

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Noncommercial Educational Station)	MB Docket No. 12-106
Fundraising for Third-Party Non-Profit)	
Organizations)	
)	

To: Secretary, Federal Communications Commission
Attention: The Commission

**JOINT REPLY COMMENTS
OF PUBLIC BROADCASTING LICENSEES**

The public television and radio station licensees listed below (collectively, “Public Broadcasting Licensees”), provide these reply comments in the referenced proceeding¹ on long-form fundraising by noncommercial educational television and radio stations for the benefit of third-party nonprofit organizations.

Introduction

The Public Broadcasting Licensees are public and private colleges, universities and university systems, state educational communications authorities, boards and commissions, community and technical college districts, and non-profit community-based organizations. Collectively, they hold licenses for and operate hundreds of noncommercial educational (“NCE”) television and radio stations, as well as numerous translator and other associated facilities, over which they provide an incredible array of services to their communities.

¹ Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations, *Notice of Proposed Rulemaking*, MB Docket No. 12-106, FCC 12-3 (rel. April 26, 2012) (the “NPRM”).

In the NPRM, the Commission seeks comment on a proposal to permit NCE broadcast stations to conduct on-air fundraising that interrupts regular programming for the benefit of third-party nonprofit organizations (sometimes referred to in these reply comments as “long-form fundraising”). Absent waivers, which the Commission has regularly granted, particularly in cases of fundraising for relief efforts following natural disasters, current FCC rules and policies do not permit an NCE station to fundraise to benefit any entity other than the station itself if the fundraising activities would substantially alter or suspend regular programming.

Support for NPR and PBS/APTS Comments

Comments have been filed in response to the NPRM by a number of parties representing the various interests of NCE broadcasters. However, the Public Broadcasting Licensees believe that the Comments by National Public Radio (“NPR”)² and Comments by the Public Broadcasting Service and the Association of Public Television Stations (“PBS/APTS”)³ deserve the Commission’s most careful attention and support.

NPR argues that current Commission rules on NCE station fundraising, which permit stations to raise funds only for themselves through long-form fundraising, strike a reasonable balance between the financial needs of NCE stations and the need to preserve the unique and compelling noncommercial programming offered by NCE stations. NPR believes changing the rules to permit long-form fundraising for third parties would create a risk that stations would broadcast material that is “akin to regular advertising” and that

² Comments of National Public Radio, Inc., filed July 23, 2012.

³ Comments of the Public Broadcasting Service and the Association of Public Television Stations, filed July 23, 2012.

such fundraising would primarily benefit third parties, not the station itself and the audience it serves. The Public Broadcasting Licensees agree.

NPR points out that the Commission's current approach regularly allows discrete, limited-duration waivers in circumstances such as natural or man-made disasters. These waivers allow NCE stations to leverage their wide reach and fundraising expertise for the benefit of communities in dire need, but only in exceptional circumstances that justify diverting airtime away from core public broadcasting service. The experience of the Public Broadcasting Licensees is consistent with NPR's view -- they have found the Commission to be exceptionally responsive to appropriate third-party fundraising waiver requests. Such requests are now generally submitted by email and often acted on the same day.

NPR raises several serious operational and logistical concerns with the proposed change in the rules. The first concern is that removing the ban on third-party fundraising would cause stations to be inundated with fundraising requests from local nonprofits, with undesirable consequences. These include having to decide whether to accommodate any such requests and, if so, which few causes that can reasonably be accommodated are most worthy of support. Inevitably, having to turn down many (indeed, almost all) charitable enterprises would cause damage to relationships between and among NCE stations and these charities, many of which are important local community institutions. It would also result in a competitive atmosphere among local nonprofits vying for airtime.

NPR's concerns are borne out by the experience of the Public Broadcasting Licensees, many of whom are already regularly approached by other nonprofits seeking on-air mentions and even solicitations. The Public Broadcasting Licensees already face the daunting task of being fair to various local nonprofits in broadcasting PSAs and event

listings and providing cultural and community coverage. If they are permitted to also air long-form fundraising programs for third parties, this pressure will increase.

NPR cites a second concern that the proposed rule change would subject stations to undue pressure from affiliated or influential parties who would seek to raise funds for endeavors that are unrelated to the mission of the stations. Again, the Public Broadcasting Licensees agree. Indeed, the Commission's proposed rule change would open the door to all sorts of pressure being placed on them both by institutions which hold their licenses, by politically powerful persons, and by foundations and other community institutions (such as local cultural organizations that underwrite on stations) providing funding and/or partnering with stations in programming or outreach efforts.

Finally, NPR points out that changing the rule would jeopardize public stations' own fundraising models that rely on member donations and on-air fundraising. NPR cites viewer and listener fatigue arising from excessive fundraising, as well as audience confusion. The Public Broadcasting Licensees agree with these concerns. They believe that public stations are already forced to use too much of their airtime to fundraise for themselves, particularly in these times of public broadcasting budget-cutting at federal, state and institutional levels.

Donations from listeners and viewers constitute public broadcasting's biggest single source of funding, even eclipsing federal support from the Corporation for Public Broadcasting, and much of this revenue flows from stations' own long-form fundraising. Public broadcasting stations are already worried about the burden their own fundraising places on the attention span and patience of their listeners and viewers, and they believe that any additional interruptions of their regular programming – which after all is the

product that motivates donors to contribute – would be counterproductive to, if not downright destructive of, their programming service.

In their Comments, PBS/APTS argue that CPB-qualified NCE stations should not be included in any liberalization of the third-party fundraising rule. PBS/APTS suggest that this is necessary to help safeguard the public service mission of CPB grantees. Under Section 396 of the Communications Act, CPB-qualified stations are required to air “programs of high quality, diversity, creativity, excellence and innovation ... with strict adherence to objectivity and balance.” This mission requires stations to be insulated from both governmental control and excessive pressure from third parties.

PBS/APTS note that the Commission has long recognized that third-party fundraising may be inconsistent with the noncommercial nature of educational broadcasting. PBS/APTS argue that expansion of third-party fundraising increases the risk that external organizations might influence NCE programming that is supposed to be impartial and serve the public as a whole.

As noted above, the Public Broadcasting Licensees are concerned about the pressure that liberalized third-party fundraising rules might create for public television and radio stations to change their programming services to accommodate fundraising for others. They support PBS/APTS in suggesting that, if the Commission feels it necessary and appropriate to provide some liberalization for NCE stations generally, the rule change should not apply to CPB-qualified stations.

PBS/APTS conclude that if the Commission cannot distinguish among NCE licensees and limit any rule change to non-CPB-qualified stations, then it should not adopt the proposed change at all. The Public Broadcasting Licensees have urged that the rule changes are unnecessary and unwise and therefore concur.

PBS/APTS further suggest that NCE stations can achieve their third-party fundraising objectives through the Commission's waiver process, including if necessary a waiver process that is updated and expanded to include third-party fundraising for organizations outside of the context of natural disasters. PBS/APTS suggest that waivers might be appropriate as well where there is a substantial overlap between viewership of a station and supporters of the third-party organization.

The Public Broadcasting Licensees have found the Commission's waiver process to be an effective and efficient tool for dealing with situations where third-party fundraising is appropriate, and they believe that no changes in the scope of waivers is necessary. However, they would not oppose a modest expansion in the scope of waivers where there is a material connection between the programming and audience of a public TV or radio station and a particular third-party charitable organization.

Conclusion

For the foregoing reasons, the Public Broadcasting Licensees support the noted positions of NPR and PBS/APTS, and urge that the Commission not take action on the third-party fundraising rules inconsistent with their comments and these joint reply comments.

Respectfully submitted,

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