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February 29, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Via Electronic Filing

Re: Notice of Ex Parte Presentation in Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Dkt. 00-168

Dear Ms. Dortch,

Pursuant to section 1.1206(b) of the Commission's rules, Free Press submits this notice regarding an *ex parte* communication in the above referenced docket.

On Wednesday, February 29, 2012, I spoke via telephone with Holly Saurer of the FCC Media Bureau. The subject of the conversation was the Commission's recent proposal to replace broadcasters' paper public files with an online public file that would be hosted by the Commission,¹ and more specifically, broadcaster objections to posting their political files online as part of this requirement.

I explained that Free Press's multiple visits to TV station public files indicate that broadcaster estimates of the size of their political files are likely exaggerated. For example, in its initial comments, the National Association of Broadcasters submitted a declaration estimating the size of six broadcast station political files, including the political file of a TV station located in Burlington, VT. The NAB estimates that this unidentified station's political file is 19.5 inches in length – or roughly 4,388 pages.²

Free Press subsequently visited every television station located in Burlington, VT, to measure their political files and review the contents of these files. Notwithstanding its somewhat crude calculus, based on the NAB's "ruler methodology" the largest political file measured approximately 14.5 inches in length; the smallest measured

¹ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Order on Reconsideration and Further Notice of Proposed Rulemaking, MB Dkt 00-168, FCC 11-162 (rel. Oct. 27, 2011).

² Comments of the National Association of Broadcasters, filed MB Dkt 00-168 (Dec. 22, 2012) at Attachment A. The NAB estimated the number of pages in a 2 inch ream of paper at 225 pages and used this assumption to calculate the number of pages in the political file based on the size, in inches, of the file. *Id.*

10 inches in length. This measurement included dozens of file folders and dividers (and in one case, a three ring binder) which do not constitute political records, but whose presence nevertheless increases the measured length of the files. No station visited by Free Press presently maintains a political file even roughly close to 19.5 inches in length.

Notably, upon inspection of the files, Free Press staff discovered that every one of these political files contained political records that pre-date the two year period for which broadcaster must retain such documents. Section 73.19439(c) of the FCC's rules provides that records placed in the political file need only be retained for a period of two years.³ Yet the political files of the stations visited contained records pre-dating this period, including as far back to 2008. In one instance, old records took up 6.5 inches – nearly half of the station's the political file. Thus, excluding these non-required records from the file measurements, the size of the political files visited ranged between 7 inches to just over 12 inches (again these measurements include file folders and other extraneous material).

I explained that this is not to suggest that these broadcasters are violating FCC rules by retaining back records. It is simply illustrates that stations may consistently retain records far past their expiration dates. Consequently, broadcasters may be mistakenly (and vastly) inflating the size of the political files they actually are required to maintain.

During the conversation I suggested that, not only did the size of the files seem over inflated, so too did broadcaster estimations of the staff burden and cost of putting these files online. I referenced a previous *ex parte* notice filed behalf of the Public Interest Public Airwaves Coalition which estimated the one-time cost of putting broadcasters' existing political files online. The Coalition projected that the total cost of scanning a 5000 page file – nearly twice the average size of the files maintained by stations Free Press has visited – would be a mere \$500 to \$600.⁴

More importantly, I emphasized to Ms. Saurer that going forward the cost and burden on station staff to maintain the political file online would not be any greater than is currently required to maintain the same records in paper form. Indeed, the efficiency and convenience of electronic data processing and the internet would likely make it far less onerous.

In any event, it certainly would not require the hiring of additional staff or even require existing staff to devote more time to political file maintenance, as some broadcasters have suggested. Rather, the vast majority of estimates submitted by broadcasters treat the online posting requirement as if it were an extra task rather

³ 47 C.F.R. §73.1943.

⁴ See Ex Parte Letter of Public Interest Public Airwaves Coalition, filed MB Dkts 00-168, 11-189 (Feb. 16, 2012)
<http://apps.fcc.gov/ecfs/document/view?id=7021860807>.

than a replacement for existing filing obligations. I stressed that the FCC's proposed online posting requirement is *in lieu of* – not in addition to – the time station staff must already spend organizing their paper files. Contrary to broadcasters' assertions, they would not need to hire additional staff to make their political files available online. Instead, current staff would substitute their existing paper file maintenance tasks with online ones.

Finally, I expressed support for the FCC's proposal to make broadcaster public files available via an agency-hosted online database. To the extent that some broadcasters now want to host their public files exclusively on their own websites, I pointed out that such statements are at odds with their previous argument that hosting such files would be too onerous for individual stations. Broadcasters' contradictory positions aside, I stated that the FCC's proposal is clearly the superior option as it would create a central location for broadcasters' unified public files. This would both increase the ease of locating the files and eliminate the burden on TV stations of maintaining such records on their own websites.

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above referenced docket. If you have any questions regarding this filing please do not hesitate to contact me.

Respectfully
submitted,
_____/s/_____
Corie Wright
Senior Policy Counsel
Free Press
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Cc:
Holly Saurer