OSi system for every advertising spot.²³ No universal database format for traffic management systems exists, and this same spot entered into another management system would reflect a different group of data points, many unique to the other system.²⁴

Moreover, different stations that employ the same traffic management system and identical software may use that software in different ways, depending on how each station sells time or labels what are otherwise identical categories of time. Even individual stations within station groups will not necessarily have uniform processes. For example, some stations utilize a “political” category that includes both candidate specific ads and “issue” ads.²⁵ Other stations code these categories separately. Moreover, to simplify compliance with obligations under the Bipartisan Campaign Reform Act, some stations may separately flag issue advertisements that deal with national legislative issues.²⁶ The variations in coding from station to station are extensive.

Advertising agencies also have their own electronic booking systems, some of which are optimized to interact seamlessly with broadcaster systems, and some of which are not. These systems, rather than broadcasters’ traffic management systems, perform the initial intake of

(. . . *continued*)

Carr, *Traffic Systems Seek Scale, Depth, Breadth*, BROADCASTING AND CABLE (Feb. 24, 2008), available at http://www.broadcastingcable.com/article/print/112587-Traffic_Systems_Seek_Scale_Depth_Breadth.php.

²³ See Exhibit 1 attached to Declaration of Stephanie Helsley, Corporate Director of Traffic, Allbritton Communications Company, attached hereto as Appendix B (the “Helsley Declaration”).

²⁴ *Id.* at ¶ 2.

²⁵ *Id.* at ¶ 4.

²⁶ *Id.*

information, capturing the data relevant to spots they sell, and, as a result, these agency systems would need to be integrated into and made compatible with any electronic filing process.

The complexity and variation among automated traffic and advertiser booking systems raise a formidable barrier to the creation of a useful online filing process in the short-term. A real solution would require fully phased software development from requirements-gathering through quality assurance and phased deployment. First, the Commission would have to create its own environment capable of receiving a high volume of simultaneous automated upload requests during the heat of the political season. Second, once the interface to such a system was created, tested, and finalized, each traffic management software system provider would have to program, test, and finalize – for each of the individual system versions deployed in the field – an export function tailored to the Commission’s servers. This process alone would consume hundreds of thousands of man hours. Such a mammoth software conversion effort would be required for every station in America. Third, broadcasters across the country would have to install this new software on their existing systems. Taken together, these steps would stretch into years, and the costs would be significant.

All this effort would produce only a system enabling automatic uploading to the Commission’s proposed online public file of advertising orders categorized as political; however, it would lack any standardized data elements, folder and subfolder categories, and useful metadata, leaving users without an automated ability to meaningfully compare orders among different stations using different traffic systems. Before a Commission-hosted online political file system could provide any such “advanced” capabilities, traffic management systems would need to be further reworked and standardized. For example, to accomplish the automated organization of spots into a meaningful taxonomy, the Commission initially would need to determine data structure -- the number and type of folders and related folders necessary to ensure

adequate categorization (*e.g.*, local, state, and national folders; individual race folders; individual candidate folders). Then, software developers would need to determine, for each traffic system, what existing data elements, if any, map to the folder types the Commission may decide to mandate.

If the FCC, for example, required political file posts to differentiate whether ads were purchased by a Republican presidential candidate's campaign or an independent PAC supporting the candidate, the traffic systems used by many stations would require field modification. The same would be true to differentiate spots bought by the candidate's opponents. Any data structure, interface, and export function revisions would then need to be programmed separately for each different traffic management system, tested, and deployed.

Even this approach would not electronically capture certain elements of a broadcaster's political file, such as the officer/director information from candidates and issue groups that stations are required to collect but that are not included in automated traffic systems. Today, broadcasters are able to place documents including this information in their paper public files. If the Commission moves the political files online, that data would need to be scanned and uploaded by hand or additional electronic fields would need to be added to station traffic systems. In addition, some types of data, such as projected spot run times, change on an ongoing basis. If this type of data, which is often requested from stations, is to be included in an online database hosted by the Commission, information would need to be uploaded on a continual basis.

Moreover, because any online posting system would have to be designed and conformed to the multiple traffic systems now in place, each station would be required to employ an extremely sophisticated manager who would need to convert the station's unique coding into the FCC-mandated system, based in many cases in judgment calls as to how the station's unique codes should be mapped to the FCC's database requirements. Indeed, there would be no rational

means to differentiate apples and oranges much less whether the information at the manager's disposal was fruit. These individual judgments, rather than clear rules, would determine the contents of each station's political file. Stations nonetheless would be required to certify in their renewal applications – under penalty of perjury – that the contents of the public files are complete. Requiring stations to certify compliance when the Commission's rules provide no guidance on whether or not the station's judgments have been correct would be arbitrary and unfair. This process would not aid the public because the sum of the judgment calls would be unusable data that could not be compared from station to station.

The only way to ensure a system in which stations have the information they need to keep their public files complete and the public gains usable information would be for the adoption of some form of Commission-imposed standardization of political advertising sales. Adoption of nationally uniform political advertising requirements would have a significant impact on the entire political process that has not been fully considered. Moreover, this standardization would necessitate Commission-imposed requirements for all commercial and political sales without regard to the unique characteristics of each station and each advertising market. Imposition of a uniform code of advertising sufficient to facilitate automatic online political file posting would far exceed the Commission's jurisdiction and certainly would not comport with First Amendment requirements.

Given all these obstacles, the Commission should recognize that the burdens imposed by the substantial station and government efforts necessary to produce even the most basic of processes for stations to maintain online political files would far outweigh any public benefits that might result.

2) Manual Maintenance of an Online Political File Would Be Unduly Burdensome.

Absent a fully automated system that cannot be achieved for the reasons discussed above, the only alternative for maintaining online political files would require repeated “manual” or staff inputs, which would be unduly burdensome. Manually maintaining a Commission-hosted online political file would require (i) creating electronic versions of all political time requests (either by directly saving them to PDF or scanning a printed version), and (ii) uploading those requests to a Commission server. These steps would take at least 30 minutes per request, possibly longer if the Commission’s system is slow or congested.²⁷ This estimate is premised on a simple saving/scanning and uploading of each request for time. If the Commission requires further classification of requests, as it has proposed, the time involved in uploading each request only would increase. Given the level of detail the Commission has proposed (including individual subfolders for each federal, state, and local race), and the potential for Commission fines for misdirected uploads, station personnel would expend substantial additional time and effort first categorizing each request, then uploading each addition to the file, and repeatedly checking to ensure accuracy.

Based on the most conservative estimate of 30 minutes for each manual upload, the Commission’s proposed rule would require dedicating a substantial portion of at least one full-time station staff member’s workday for much of the political season, particularly in very active political markets. In high-profile or hotly-contested races, the volume of political advertising requests can be enormous. Indeed, during the 2010 election cycle, which was not a Presidential election year, Media General estimates that its eighteen television stations produced an estimated

²⁷ See Declaration of Elizabeth Hicks, General Manager of Central Traffic, Media General Broadcast Group at ¶ 3, attached hereto as Appendix C (“Hicks Declaration”); Declaration of Susan Anderson at ¶¶ 3-4, attached hereto as Appendix D (the “Anderson Declaration”).

9,452 political time requests that, if new rules were adopted, would be required to be filed online.²⁸ At 30 minutes per request, scanning, uploading, and filing the more than 9,000 requests would have required the stations to devote at least 4,800 hours of staff time. This breaks down to at least 15.7 hours per station per week during the political season on the tasks of copying, scanning and uploading.²⁹ Additional time would be required to scan and upload the other documents containing information not included on the political time requests themselves, but still required to be placed in the political file. In this economy, that is a substantial commitment of resources that would be extremely difficult for cash-strapped stations to meet, but they would have little choice but to absorb the cost of this extra staffing.

As an alternative, stations could choose to limit their political advertising sales, especially to state and local candidates, to contain these extra costs. Such a result would run counter to the Commission's interest in fostering robust political exchanges and civic debate and would contrast sharply with the operating assumptions at most stations, which today try to accommodate political advertising from as many different political races as station operations allow in order to meet what they believe is a crucial part of their public interest obligations.

Contrary to the Commission's tentative conclusion in the *Further Notice*, for the broadcast industry overall, the burden involved in the manual uploading of every request for time would far exceed that currently attributable to dealing with in-person information requests. In the more than 70 years that the Commission's political file rules have been in effect, broadcasters and candidates have developed procedures to ensure that requests for political file access are

²⁸ See *Hicks Declaration* at 3 & Exh. 1. The number of requests is based on a total of 2,363 initial orders, which on average were revised four times during their run. These requests produced approximately 28,000 pages of documentation requiring public file placement.

²⁹ This estimate is based on dividing 4,800 hours by 19 stations and then dividing the product by 16 weeks, which is the time period prior to an election during which the majority of political advertising requests are received. See *Id.* at ¶¶ 3-4.

handled efficiently and expeditiously. To serve candidate representatives, station personnel currently need only to direct interested parties to the paper political file, which these parties are free to review. In contrast to the nearly 16 hours a week of staff time estimated to be required under the *Further Notice*'s proposal, stations approximate that maintaining today's hard copy political files and dealing with in person information requests takes at most two and one-half hours of staff time per week during the political season.³⁰ This represents at least a six-fold increase in the time that would have to be devoted to maintaining the political file.³¹

Given the fact that the need for additional staffing is extreme but the period at issue is limited to the political season, most stations are likely to redeploy staff from other station endeavors, such as the production of news and public affairs programming or advertising sales. Adoption of the *Further Notice*'s proposed rules will undoubtedly lead to a reduction in stations' service to their communities.

³⁰ See Helsley Declaration at ¶¶ 7-8.

³¹ See *Id.* at ¶ 8 (estimating fifteen minutes and two and one-half hours per week currently); Hicks Declaration at ¶¶ 3-4, (estimating 15.7 hours per week of staff time under proposed rules). Nor will all this additional time actually ensure that candidates gain access to political file information on a timely basis. If the online posting requirement replaces the paper political file, candidates would be forced to wait for materials to become available from the Commission's web site. The wait involved could be substantial, as the delays would include not only the time necessary for a station to scan and upload material, but also the time required for the Commission's servers to process and make available the uploaded material. Delays could be substantial. During the recent biennial ownership report filing season, for example, the Commission's servers apparently were so overloaded that it took as many as 24 hours to upload a single Microsoft Excel spreadsheet associated with such reports. See Anderson Declaration at ¶¶ 3-4. In the event of an outage on the Commission's website, or some other delay in the availability of newly-updated information, candidates would have no means to access the materials they would need to enforce their rights. The Commission's proposed solution to this problem – requiring stations to maintain a back-up political file at the station (*Further Notice* at ¶ 18) is no solution at all because it would eliminate the supposed administrative economies the Commission contends broadcasters would realize from the transition to online filing.

II. THE COMMISSION SHOULD NOT REQUIRE INCLUSION OF SPONSORSHIP IDENTIFICATION INFORMATION IN THE ONLINE PUBLIC FILE.

The Commission's sponsorship identification rule, which implements Section 317 of the Communications Act, requires that stations provide on-air disclosure for all programming content that is paid for, furnished by, or sponsored by an outside party.³² In the *Further Notice*, the Commission seeks comment on whether it should require stations to provide duplicate disclosure of the sponsorship information in the proposed online public files that the Commission may host. As discussed below, such disclosure would exceed the text of the underlying statute, fail to advance the regulatory rationale for the sponsorship identification rule, and place an undue burden on station operations. For any one of these reasons, the proposal should be rejected.

By its terms, Section 317 makes clear that disclosure of a program's sponsor is to be made contemporaneously with the broadcast. That section provides as follows:

All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, *at the time the same is so broadcast*, be announced as paid for or furnished, as the case may be, by such person.³³

By requiring disclosure beyond the time of broadcast, the Commission's proposed requirement of an additional online report exceeds the statutory text.

The principal purpose of Section 317 and the Commission's implementing rule is to allow viewers "to know by whom they are being persuaded."³⁴ The *Further Notice* instead suggests that the duplicative disclosure of information in an online public file "will allow interested parties to 'keep track of the number and extent of such sponsorships.'"³⁵ "Keeping

³² 47 C.F.R. § 73.1212.

³³ 47 U.S.C.A. § 317(a)(1) (emphasis supplied).

³⁴ *Applicability of Sponsorship Identification Rules*, 40 FCC 141 (1963).

³⁵ *Further Notice* at ¶ 34.

track” of disclosures has little to do with ensuring that viewers are able to evaluate who may be persuading them as they watch programming. Individuals who are not watching are not likely to be influenced – fairly or unfairly – by the messages aired. The proposed online disclosure runs counter to both the text and the rationale underlying the Commission’s sponsorship identification regulation, and the proposal should be rejected.

The *Further Notice* explains that the proposal of an additional public file requirement flows from a recommendation in the recent “Information Needs of Communities Report,” which had suggested that licensees provide online disclosure whenever *news programming* includes a video news release or other “pay-for-play arrangement.”³⁶ The proposed online public file disclosure, however, would apply to *all* programming, which will create serious administrative problems for many stations. As the Commission has acknowledged, a substantial amount of sponsored material occurs in such network and syndicated programming.³⁷ Licensees typically have no advance knowledge of the specific sponsorship arrangements between the networks or syndicators and their program producers. Their programming agreements include comments ensuring the networks and syndicators will abide by on-air disclosure requirements, and they often only learn that material was sponsored once the program’s sponsorship announcement airs. As a result, if the Commission’s proposal is adopted as is, stations will need to dedicate personnel to monitoring and identifying network and syndicated programming with sponsorship

³⁶ “The Information Needs of Communities: The Changing Media Landscape in a Broadband Age,” by Steven Waldman and the Working Group on Information Needs of Communities (June 2011) at 349, available at www.fcc.gov/infoneedsreport (the “*INC Report*”) (emphasis supplied).

³⁷ Sponsorship Identification Rules & Embedded Advertising, *Notice of Inquiry and Notice of Proposed Rule Making*, 23 FCC Rcd 10682, 10682-84 ¶¶ 2-3 (2008) (“*Sponsorship Identification*”).

identification. This expansion of the disclosure requirement beyond a mention on-air, at the time of broadcast, will increase the work that station staff must perform.³⁸

Moreover, the *Further Notice's* online sponsorship disclosure proposal is much too premature to be considered in the context of this proceeding. In 2008, the Commission released a *Notice of Inquiry and Notice of Proposed Rulemaking* on the applicability of the sponsorship identification rule to product placement and other forms of product integration.³⁹ Many important – and still unanswered – questions were raised in that proceeding, including, for example, whether some of the pay-for-play arrangements described in the *INC Report* would satisfy the “obviousness” exception in Section 73.1212(f) of the Commission’s rules.⁴⁰ Before the Commission requires broadcasters to provide additional disclosure for certain types of product integration, the Commission must provide clear guidance describing the parameters of the sponsorship identification requirement – exactly what types of arrangements require what disclosure.

Other legal questions regarding sponsorship identification remain similarly unanswered. The *INC Report*, for example, suggests that broadcasters should provide a disclosure whenever they incorporate video news releases (“VNRs”) into their news programming.⁴¹ It is very unclear, however, whether the use of VNR material always triggers a sponsorship identification

³⁸ If the Commission, despite the many infirmities, adopts a repetitious online disclosure requirement for all programming that carries on-air sponsorship identification, it should delay the effective date of any such requirement for at least a year. This time period is necessary for stations and program suppliers to put in place advance notice procedures and other disclosure systems necessary to allow station compliance. Absent that delay, stations will be forced, as noted, to assign employees to every single program that is aired and flag those with sponsorship identifications, creating an unworkable burden for licensees that themselves did not directly receive consideration.

³⁹ *Sponsorship Identification*, 23 FCC Rcd 10682, *supra* n.37.

⁴⁰ *Id.* at 10689-90.

⁴¹ *INC Report* at 95-96.

requirement. In 2006 and 2007, the Enforcement Bureau launched an investigation of more than 80 alleged instances of broadcast stations and cable operators using VNRs or other similar material in news programming without providing disclosure. To date, the Enforcement Bureau has resolved only three of these cases, issuing Notices of Apparent Liability to Comcast Corporation;⁴² Access.1 New Jersey License Company, LLC;⁴³ and Fox Television Stations, Inc.⁴⁴ Each of these Notices turned on the very subjective question of whether “the products or services [in the VNR] are shown to an extent that is disproportionate to the subject matter of the broadcast.”⁴⁵ To the Joint Broadcaster’s knowledge, none of the other cases led to a publicly available decision that might help clarify the parameters of the subjective “disproportionate” test.⁴⁶ If the Commission requires broadcasters to disclose VNRs in some instances but deems disclosure unnecessary in other cases, the Commission must clarify the distinction, whether in the context of its pending sponsorship identification rulemaking or through other published precedent. Until then, imposing new ministerial reporting obligations on broadcasters is legally inappropriate.

⁴² *Comcast Corp., Notice of Apparent Liability for Forfeiture*, 22 FCC Rcd 17474 (Enf. Bur. 2007); *Comcast Corp., Notice of Apparent Liability for Forfeiture*, 22 FCC Rcd 17030 (Enf. Bur. 2007).

⁴³ *Access.1 N.J. License Co., LLC, Notice of Apparent Liability for a Forfeiture*, 26 FCC Rcd 3978 (Enf. Bur. 2011).

⁴⁴ *Fox Television Stations, Inc., Notice of Apparent Liability for Forfeiture*, 26 FCC Rcd 3964 (Enf. Bur. 2011).

⁴⁵ *Access.1 N.J.*, 26 FCC Rcd at 3983.

⁴⁶ As far as the Joint Broadcasters are aware, all or substantially all of the VNRs that were subject to the 2006 and 2007 investigation aired more than five years ago. As a result, the statute of limitations for collecting any forfeiture for the broadcast of such VNR material has passed. 28 U.S.C. § 2462.

III. PUBLIC FILE REQUIREMENTS CONCERNING SHARED SERVICES AND LOCAL NEWS SHARING AGREEMENTS SHOULD NOT BE ADOPTED UNTIL THE FCC FINISHES REVIEWING SUCH AGREEMENTS IN THE 2010 QUADRENNIAL MEDIA OWNERSHIP REVIEW.

In the *Further Notice*, the Commission requests comment on a recommendation from the Public Interest Public Airways Coalition seeking to require inclusion in online public files of “sharing agreements among licensees such as local news sharing and shared services agreements.”⁴⁷ As the *Further Notice* recognizes, the public file rule already requires inclusion in the file of time brokerage agreements (“TBAs”) and joint sales agreements (“JSAs”).⁴⁸ In rulemakings and adjudicatory decisions over the last two decades in the case of TBAs and a little less time in the case of JSAs, the Commission has extensively analyzed these agreements, evaluating their attribution status, determining whether they have and have not implicated transfers of station control, and addressing when they must be publicly disclosed.⁴⁹

The Commission has not similarly reviewed local news sharing agreements and shared services agreements in any depth, particularly in a rulemaking, and it has recently stated it will be undertaking such review as part of its 2010 Quadrennial Review of its multiple ownership rules.⁵⁰ Absent such review, it is improper for the FCC to adopt new substantive disclosure obligations under the guise of making the public file more accessible. The FCC instead first needs to solicit comment and determine the legal status and regulatory disclosure requirements regarding such operational agreements, which do not implicate ownership or control.

⁴⁷ *Further Notice* at ¶ 35.

⁴⁸ *Id.*

⁴⁹ *See, e.g.,* SagamoreHill of Corpus Christi Licenses, LLC, *Letter Decision*, 25 FCC Rcd 2809, 2814-15 (Med. Bur. 2010); 2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, *Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 13620, 13742-46, ¶¶ 316-325 (2003); Roy R. Russo, Esq., *Letter Decision*, 5 FCC Rcd 7586, 7586-87 (Mass Med. Bur. 1990).

⁵⁰ *KHNL/KGMB License Subsidiary, LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, DA 11-1938 at ¶ 23 (Med. Bur. rel. Nov. 25, 2011).

If, as part of the 2010 Quadrennial Review, the Commission determines that additional disclosures regarding local news sharing agreements and shared services agreements are in order, it can provide concrete guidance to stations in connection with that proceeding. Only after such review and analysis and establishment of a public interest need for expanded disclosure of such agreements should an online public file posting be required. Until that time, mandated online public file posting is highly premature.

IV. THE COMMISSION SHOULD APPLY ITS ONLINE PUBLIC FILE RULES PROSPECTIVELY.

Any transition from paper to online filing that the Commission may mandate would be made extraordinarily more difficult if, as proposed, broadcasters are required to cull their existing paper files to identify and upload *all* documents that are not currently otherwise available online. Requiring such retrospective compliance would only reduce stations' ability to contend with the extensive prospective new burdens the rules would impose without concomitantly improving the public's access to relevant information. Given the numerous substantial costs identified above, fundamental fairness requires that, if the Commission adopts new disclosure rules and makes them apply to old and new documents alike, it substantially limit the number and type of old documents that must be posted and give broadcasters a reasonable time following effectiveness to plan how they will deploy the station resources necessary to comply.

CONCLUSION

The Joint Broadcasters support the Commission's interest in exploring new technological solutions for regulatory concerns. Done properly, such modernization can benefit both stations and the public by improving public access to information and reducing costs for television stations. In the *Further Notice*, however, the Commission has proposed a number of changes

that, if adopted, will bring excessive burdens and create regulatory chaos, particularly since relevant substantive legal principles have not yet been adopted to guide basic disclosure obligations of several categories of materials. For these reasons, the Commission should not mandate online political files or online posting of sponsorship identification information and local news sharing or shared services agreements.

Respectfully submitted,

JOINT BROADCASTERS

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December 22, 2011

APPENDIX A

JOINT BROADCASTERS

Owner	DMA	Station
Allbritton Communications Company and WCIV, LLC	Birmingham	WCFT-TV, Tuscaloosa, AL
	Birmingham	WJSU-TV, Anniston, AL
	Charleston	WCIV(TV), Charleston, SC
	Harrisburg-Lancaster	WHTM-TV, Harrisburg, PA
	Little Rock-Pine Bluff	KATV(TV), Little Rock, AR
	Roanoke-Lynchburg	WSET-TV, Lynchburg, VA
	Tulsa	KTUL(TV), Tulsa, OK
	Washington	WJLA-TV, Washington, DC
Communications Corporation of America	Alexandria, LA	WNTZ-TV, Natchez, MS
	Baton Rouge	WGMB-TV, Baton Rouge, LA
	El Paso	KTSM-TV, El Paso, TX
	Evansville	WEVV-TV, Evansville, IN
	Harlingen-Weslaco	KVEO-TV, Brownsville, TX
	Lafayette	KADN-TV, Lafayette, LA
	Odessa-Midland	KPEJ-TV, Odessa, TX
	Shreveport	KMSS-TV, Shreveport, LA
	Tyler-Longview	KETK-TV, Jacksonville, TX
	Waco-Temple	KWKT-TV, Waco, TX
	Waco-Temple	KYLE-TV, Bryan, TX
Cordillera Communications, Inc.	Billings	KTVQ(TV), Billings, MT
	Butte-Bozeman	KBZK-TV, Bozeman, MT
	Butte-Bozeman	KXLF-TV, Butte, MT
	Colorado Springs-Pueblo	KOAA-TV, Pueblo, CO
	Corpus Christi	KRIS-TV, Corpus Christi, TX
	Great Falls	KRTV(TV), Great Falls, MT
	Lafayette	KATC(TV), Lafayette, LA
	Lexington	WLEX-TV, Lexington, KY
	Missoula	KPAX-TV, Missoula, MT
	Santa Barbara-Santa Maria	KSBY(TV), San Luis Obispo, CA
	Tucson	KVOA(TV), Tucson, AZ

Owner	DMA	Station
Cox Media Group	Atlanta	WSB-TV, Atlanta, GA
	Charlotte	WSOC-TV, Charlotte, NC
	Charlotte	WAXN, Kannapolis, NC
	Dayton	WHIO-TV, Dayton, OH
	El Paso	KFOX-TV, El Paso, TX
	Johnstown - Altoona	WJAC-TV, Johnstown, PA
	Orlando	WFTV(TV), Orlando, FL
	Orlando	WRDQ(TV), Orlando, FL
	Pittsburgh	WPXI(TV), Pittsburgh, PA
	Reno	KRXI-TV, Reno, NV
	San Francisco-Oakland-San Jose	KTVU(TV), Oakland, CA
	San Francisco-Oakland-San Jose	KICU-TV, San Jose, CA
	Seattle-Tacoma	KIRO-TV, Seattle, WA
	Wheeling-Steubenville	WTOV-TV, Steubenville, OH
Granite Broadcasting Corporation	Binghamton	WBNG-TV, Binghamton, NY
	Buffalo	WKBW-TV, Buffalo, NY
	Detroit	WMYD(TV), Detroit, MI
	Duluth-Superior, MN/WI	KBJR-TV, Superior, WI
	Duluth-Superior, MN/WI	KRII(TV), Chisholm, MN
	Fresno-Visalia	KSEE(TV), Fresno, CA
	Ft. Wayne	WISE-TV, Fort Wayne, IN
	Peoria-Bloomington	WEEK-TV, Peoria, IL
	San Francisco-Oakland	KOFY-TV, San Francisco, CA
	Syracuse	WTVH(TV), Syracuse, NY

Owner	DMA	Station
LIN Television Corporation	Albuquerque-Santa Fe	KBIM-TV, Roswell, NM
	Albuquerque-Santa Fe	KREZ-TV, Durango, CO
	Albuquerque-Santa Fe	KRQE(TV), Albuquerque, NM
	Albuquerque-Santa Fe	KASA-TV, Santa Fe, NM
	Austin	KBVO(TV), Llano, TX
	Austin	KXAN-TV, Austin, TX
	Buffalo	WIVB-TV, Buffalo, NY
	Buffalo	WNLO(TV), Buffalo, NY
	Columbus, OH	WWHO(TV), Chillicothe, OH
	Dayton	WDTN(TV), Dayton, OH
	Ft. Wayne	WANE-TV, Fort Wayne, IN
	Grand Rapids-Kalmzoo-B.Crk	WOTV(TV), Battle Creek, MI
	Grand Rapids-Kalmzoo-B.Crk	WOOD-TV, Grand Rapids, MI
	Green Bay-Appleton	WCWF(TV), Suring, WI
	Green Bay-Appleton	WLUK-TV, Green Bay, WI
	Hartford-New Haven	WTNH(TV), New Haven, CT
	Hartford-New Haven	WCTX(TV), New Haven, CT
	Indianapolis	WISH-TV, Indianapolis, IN
	Indianapolis	WNDY-TV, Marion, IN
	Lafayette, Indiana	WLFI-TV, Lafayette, IN
	Mobile-Pensacola, AL/FL	WFNA(TV), Gulf Shores, AL
	Mobile-Pensacola, AL/FL	WALA-TV, Mobile, AL
	Norfolk-Portsmth-Newpt Nws	WVBT(TV), Virginia Beach, VA
	Norfolk-Portsmth-Newpt Nws	WAVY-TV, Portsmouth, CA
	Providence-New Bedford	WPRI-TV, Providence, RI
	Springfield-Holyoke	WWLP(TV), Springfield, MA
	Terre Haute	WTHI-TV, Terre Haute, IN
	Toledo	WUPW(TV), Toledo, OH

Owner	DMA	Station
Local TV, LLC	Cleveland-Akron	WJW(TV), Cleveland, OH
	Davenport-Rock Island, IA/IL	WQAD-TV, Moline, IL
	Denver	KDVR(TV), Denver, CO
	Denver	KFCT(TV), Ft. Collins, CO
	Des Moines	WHO-DT, Des Moines, IA
	Ft. Smith-Fayetteville	KFSM-TV, Fort Smith, AR
	Greensboro-High Point	WGHP(TV), High Point, NC
	Huntsville-Decatur	WHNT-TV, Huntsville, AL
	Kansas City	WDAF-TV, Kansas City, MO
	Memphis	WREG-TV, Memphis, TN
	Milwaukee	WITI(TV), Milwaukee, WI
	Norfolk-Portsmouth-Newport News	WGNT(TV), Portsmouth, VA
	Norfolk-Portsmouth-Newport News	WTKR-TV, Norfolk, VA
	Oklahoma City	KAUT-TV, Oklahoma City, OK
	Oklahoma City	KFOR-TV, Oklahoma City, OK
	Richmond-Petersburg	WTVR-TV, Richmond, VA
	Salt Lake City	KSTU(TV), Salt Lake City, UT
	St. Louis	KTVI(TV), St. Louis, MO
	Wilkes Barre-Scranton	WNEP-TV, Scranton, PA
	Malara Broadcast Group, Inc.	Duluth-Superior, MN/WI
Ft. Wayne		WPTA(TV), Fort Wayne, IN
Media General, Inc.	Augusta	WJBF(TV), Augusta, GA
	Birmingham	WVTM-TV, Birmingham, AL
	Charleston	WCBD-TV, Charleston, SC
	Columbus, GA	WRBL(TV), Columbus, GA
	Columbus, OH	WCMH-TV, Columbus, OH
	Greenville-New Bern-Washington, NC	WNCT-TV, Greenville, NC
	Greenville-Spartanburg, NC/SC	WSPA-TV, Spartanburg, SC
	Greenville-Spartanburg, NC/SC	WYCW(TV), Asheville, NC
	Hattiesburg-Laurel	WHLT(TV), Hattiesburg, MS
	Jackson, MS	WJTV(TV), Jackson, MS
	Mobile-Pensacola, AL/FL	WKRG-TV, Mobile, AL
	Myrtle Beach-Florence	WBTW(TV), Florence, SC
	Providence-New Bedford, RI/MA	WJAR(TV), Providence, RI
	Raleigh-Durham	WNCN(TV), Goldsboro, NC
	Roanoke-Lynchburg	WSLS-TV, Roanoke, VA
	Savannah	WSAV-TV, Savannah, GA
	Tampa-St. Petersburg	WFLA-TV, Tampa, FL
	Tri-Cities, TN/VA	WJHL-TV, Johnson City, TN

Owner	DMA	Station
Meredith Corporation and KVVU Broadcasting Corp.	Atlanta	WGCL-TV, Atlanta, GA
	Flint-Saginaw	WNEM-TV, Bay City, MI
	Greenville-Spartanburg, NC/SC	WHNS(TV), Greenville, SC
	Hartford & New Haven	WFSB(TV), Hartford, CT
	Kansas City	KCTV(TV), Kansas City, MO
	Kansas City	KSMO-TV, Kansas City, MO
	Las Vegas	KVVU-TV, Henderson, NV
	Nashville	WSMV-TV, Nashville, TN
	Phoenix	KPHO-TV, Phoenix, AZ
	Portland	KPDX(TV), Vancouver, WA
	Portland	KPTV(TV), Portland, OR
MPS Media	Chattanooga	WFLI-TV, Chattanooga, TN
	Gainesville	WNBW-DT, Gainesville, FL
	Portland, ME	WPME(TV), Lewiston, ME
	Tallahassee-Thomasville, FL/GA	WTLF(TV), Tallahassee, FL
	Wilkes Barre-Scranton	WSWB(TV), Scranton, PA
New Age Media Broadcasting Group	Chattanooga	WDSI-TV, Chattanooga, TN
	Gainesville	WGFL(TV), High Springs, FL
	Portland, ME	WPXT(TV), Portland, ME
	Tallahassee-Thomasville, FL/GA	WTLH(TV), Tallahassee, FL
	Wilkes Barre-Scranton	WOLF-TV, Scranton, PA
	Wilkes Barre-Scranton	WQMY(TV), Williamsport, PA
Scripps Media, Inc.	Baltimore	WMAR-TV, Baltimore, MD
	Cincinnati	WCPO-TV, Cincinnati, OH
	Cleveland-Akron	WEWS-TV, Cleveland, OH
	Detroit	WXYZ-TV, Detroit, MI
	Kansas City	KMCI-TV, Lawrence, KS
	Kansas City	KSHB-TV, Kansas City, KS
	Phoenix	KNXV-TV, Phoenix, AZ
	Tampa-St. Pete	WFTS-TV, Tampa, FL
	Tulsa	KJRH-TV, Tulsa, OK
West Palm Beach – Ft. Pierce	WPTV-TV, West Palm Beach, FL	

Owner	DMA	Station
Tribune Broadcasting Company	Chicago	WGN-TV, Chicago, IL
	Dallas-Ft. Worth	KDAF(TV), Dallas, TX
	Denver	KWGN-TV, Denver, CO
	Grand Rapids-Kalamazoo	WXMI(TV), Grand Rapids, MI
	Harrisburg-Lancaster	WPMT(TV), York, PA
	Hartford-New Haven	WTIC-TV, Hartford, CT
	Hartford-New Haven	WCCT-TV, Waterbury, CT
	Houston	KIAH(TV), Houston, TX
	Indianapolis	WXIN(TV), Indianapolis, IN
	Indianapolis	WTTV(TV), Bloomington, IN
	Indianapolis	WTTK(TV), Kokomo, IN
	Los Angeles	KTLA-TV, Los Angeles, CA
	Miami-Ft. Lauderdale	WSFL-TV, Miami, FL
	New Orleans	WGNO(TV), New Orleans, LA
	New Orleans	WNOL-TV, New Orleans, LA
	New York	WPIX(TV), New York, NY
	Philadelphia	WPHL-TV, Philadelphia, PA
	Portland	KRCW-TV, Salem, OR
	Sacramento-Stockton	KTXL(TV), Sacramento, CA
	San Diego	KSWB-TV, San Diego, CA
Seattle-Tacoma	KZJO(TV), Seattle, WA	
Seattle-Tacoma	KCPQ(TV), Tacoma, WA	
St. Louis	KPLR-TV, St. Louis, MO	
Washington	WDCW(TV), Washington, DC	
White Knight Broadcasting, Inc.	Baton Rouge	WVLA-TV, Baton Rouge, LA
	Shreveport	KSHV-TV, Shreveport, LA
	Tyler-Longview	KFXK-TV, Longview, TX
WBOC, Inc.	Salisbury	WBOC-TV, Salisbury, MD

APPENDIX B

DECLARATION OF STEPHANIE HELSLEY

DECLARATION OF STEPHANIE HELSLEY

1. My name is Stephanie Helsley. I am the Corporate Director of Traffic for Allbritton Communications Company, a position I have held for one and a half years. Prior to my current position, I was a Senior Account Manager, Senior Product Specialist and Consultant/Trainer with Harris Corporation and prior to that worked at WFXI/WYDO in Traffic and National Sales. In total, I have 15 years of traffic operations experience with Allbritton, Harris and other companies.
2. Each traffic management system is unique. For example, each different system with which I am acquainted includes in its database records a distinct group of data elements. Indeed, certain elements are unique to each system. This complexity is driven by the highly variable ways that various stations sell television advertising time and the reporting criteria developed by the traffic system vendors dictated by clients in order to better serve their specific needs.
3. To demonstrate the complexity of traffic management systems, I produced the attached screenshots of the order entry screen of one Harris OSi system, reflecting the variety of information associated with just one order.
4. Even identical traffic systems are used differently by different stations. For example, some stations might classify "Political Advertising" to include both "political candidate" advertising and "issue" advertising as a single category, while others might code each in separate categories or subdivide the relevant classifications even further; "political" might simply include candidate ads or also include ballot issues. To enable stations to more easily comply with the requirements of the Bipartisan

Campaign Reform Act, the “issue” ad category may be subdivided even further to reflect those spots that have national legislative content. This is a simple variation. There could be hundreds of similar classification differences. Comparing the “Political Advertising” categories of multiple stations based upon a single overall category would yield anomalous data that would be useless at best and quite misleading at worst.

5. If the FCC were to require that certain information elements be included in online political file reports or be reflected in the file structure of an automated online political file, each traffic management system developer first would need to ensure that the relevant fields actually exist in each of their system’s data structures. If they did not, the developers not only would need to modify the functionality of their systems to enable automated uploading, but also would need to re-engineer their database structure to include the required fields. A set of common codes would need to be established and dictated from a central source whether or not the data was reflective of how a particular station sold time or whether the report would be useful in business.
6. The time and effort necessary to program additional functionality into existing traffic management programs is substantial. During my time at Harris, among my other responsibilities, I was involved with the development of new software functionality for our traffic management systems and was involved in and aware of multiple large and small development projects. Minor projects for just one traffic system could involve months of programming and testing, and major redevelopments involving

multiple traffic systems (as would be necessary to create even rudimentary online posting functionality to an FCC web site) would involve many more man-hours of programming and testing. I estimate that the development of such functionality for just one traffic management system would take at least six to eight months. To ensure that the new functionality was available to all stations using all traffic systems, rather than just those upgrading to new versions of systems, this development effort would need to be duplicated for the many different traffic management software implementations currently in operation around the country. The task would be monumental and would essentially create a new master traffic system mandated by the government that would attempt to harmonize and integrate all variants of traffic systems into one common database.

7. Once new software is developed, the time and effort necessary to implement a new or modified traffic system at a station or station group likewise is substantial. For example, when Allbritton transitioned from Harris's BMS to Harris's OSi system, the process took six to eight months to convert all stations. The process is not as simple as installing a new software update, and this process does not end after the software is installed. Each time a new release comes out, complete testing is typically required by most television corporate groups. The traffic software is the lifeblood of the television station. It holds and controls all the commercial-generated revenue. The software must be reliable and working properly; otherwise, money is lost. Traffic system suppliers constantly seek to enhance the capabilities of their systems, by issuing new releases. These releases improve billing options, inventory control, pre-

pre-emption functionality, reporting functionality, etc. Those releases within each distinct traffic system may take upwards of half a year to fully test and implement. For example, Allbritton Communications has been testing an OSi release since mid-July 2011 for targeted implementation in mid-January 2012 – a half-year project. This project requires verifying that all bugs have been eliminated and that enhancements actually work. Regression testing – going through the different components of the system to ensure that no existing functionality is broken as a result of the changes made to the software – is often required. Regression testing includes the order entry process, the log maintenance process, the reconciliation process and the billing process and requires a coordination effort of multiple departments in the television station. Depending on the scope of the system modifications necessary to comply with an online political file requirement, this effort would be required by most station and station groups across the country.

8. I contacted Allbritton station personnel to determine the station staff time necessary to respond to in-person requests for access to station political files. Station personnel indicate that stations typically experience three to five political file requests a week. Estimates of the time spent on each request ranged from five minutes (when a requesting party copied materials) to thirty minutes (when a requesting party reviewed the materials at the station). Therefore, I estimate that, at peak political periods, station personnel in major political markets spend between fifteen minutes and two-and-a-half hours per week responding to in-person requests for political file materials.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 22, 2011

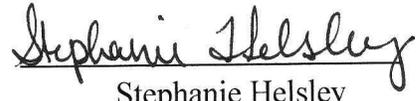

Stephanie Helsley

Exhibit 1

To Appendix B

Add Contract Add Line Item Save Cancel Delete Make Good Close Preempt End-Date Preempt Approve Reject Check In Apply Copy Exclusions Refresh Legend Print Print Contracts Settings No

Station: All W/Security
 Type: All Contracts
 Search: Advertiser Name
 Value: P
 Date Range: -

Watch Type: Credit Watch

Contract #	Advertiser
93681	POL Issue
93819	POL Issue
94083	POL Issue
94199	POL Issue
95180	POL Issue
95859	POL Issue
96995	POL Issue
97015	POL Issue
97017	POL Issue

Clear Search Results

View Deal Manager...

Contract Edit Line Listing Line Edit Order Placement Electronic Contracting (EC) EC Status

Contract: 93681
 Agency #: 4018
 Advertiser #: 4220
 Acct Type 1: National
 Product #: 1076
 Brand #: 37195
 Personnel #: 1068
 Buyer Last: LEVENE
 Phone: () - x
 Billing Period: Standard
 Order Types: Normal
 Headline: ECR08249254
 Agency Comm: 15.00 %
 Demographics
 Primary:
 Secondary:

Revision: 9
 Waterfront Strategies
 POL Issue
 Acct Type 2: Political Issue Age
 Issue - Issue
 AM STABLE QUAL CARE
 Jones (100%)
 Buyer First: SARAH

Notifications
 Save
 Cancel
 Replace Spots...
 Dealers...
 Packages...
 Net Exclusions...
 Carry Data
 Carry Lines
 Internal Notes (0)
 Save Format
 Load Format...
 Addresses...

Description	Value	Pending Value	Total
Start Date	08/31/09	n/a	
End Date	09/04/09	n/a	
Total Spots	35	0	35
Gross Total	\$7,915.00	\$0.00	\$7,915.00
Commission	(\$1,187.25)	\$0.00	(\$1,187.25)
Net Total	\$6,727.75	\$0.00	\$6,727.75

External Comments: AM STABLE QUAL CARE AMERICANS FOR STABLE QUALITY CARE

Billing Currency: USA only Contract Exch. Rate:

Sales Total: 7915.00

Agency Client / Product / Estimate (CPE)

Agency Client #:

Product Code:

Estimate:

Search & Edit
Contracts on Watch

Sales

- My Preempts
- My Contracts
- My Rejections
- My Lines On Hold
- Avals
- My Contracts on Watch

Station: All W/Security

Type: All Contracts

Search: Advertiser Name

Value: P

Date Range: Start Search

Watch Type: Credit Watch

Contract #	Advertiser
\$ 93681	POL Issue
\$ 93819	POL Issue
\$ 94083	POL Issue
\$ 94199	POL Issue
\$ 95180	POL Issue
\$ 95859	POL Issue
\$ 96995	POL Issue
\$ 97015	POL Issue
\$ 97017	POL Issue

Deals

View Deal Manager...

Contract Edit Line Listing Line Edit Order Placement Electronic Contracting (EC) EC Status

*Station: W/SET Lunchburg (W/S) Time: Mon
 *Order By: Time
 *Start Date: 08/31/09
 *End Date: 09/04/09
 Contract # 93681
 Status: Active
 Line #: 1.0
 Line Amount: \$20.00
 Line Spots: 2
 Total: 2

*Start Time: 04:00:00AM
 *End Time: 04:30:00AM
 Split Type: <None>
 *Length(m:ss): 00:30 (length of second spot)
 *Rate: 10.00
 *Spot Type: Commercial Break (SPOT)
 Attempt Pos: Last in Break
 *Section Level: 3 - 3. Preemptible with Notice
 *Spots per week: 2 Days: Mon Tue Wed Thu Fri Sat Sun
 Max: 1 1 1 1 1 1

External Comments: AG DAY
 Ref Id:
 Primary Rating:
 Secondary Rating:

Packages

Participate in Package Plan (If not using Workflow, Lines must first be saved and changes to packages are saved immediately)
 Package Name: \$ PKGs...
 Comments:

- Auto Approve Line
- Check Avals
- Auto Release To Workflow
- Data Entry Mode
- Carry Data
- Contract Exclusions
- Flighting Comment...
- Internal Notes...
- Avals...
- Auto Flight...
- Options...

APPENDIX C

DECLARATION OF ELIZABETH HICKS

DECLARATION OF ELIZABETH HICKS

1. My name is Elizabeth Hicks. I am the General Manager of Central Traffic Operations for the Media General Broadcast Group, a position I have held for 4 years. Prior to my current position, I was a Central Traffic Operations Team Leader with Media General and, in total, I have 27 years of traffic operations experience with Media General.
 2. I was asked to pull information from the Media General central traffic system in connection with a proposal by the Federal Communications Commission to place station political files online. I looked at Media General political sales for 2010. Given that 2010 was not a presidential election year, I expect Media General's political sales volume in 2012 to be higher than it was in 2010.
 3. Attached is the data I pulled. It shows that for 2010, the estimated number of pages for Media General political advertising sales orders was over 28,000 pages. This page count includes only orders and does not include additional material in the station political files such as invoices or forms with officer/director information, such as the NAB form. I estimated that each order would take approximately 10 minutes to scan and file on a Media General server, which would result in approximately 1,600 working hours of staff time. If the scanned files would need to be exported and filed on another website, such as an FCC-sponsored website, I estimate that each order would take at least 30 minutes to scan and upload properly, which would triple the working hours total to approximately 4,800.
 4. While the chart averages working hours over a 16-week political cycle, my experience has been that approximately 50% of political orders are usually placed in the last three weeks of an election cycle. Accordingly, if I assume that stations would be required to
-

upload their orders to an FCC-sponsored website, the data shows that some of our stations would need to dedicate at least one full-time staff person just to maintain a current online political file.

I declare under penalty of perjury that the foregoing is true and correct.

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

Elizabeth Hicks

Executed on December 16, 2011

Exhibit 1

To Appendix C

2010 Political Order Review - Projection of Time for Electronic File Processes (2010 National Revenue representing 70% of all political revenue).

	2010 Orders	Avg Revisions	Average Pages	Total Pages	Total Versions	Time Scan File / Version	Total Minutes	Total Hours	Est Weeks Active	Hr Wk Active
WBTW	150	4	3	1,800	600	10	6,000	100.0	16	6.3
WCBD	131	4	3	1,572	524	10	5,240	87.3	16	5.5
WCMH	260	4	3	3,120	1,040	10	10,400	173.3	16	10.8
WFLA	232	4	3	2,784	928	10	9,280	154.7	16	9.7
WHLT	13	4	3	156	52	10	520	8.7	16	0.5
WJAR	111	4	3	1,332	444	10	4,440	74.0	16	4.6
WJBF	138	4	3	1,656	552	10	5,520	92.0	16	5.8
WJHL	128	4	3	1,536	512	10	5,120	85.3	16	5.3
WJTV	6	4	3	72	24	10	240	4.0	16	0.3
WKRG	230	4	3	2,760	920	10	9,200	153.3	16	9.6
WNCN	68	4	3	816	272	10	2,720	45.3	16	2.8
WNCT	49	4	3	588	196	10	1,960	32.7	16	2.0
WRBL	151	4	3	1,812	604	10	6,040	100.7	16	6.3

WSAV	123	4	3	1,476	492	10	4,920	82.0	16	5.1
WSLS	98	4	3	1,176	392	10	3,920	65.3	16	4.1
WSPA	187	4	3	2,244	748	10	7,480	124.7	16	7.8
WVTM	216	4	3	2,592	864	10	8,640	144.0	16	9.0
WYCW	72	4	3	864	288	10	2,880	48.0	16	3.0
MG Totals	2,363	4	3	28,356	9,452	10	94,520	1,575.3	16	98.5

The attached file contains the information noted below using 2010 political order numbers per station.

- I used Medialine to get an average number of revisions per order and rounded that up to the whole number of 4
- I estimated an average of 3 pages per order out of Medialine, that number varies but it's a fairly sound working number
- Total pages is orders x avg revisions x pages
- Total versions is orders x avg revisions
- Time to Scan and File a version is estimated at 10 minutes. This would include the actual scan time and the location and save time of each file. This assumes a PDF file output.
- Total minutes is total versions x scan time
- Total hours is total minutes / 60
- Estimate Weeks Active is the number of weeks where normal political activity would be expected to occur, likely 4 weeks prior to the primary and 12 weeks prior to the general election
- Hr Wk Active is the Total Hours / Est Weeks Active

This projection is obviously subject to great changes dependent on 2012 activity and does not address any issues that include supplying as run times or file structures that may be mandated by the FCC.

In addition, there may be IT needs that result from this related to addition server storage space needs.

APPENDIX D

DECLARATION OF SUSAN ANDERSON

DECLARATION OF SUSAN ANDERSON

1. My name is Susan Anderson. I am the Communications Coordinator for Dow Lohnes, PLLC. I have 28 years experience working on Federal Communications Commission ("FCC") matters at the firm.
2. In November 2011, I prepared and also supervised legal assistants in the preparation and electronic filing with the FCC of several hundred biennial ownership reports.
3. As we approached the December 1, 2011 filing deadline for these reports, the FCC's servers became considerably less responsive than normal, and the delays in the appearance of uploaded reports on the FCC's website increased substantially.
4. I personally experienced electronic filing delays in my work on these reports. One of the legal assistants I supervised reported that, near the filing deadline, it took between eighteen and twenty-four hours for the FCC's servers to process and validate a single spreadsheet that formed part of a station's filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 22, 2011


Susan Anderson