

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

In the Matter of
Expansion of Online Public File Obligations
To Cable and Satellite TV Operators and
Broadcast and Satellite Radio Licensees
MB Docket No. 14-127

NOTICE OF PROPOSED RULEMAKING

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By the Commission: Commissioner Pai issuing a separate statement.

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I. INTRODUCTION

1. In this Notice of Proposed Rulemaking (“NPRM”), we propose to expand to cable operators, satellite TV (also referred to as “Direct Broadcast Satellite” or “DBS”) providers, broadcast

radio licensees, and satellite radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees the requirement that public inspection files be posted to the FCC’s online database. In 2012, we adopted online public file rules for broadcast television stations that required them to post public file documents to a central, FCC-hosted online database rather than maintaining the files locally at their main studios.¹ Our goal was to modernize the procedures television broadcasters use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public and, over time, to reduce the cost of broadcasters’ compliance.² We initiate this proceeding to extend our modernization effort to include the public file documents that cable operators, DBS providers, and broadcast and satellite radio licensees are required to maintain. While the Commission first included only television broadcasters in its public file database to “ease the initial implementation of the online public file,”³ television broadcasters have successfully transitioned to the online file over the past two years. Accordingly, we now believe it is appropriate to commence the process of expanding the online file to other media entities in order to extend the benefits of improved public access to public inspection files and, ultimately, reduce the burden on these other entities of maintaining these files.

II. BACKGROUND

2. One of a broadcaster’s fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license.⁴ To ensure that stations meet this obligation, the Commission relies on viewers and listeners as an important source of information about the nature of a station’s programming, operations, and compliance with Commission rules. To provide the public with access to information about station operations, the Commission’s rules have long required television and radio broadcast stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations.⁵ The purpose of the public inspection file requirement is to “make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.”⁶

¹ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order*, 27 FCC Rcd 4535 (2012) (“*Second Report and Order*”).

² *Id.* at 4536, ¶ 1.

³ *Id.* at 4586, ¶ 111.

⁴ *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, 98 FCC 2d 1075, 1091-92, ¶32 (1984); *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, 22 FCC Rcd 10344, 10390, ¶ 116 (2007).

⁵ See 47 C.F.R. §§73.3526, 73.3527, 73.1943. Every permittee or licensee of an “AM, FM, TV or Class A TV station” in the commercial and noncommercial educational broadcast services must maintain a public inspection file. The material required to be retained in the public inspection file is substantially similar for radio and television stations, with some differences. Among other materials, both television and radio licensees must retain FCC authorizations, license applications, ownership reports, issues/programs lists, time brokerage agreements and joint sales agreements. Unlike television licensees, however, radio licensees do not have children’s programming obligations or limitations on commercial time in children’s programming and are not required to retain records in the file related to compliance with these obligations. In addition, television and radio stations must also retain a political file as part of their public inspection files. See 47 C.F.R. §§ 73.3526(e)(6), 73.3527(e)(5). The political file chiefly consists of “a complete and orderly record...of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. The ‘disposition’ includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.” 47 C.F.R. § 37.1943(a).

⁶ *Commission’s Rules Relating to Inspection of Records*, Report and Order, 4 R.R. 2d 1664 (1965), *recon. granted in part and denied in part*, Memorandum Opinion and Order, 6 R.R.2d 1527 (1965).

3. The Commission promulgated its first political file rule in 1938.⁷ That initial rule was essentially identical to our current political file regulation in its requirement that the file be available for public inspection and include both candidate requests for time and the disposition of those requests, including the “charges made” for the broadcast time.⁸ In 1965, following action by Congress to allow greater public participation in the broadcast licensing process, the Commission adopted a broader public inspection file rule to enable local inspection of broadcast applications, reports, and related documents.⁹ The Commission noted that Congress’ actions “zealously guarded the rights of the general public to be informed”¹⁰ and that the Commission’s goal was to make “practically accessible to the public information to which it is entitled.”¹¹

4. Cable, DBS, and SDARS entities also have public and political file requirements modeled, in large part, on the longstanding broadcast requirements.¹² In 1974, the Commission adopted a public inspection file requirement for cable, noting that “[i]f the public is to play an informed role in the regulation of cable television, it must have at least basic information about a local system’s operations and proposals.”¹³ The Commission also noted that “[r]equiring cable systems to maintain a public file merely follows our policy for broadcast licensees and is necessary for similar reasons”¹⁴ and that “[t]hrough greater disclosure we hope to encourage a greater interaction between the Commission, the public, and the cable industry.”¹⁵ With respect to DBS providers, the Commission adopted public and political inspection file requirements in 1998 in conjunction with the imposition of certain public interest obligations, including political broadcasting requirements, on those entities.¹⁶ DBS providers were required to “abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems” and were also required to maintain a public file with records relating to

⁷ See 3 Fed. Reg. 1691 (1938).

⁸ *Id.*

⁹ *Commission’s Rules Relating to Inspection of Records*, 4 R.R.2d at ¶ 2 (1965). These new requirements were adopted following Congress’ 1960 amendment of Sections 309 and 311 of the Communications Act of 1934, which allowed greater public participation in broadcast licensing. 47 U.S.C. §§ 309 (Application for License) and 311 (Requirements as to Certain Applications in Broadcasting Service).

¹⁰ *Commission’s Rules Relating to Inspection of Records*, 4 R.R.2d at ¶ 9 (1965).

¹¹ *Id.* at ¶ 12. In determining that stations must maintain a local file in addition to the information made available to the public at the Commission’s offices in Washington, D.C., the Commission also noted that “the existence hundreds, and in some cases thousands, of miles away of a voluminous public file is of little practical value in providing interested persons with the kind of information needed for them to participate...as Congress intended.” *Id.* at ¶ 10.

¹² Section 315 of the Communications Act, as amended by the Bipartisan Campaign Reform Act of 2002, applies political advertising rate disclosure and public file requirements to broadcast stations, cable systems, and DBS operators. See 47 U.S.C. § 315.

¹³ *Amendment of Part 76 of the Commission’s Rules and Regulations Relative to Obligations of Cable Television Systems to Maintain Public Inspection Files and Permit System Inspections*, Report and Order, 48 F.C.C.2d 72, ¶ 1 (1974).

¹⁴ *Amendment of Part 76 of the Commission’s Rules and Regulations Relative to Obligations of Cable Television Systems to Maintain Public Inspection Files and Permit System Inspections*, Notice of Proposed Rulemaking, 45 F.C.C.2d 669, ¶ 2 (1974).

¹⁵ *Id.* at 672, ¶ 13.

¹⁶ *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Public Interest Obligations*, 13 FCC Rcd 23254 (1998), Sua Sponte Reconsideration, 19 FCC Rcd 5647 (2004).

other DBS public interest obligations.¹⁷ Finally, the Commission imposed equal employment opportunity and political broadcast requirements on SDARS licensees in 1997, noting that the rationale behind imposing these requirements on broadcasters also applies to satellite radio.¹⁸

5. In 2002, Congress adopted the Bipartisan Campaign Reform Act (“BCRA”)¹⁹ which amended the political file requirements in Section 315 of the Communications Act of 1934.²⁰ The amendments apply to broadcast television, cable, and DBS.²¹ The BCRA essentially codified the Commission’s existing political file obligations by requiring that information regarding any request to purchase advertising time made on behalf of a legally qualified candidate for public office be placed in the political file.²² In addition, the BCRA expanded political file obligations by requiring that television, cable, and DBS entities also place in the political file information related to any advertisements that discuss a “political matter of national importance,” including in the case of an issue advertisement the name of the person or entity purchasing the time and a list of the chief executive officers or members of the executive committee or of the board of directors of any such entity.²³

A. Online Public File

6. In 2012 the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission.²⁴ As noted above, the Commission’s goals were to modernize the procedures television broadcasters use to inform the public about how they are serving their communities, make information concerning broadcast service more accessible to the public, and reduce broadcasters’ cost of compliance. The television online public file rules were the culmination of a more than decade-long effort to make information regarding how a television broadcast station serves the public interest “easier to understand and more accessible,” “promote discussion between the licensee and its community,” and “lessen the need for government involvement in ensuring that a station is meeting its public interest obligation.”²⁵

¹⁷ *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Public Interest Obligations*, 19 FCC Rcd at 5661, ¶ 35.

¹⁸ *See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754, 5791-92, ¶¶ 91-92 (1997) (“*SDARS Order*”). While this item did not expressly refer to political file requirements, SDARS licensees were required to comply with 47 U.S.C. § 315, which was amended in 2002 to include public file requirements. *Id.* at ¶ 92. *See also, infra*, ¶ 5. In addition, the Commission noted in the *SDARS Order* that it had a pending rulemaking proposing revisions to its EEO rules and that satellite radio licensees would be required to comply with the current EEO rules and any changes adopted when the rulemaking was completed. *See SDARS Order*, 12 FCC Rcd at 5791, ¶ 91. The Commission later clarified that SDARS licensees must comply with the same EEO requirements as broadcast licensees, including the public file requirements. *See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (“*XM-Sirius Merger Order*”).

¹⁹ Pub. L. No. 107-155, 116 Stat. 81 (2002).

²⁰ 47 U.S.C. § 315.

²¹ *See* 47 U.S.C. § 315(c)(1) (defining the term “broadcasting station” to include a “community antenna television system,” which includes cable television) and 47 U.S.C. § 335(a) (extending Section 315 obligations to DBS). Section 315 does not apply to other MVPDs.

²² *See* 47 U.S.C. § 315(e)(1)(A).

²³ *See* 47 U.S.C. § 315(e)(1)-(2).

²⁴ *Second Report and Order*, 27 FCC Rcd 4535 (2012).

²⁵ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Notice of Proposed Rulemaking, 15 FCC Rcd 19816 (2000). In 2000, the Commission tentatively

(continued....)

7. In June 2011, the Commission staff released “The Information Needs of Communities” Report (“*INC Report*”), a comprehensive report on the current state of the media landscape created by a working group including Commission staff, scholars, and consultants.²⁶ The *INC Report* discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum, and the need to remove unnecessary burdens on broadcasters who aim to serve their communities. The *INC Report* recommended an online system for public inspection files in order to ensure greater public access.²⁷ The *INC Report* further suggested that governments at all levels collect and publish data in forms that make it easy for citizens, entrepreneurs, software developers, and reporters to access and analyze information to enable them to present the data in more useful formats,²⁸ and noted that greater transparency by government and media companies can help reduce the cost of reporting, empower consumers, and foster innovation.²⁹

8. Based upon commenter suggestions, in the *Second Report and Order* the Commission determined that each television station’s entire public file would be hosted online by the Commission.³⁰ The Commission took a number of steps to minimize the burden of the online file on stations. Broadcasters were required to upload only those items required to be in the public file but not otherwise filed with the Commission or available on the Commission’s website. Any document or information required to be kept in the public file and that is required to be filed with the Commission electronically in the Consolidated DataBase System (“CDBS”) is imported to the online public file and updated by the

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concluded that it should require television licensees to make the contents of their public inspection files, including a standardized form reflecting the stations’ public interest programming, available on their stations’ websites or, alternatively, on the website of their state broadcasters association. *Id.* at 19829, ¶ 31. In 2007, the Commission adopted a *Report and Order* implementing these proposals. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Report and Order*, 23 FCC Rcd 1274 (2007) (“*2007 Report and Order*”). The Commission received several petitions for reconsideration of the *2007 Report and Order* from both industry petitioners and public interest advocates. Five parties also appealed the Order and several parties also opposed its “information collection” under the Paperwork Reduction Act (“PRA”). Because of the pending petitions for reconsideration, the Commission did not formally complete the PRA process, choosing instead to address the petitions for reconsideration; therefore, the rules adopted in the *2007 Report and Order* never went into effect. In October 2011, after receiving substantial opposition to the *2007 Report and Order*, the Commission vacated the Order and adopted a *Further Notice of Proposed Rulemaking* addressing only the online public file requirement and not issues related to replacement of the issues/programs list with a standardized form. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Order on Reconsideration and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 15788, 15792, ¶ 6 (2011) (“*Order on Reconsideration*” and “*FNPRM*”).

²⁶ “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), available at www.fcc.gov/infoneedsreport. As noted in the *INC Report*, the views of the report “do not necessarily represent the views of the Federal Communications Commission, its Commissioners or any individual Bureaus or Offices.” *Id.* at 362.

²⁷ *Id.* at 28, 348.

²⁸ *Id.* at 29, 351.

²⁹ *Id.* at 28, 360.

³⁰ *Second Report and Order*, 27 FCC Rcd at 4540, ¶ 11. Subject to exceptions discussed *infra*, stations were required to upload new public file documents to the online database starting August 2, 2012. Stations were given six months from this date to upload documents that were already in their public inspection file that were required to be uploaded to the online file, with the exception of political file material, discussed *infra*. The six-month deadline expired February 4, 2013. See Public Notice, *Television Broadcast Stations Reminded of the Upcoming Public Inspection File Deadline*, DA 13-120, rel. January 30, 2013.

Commission.³¹ In addition, television stations were not required to upload their existing political files to the online file; rather, stations were required only to upload new political file content on a going-forward basis.³² Because of privacy concerns, stations also were not required to upload letters and emails from the public to the online file; rather, they must continue to retain them in a correspondence file at the main studio.³³

9. In addition, to smooth the transition for both television stations and the Commission and to allow smaller broadcasters additional time to begin posting their political files online, the Commission phased-in the new political file posting requirement. Stations affiliated with the top four national networks (ABC, NBC, CBS, and Fox) and licensed to serve communities in the top 50 Designated Market Areas (“DMAs”) were required to begin posting their political file documents online starting August 2, 2012, but other stations were exempted from posting their political file documents online until July 1, 2014.³⁴ In the *Second Report and Order*, the Commission also rejected several proposals in the *FNPRM* to increase public file requirements in conjunction with implementation of the online file.³⁵ Rather, the Commission determined that stations would be required to place in their online files only material that is already required to be placed in their local files.³⁶

10. The Commission stated in the *Second Report and Order* that it was deferring consideration of whether to adopt online posting for radio licensees and multichannel video programming distributors (“MVPDs”) until it had gained experience with online posting of public files of television broadcasters.³⁷ The Commission noted that starting the online public file process with the much smaller number of television licensees, rather than with all broadcasters and MVPDs, would “ease the initial implementation of the online public file.”³⁸ In response to the *FNPRM*, a group of public television

³¹ *Second Report and Order*, 27 FCC Rcd at 4540, ¶ 11. We note that CDBS is currently being upgraded and replaced with a system known as LMS. See *Media Bureau Announces Completion of First Phase of Licensing and Management System for Full Power TV Stations*, Public Notice, DA 14-1386 (rel. Sept. 29, 2014). In this *NPRM*, CDBS and LMS are used interchangeably.

³² *Second Report and Order*, 27 FCC Rcd. at 4541, ¶ 11. Existing political files must continue to be maintained at the station, however, until the end of the two-year retention period. See 47 C.F.R. §§ 73.3526(e)(6) and 73.1943(c).

³³ *Second Report and Order*, 27 FCC Rcd at 4541, ¶ 11.

³⁴ *Id.* at 4536-7, ¶ 3.

³⁵ *Id.* at 4573-5, ¶¶ 81-84 (declining to adopt new disclosure obligations with respect to sponsorship identifications and shared services agreements).

³⁶ *Id.* at 4541, ¶ 11. The National Association of Broadcasters (“NAB”) filed a petition for review of the *Second Report and Order* with the U.S. Court of Appeals for the District of Columbia Circuit. *Nat’l Assoc. of Broadcasters v. FCC*, No. 12-1225 (D.C. Cir. May 21, 2012). NAB sought an emergency stay of the *Second Report and Order* from the FCC and the D.C. Circuit Court of Appeals; both requests were denied. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, 27 FCC Rcd 7683 (2012); *Order, Nat’l Assoc. of Broadcasters v. FCC*, No. 12-1225 (D.C. Cir. July 27, 2012). On June 11, 2012, the Television Station Group filed a petition for reconsideration of the *Second Report and Order*. See *Petition for Reconsideration*, Television Station Group, MM Docket Nos. 00-168 and 00-44 (June 11, 2012). On January 18, 2013, NAB filed an unopposed motion to hold further proceedings in the case before the D.C. Circuit in abeyance pending (1) FCC action on the petition for reconsideration and (2) the Commission’s opening of a notice and comment period concerning these rules, prior to July 1, 2013, to consider whether changes to the requirements are warranted. On February 12, 2013, the Court granted NAB’s motion to hold proceedings in abeyance. *Order, Nat’l Assoc. of Broadcasters v. FCC*, No. 12-1225 (D.C. Cir. February 12, 2013). On June 25, 2013, the Media Bureau released a public notice seeking comment on the online political file and the petition for reconsideration. See Public Notice, *Media Bureau Seeks Comment on Online Political File and Petition for Reconsideration Filed by the Television Station Group*, 28 FCC Rcd 9052 (2013).

³⁷ *Second Report and Order*, 27 FCC Rcd at 4537, ¶ 3.

³⁸ *Id.* at 4586, ¶ 111.

licensees requested that the Commission permit NCE radio stations, or at least those licensed to the same entity as, or under common control with, an NCE-TV station, to maintain their public inspection files online on the Commission's website on a voluntary basis.³⁹ While the Commission declined to grant this request, it stated that "as we and the broadcasting industry gain more experience with the online public file we will revisit the possibility of allowing stations not required to use the online public file to use it on a voluntary basis."⁴⁰ In addition, the Commission delegated to the Commission staff "the authority to allow (but not require) radio stations to voluntarily post their public files at such time the staff determines that such an option is feasible and desirable."⁴¹ To date, the Commission staff has not made this option available to radio stations, instead focusing initially on ensuring that the database was functioning smoothly and was capable of handling the increase in volume once all television stations were required to use the online file beginning July 1, 2014.

B. Petition for Rulemaking

11. In July 2014, the Campaign Legal Center, Common Cause, and the Sunlight Foundation (collectively, "Petitioners" or "CLC") filed a joint Petition for Rulemaking requesting that the Commission initiate a rulemaking to expand to cable and satellite systems the requirement that public and political file documents be posted to the FCC's online database.⁴² The Petitioners argue that cable and satellite services have increasingly become outlets for political advertising.⁴³ According to Petitioners, political spending on cable is projected to constitute as much as 25 percent of total projected political television spending in the 2014 election cycle.⁴⁴ Petitioners also assert that, due to advances in technology, satellite television providers are preparing to sell household-specific "addressable advertising," a feature that has attracted interest from advertising campaigns.⁴⁵ Petitioners assert that moving the television public file online has resulted in "unquestionably substantial" public benefits, which would also arise if cable and satellite systems were required to upload their public and political files online.⁴⁶ In addition, Petitioners argue that television broadcasters experienced few problems moving to the online file, and cable and satellite systems would also likely not be burdened by the online filing requirement.⁴⁷

12. On August 7, 2014, the Media Bureau issued a *Public Notice* seeking comment on the Petition and, in addition, on whether it should initiate a rulemaking to expand online public file obligations to broadcast radio stations.⁴⁸ The National Association of Broadcasters ("NAB") filed

³⁹ See Joint Reply Comments of Public Television Licensees, MM Docket Nos. 00-168 and 00-44, filed Jan. 17, 2012, at 10-11. These commenters argued that such permission would allow co-owned and operated NCE-TV and radio stations to avoid having to maintain both online files with the Commission and other physical files at their main studios, should they choose to do so.

⁴⁰ *Second Report and Order*, 27 FCC Rcd at 4586, ¶ 112.

⁴¹ *Id.*

⁴² See Campaign Legal Center, *et al.*, Petition for Rulemaking, MB Docket No. 14-127, at 1 (July 31, 2014) ("Petition").

⁴³ *Id.*

⁴⁴ *Id.* at 1-2.

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 6.

⁴⁷ *Id.* at 8.

⁴⁸ See *Commission Seeks Comment on Petition for Rulemaking Filed by the Campaign Legal Center, Common Cause and the Sunlight Foundation Seeking Expansion of Online Public File Obligations to Cable and Satellite TV Operators, Bureau Also Seeks Comment on Expanding Online Public File Obligations to Radio Licensees*, Public Notice, DA 14-1149, MB Docket No. 14-127 (rel. Aug. 7, 2014) ("*Public Notice*").

comments supporting the extension of the online public file to cable and satellite providers, stating that there is “no rational basis” for requiring television broadcasters, but not their competitors in the video marketplace, to disclose public and political file material online.⁴⁹ The National Cable & Telecommunications Association (“NCTA”) argued that, if the Commission were to open a proceeding to expand online file obligations, it should examine how to tailor any online posting requirements to minimize burdens on cable operators and avoid requiring them to upload files of little interest to the public.⁵⁰ With respect to radio, while CLC and the American Public Media Group supported the initiation of a rulemaking to require all radio stations to post their public and political files to the FCC’s online database,⁵¹ the majority of commenters addressing this issue either objected to extending the online filing requirement to radio⁵² and/or argued that the Commission should carefully consider the financial burden on struggling radio stations as well as the technical and financial challenges to the FCC that would be posed by expanding the online file to include radio.⁵³ In addition, a number of commenters also argued that extending the online public file to radio at this time is premature⁵⁴ and that, at most, the Commission should first consider a voluntary online public file for radio before mandating online filing.⁵⁵

III. DISCUSSION

13. We propose to adopt a phased-in approach to expanding the online file requirements to

⁴⁹ NAB Comments at 4. Several members of Congress also filed comments in support of the Petition. *See* Letter from Congresswoman Anna G. Eshoo, Congressman Henry A. Waxman, and Senator Bill Nelson to Chairman Tom Wheeler, Federal Communications Commission (September 18, 2014). *See also* Comments of Patrick Ruffini at 2 (noting that cable and satellite systems are likely to be the biggest beneficiaries of data-driven media political advertising in the coming years).

⁵⁰ *See* NCTA Comments at 2.

⁵¹ *See* Comments of Campaign Legal Center, Common Cause, and Sunlight Foundation (“CLC”) at 1 and Comments of American Public Media Group, Minnesota Public Radio, Southern California Public Radio and Classical South Florida (collectively “American Public Media”) at 2-3.

⁵² *See, e.g.*, Joint Comments of Local and Regional Small Radio Broadcasters (“Small Radio Broadcasters”), Comments of Blount Masscom, Inc., et al. (“Blount”), and Comments of LeSEA Broadcasting Corporation (“LeSEA”) (all opposing the inclusion of radio stations in this proceeding). Several commenters also pointed out that the CLC Petition does not request that radio broadcasters be included in this proceeding. *See, e.g.*, Comments of Mentor Partners, Inc. (“Mentor”) at 4 and 50 State Broadcasters Associations (“50 State Associations”) at 2 (arguing that the Commission should first act on the CLC petition before considering whether to expand the online file to radio). LeSEA and Blount also argue that the Commission should open a separate docket related to radio stations rather than including that service in the same proceeding as cable and satellite. *See* Comments of LeSEA at 2 and Blount at 2.

⁵³ *See, e.g.*, NAB Comments at 2 (noting that because of the sizable and diverse nature of the radio industry there are implementation challenges that will require careful consideration and perhaps phased implementation). *See also* Comments of the Missouri and California Broadcasters Associations (“Missouri and California Associations”) (urging the Commission to proceed cautiously and only after adequate preparation before considering whether to extend the online public/political file to the more than 15,000 radio stations nationwide) and 50 State Associations at 3 (questioning whether the Commission’s online file database will be capable of smoothly handling the filings of millions of pages of new documents if the online file is expanded).

⁵⁴ *See, e.g.*, Comments of Native Public Media at 3 (noting that the Commission’s online database has been in place for only two years and that smaller market television stations were only required to upload their political files less than two months ago), Small Radio Broadcasters at 5 (also noting that smaller market television stations were required to start uploading political file documents only recently), Mentor at 4 (noting that the Commission acknowledges in the *Public Notice* that it has only started to analyze the budget and technical issues involved in allowing radio licensees to upload documents to the online file voluntarily).

⁵⁵ *See, e.g.*, Comments of Native Public Media at 3, note 6 and Comments of Entertainment Media Trust (“EMT”) at 4-5.

cable and DBS providers and broadcast and satellite radio entities. The implementation of the television online file represents a significant achievement in the Commission's ongoing effort to modernize disclosure procedures to improve access to public file material. Since it was launched on August 2, 2012, more than 650,000 documents have been successfully uploaded into the online file, and the site has generated close to six million page views. Despite initial concerns, NAB characterized the first wave of implementation as "uneventful."⁵⁶ As of July 1, 2014, all television broadcast stations have fully transitioned to the online file and, with this transition now complete, it is time to seek comment on expanding the online file to encompass cable, satellite, and radio public file material.

14. As the Commission stated in the *Second Report and Order*, this modernization of the public inspection file is "plain common sense."⁵⁷ The evolution of the Internet and the spread of broadband infrastructure have transformed the way society accesses information today. It is no longer reasonable to require the public to incur the substantial expense and inconvenience of traveling to a station or headquarters' office to review the public file and make paper copies when a centralized, online file would permit review with a quick and essentially costless Internet search.⁵⁸

A. Benefits of Expanding the Online Public File

15. Our goal in this proceeding is to modernize the outdated procedures for providing public access to cable, DBS, radio, and SDARS files in a manner that avoids unnecessary burdens on these entities. By taking advantage of the efficiencies made possible by digital technology, we intend to make information that cable and DBS providers and broadcast and satellite radio licensees are already required to make publicly available more accessible while also reducing costs both for the government and the private sector. The Internet is an effective, low-cost means of maintaining contact with, and distributing information to, viewers and listeners. Placing the public file online will permit 24-hour access from any location, without requiring a visit to the site where the paper file is maintained, thereby improving access to information about how cable, satellite, and radio entities are serving their communities and meeting their public interest obligations. As the Commission stated in the *Second Report and Order*, the public benefits of posting public file information online, while difficult to quantify with exactitude, are unquestionably substantial.⁵⁹

16. Expansion of the online public file to more media is particularly important with respect to improving public access to political files. As Petitioners point out, political advertising is increasingly shifting from broadcast television to cable and satellite television, and the advent of technological advances such as addressable advertising are likely to further this trend. Political advertising on radio is also on the rise. According to CLC, political advertising expenditures on radio in 2012 ranked third behind spending on broadcast television and cable and could reach as high as 7 percent of overall spending on political advertising in 2014.⁶⁰ Adding cable, satellite television, and broadcast and satellite radio political file material to the existing television online database would facilitate public access to disclosure records for all these media and allow the public to view and analyze political advertising expenditures more easily in each market as well as nationwide.

⁵⁶ NAB Comments at 3, *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MM Docket 00-168, filed Aug. 26, 2013. *But see* Comments of Missouri and California Broadcast Associations at 2 ("Our television members all are now subject to the online public file requirement. Their experience in implementing and maintaining their online public file has not been ...nearly as easy or uncomplicated as had been hoped and predicted in Commission statements.")

⁵⁷ *Second Report and Order*, 27 FCC Rcd at 4540, ¶ 10.

⁵⁸ Moreover, an online file would permit many searches by the public without requiring assistance from the staff, further reducing the burden of maintaining the public inspection file.

⁵⁹ *Second Report and Order*, 27 FCC Rcd at 4542, ¶ 13.

⁶⁰ *See* CLC Comments at 1-2.

17. We propose to take the same general approach to transitioning cable, DBS, broadcast radio, and SDARS to the online file that the Commission took with television broadcasters, tailoring the requirements as necessary to the different services. We also propose to take similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, we propose to require entities only to upload to the online file public file documents that are not already on file with the Commission or that the Commission maintains in its own database. We also propose to exempt existing political file material from the online file requirement and to require only that political file documents be uploaded on a going-forward basis.

18. With only minor exceptions – requiring cable operators to provide information about the geographic areas they serve, clarifying the documents required to be included in the cable public file, and requiring cable, DBS, broadcast radio, and SDARS entities to provide the location and contact information for their local file – we do not propose new or modified public inspection file requirements in this proceeding. Our goal is simply to adapt our existing public file requirements to an online format. We seek comment on this approach. While we propose to place the entire public file online, we invite comment on whether we should instead require only that certain components of the public file be placed on the Commission’s online database. We note that limiting online file requirements to certain components of the public file would require entities to upload certain documents and maintain others in the local public file, thereby potentially imposing a greater burden than moving documents to the online file over time. We seek comment on these issues. One benefit of this proceeding, however, is to ensure that, within a short timeframe, there will be less need for the public to visit the affected entities, which will enable such entities to improve security and minimize risks to employees. We seek comment on these issues, including ways to further reduce the burdens of the public file and limit visits to the affected entities.

B. Expansion of the Online File to Broadcast Radio

19. While no commenter responding to the *Public Notice* opposed the extension of the online public file to cable or DBS providers,⁶¹ as discussed above a number of commenters either opposed imposing online public file obligations on broadcast radio or urged the Commission carefully to consider a number of obstacles unique to radio before requiring radio stations to use the online file. In general, these commenters argue that many radio stations are very small and have limited financial resources and small staffs.⁶² Some argue that, for many stations, the additional responsibility of maintaining an online file would take time and resources that would be better devoted to providing local programming and information.⁶³ Other commenters note that many small stations already face significant economic challenges simply to stay on the air⁶⁴ and might be unable to withstand any additional financial pressure an online public file obligation would impose.⁶⁵ Finally, some commenters argue that local radio listeners that might be interested in accessing the current public file can do so easily.⁶⁶ These commenters contend that moving the public file online would not improve access for current listeners but only encourage complaints from advocacy groups and that responding to these complaints would further strain stations’

⁶¹ NCTA urged the Commission to consider streamlining certain current cable public file requirements prior to transitioning that service to the Commission’s online database. See NCTA Comments at 6-8. We address those issues below. See, *infra*, ¶¶ 52-54.

⁶² See, e.g., Comments of Small Radio Broadcasters at 3, Missouri and California Associations at 3-4, and National Federation of Community Broadcasters (“NFCB”) at 2.

⁶³ See Comments of Small Radio Broadcasters at 3 and NFCB at 2.

⁶⁴ See Comments of Small Radio Broadcasters at 2 and EMT at 3.

⁶⁵ See Comments of Small Radio Broadcasters at 12. These stations also argue that the costs associated with an online file would be disproportionately large for smaller stations as the size of a file is not related to station size or revenue. *Id.* at 3.

⁶⁶ See Comments of LeSEA at 2-3 and Blount at 3.

limited resources.⁶⁷

20. In the television online public file proceeding, the Commission rejected similar arguments regarding the burden an online file requirement would pose and concluded that the benefits of the online file outweighed any potential burden.⁶⁸ The Commission also took a number of steps to minimize the costs of moving public files online,⁶⁹ most of which we propose to take in this proceeding as well. With respect to radio, we recognize that concerns regarding the potential cost of an online public file requirement carry more weight, particularly for very small radio stations, which may struggle financially and have fewer resources than small television stations. While we believe that moving toward an online public file makes sense in today's world for all entities that currently have public file requirements, we are committed to considering carefully all concerns raised in this proceeding with respect to potential online file requirements. With respect to broadcast radio licensees, as discussed further below, we propose to commence the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing temporarily all online file requirements for other radio stations.⁷⁰ We believe that this approach addresses the concerns raised by commenters and will help ensure that the transition to the online file is not unduly burdensome.

21. We reject the argument that we should not expand the online file requirement to broadcast radio because doing so will benefit only non-local advocacy groups. Making the file available online will make it easier for the public generally to access the file, including local listeners, and will give the Commission and the public the information needed to evaluate whether stations are meeting their responsibilities to their local community.

C. Online File Capacity and Technical Issues

22. We recognize that adding cable, DBS, broadcast radio, and SDARS entities to the Commission's online file will greatly increase the number of users of the file and the volume of material that must be uploaded.⁷¹ NAB notes that, if radio stations are required to use the online file, there could be more than 17,500 broadcast entities uploading quarterly issues/programs lists on the same four dates in a year.⁷² In addition, we recognize that there is likely to be a heavy demand on the online file during peak political seasons, when many broadcast stations take new advertising orders and modify existing orders

⁶⁷ *Id.*

⁶⁸ *See Second Report and Order*, 27 FCC Rcd at 4547-50, ¶¶ 24-32.

⁶⁹ *Id.* at 4545-46, ¶¶ 19-23 (including not requiring stations to upload documents already on file at the Commission, exempting existing political file material from the online file, and declining to require that documents be posted in a particular format).

⁷⁰ As discussed further below, we also propose to exempt small cable systems temporarily from the requirement to commence uploading new political file material to the online public file, and we propose to exempt very small cable systems either permanently or at least initially from all requirements to upload documents to the Commission's online database. *See, infra*, ¶¶ 46, 48.

⁷¹ The Commission's online database now hosts the public inspection files of approximately 2,200 broadcast television stations. As of October 10, 2014, there are 4,629 cable systems registered in the Commission's database (active PSIDS). There are also two DBS providers, one SDARS licensee, and 15,425 broadcast radio licensees. *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 28 FCC Rcd 10496, 10507, ¶ 27 (2013); *Broadcast Station Totals as of June 30, 2014*, FCC News Release, July 9, 2014. If the file were expanded to include all of these entities as proposed herein, it would need to accommodate over 20,000 additional public inspection files. The staff estimates that broadcast radio public inspection files are about 60% as large as those of television broadcasters, largely because radio stations do not have to maintain records related to children's television commercial limits, have fewer contracts in their public files, and have smaller political files. The staff also estimates that cable system files are about 50% as large as those of television broadcasters because cable systems have fewer public file obligations. We seek comment on these estimates.

⁷² *See* NAB Comments at 4-5.

on a daily basis.⁷³ NAB urges the Commission to consider increasing its online capacity to accommodate the significant increase in network traffic that will occur when a large number of filings must be uploaded on the same date and consider ways to stagger filings to relieve network congestion.⁷⁴ Other commenters argue the Commission should consider expanding the traditional 10-day filing window for many broadcast reports to a 30-day filing window to place less stress on the database.⁷⁵ We seek comment on these proposals to stagger or otherwise alter filing deadlines and any other suggestions for ways in which the Commission could improve performance of its online public file database.

23. The Commission noted in the *Second Report and Order* that allowing the use of private web hosting services in connection with the online file would allow for greater station efficiencies.⁷⁶ As several commenters note, work to establish an interface between the online file database and web hosting services has not yet been finished.⁷⁷ Once work on this interface is completed, we anticipate that this would enable an entity to establish a link between its own privately-maintained electronic file database at the system or station to enable automatic synchronization with the database hosted at the FCC. We recognize that web hosting services could assist many entities with their obligation to maintain the online public file, particularly smaller entities, and continue to examine issues related to implementation of such services. We also intend to investigate adding the capability to permit entities to upload documents to multiple online files using a single upload.⁷⁸

24. Television stations are not required to upload material to the online file that is already filed with the Commission or available on a Commission database, and we propose to take a similar approach with respect to cable, DBS, broadcast radio, and SDARS entities. Broadcast radio licensees, like television broadcasters, file material electronically with the Commission via CDBS (which is currently being migrated to LMS), which is already connected to the online public file. Filings and data concerning cable systems, however, are currently maintained in the Commission's Cable Operations and Licensing System ("COALS") database, which does not currently interface with the Commission's online file database. The Commission intends to create a connection between this database and the online file database as appropriate and plans to complete that process before the effective date of any cable online filing requirement that may be adopted in this proceeding.

D. Proposed Online File Rules for Cable, DBS, Broadcast Radio, and SDARS.

25. In general, we propose to adopt a similar approach with respect to cable, DBS, broadcast and satellite radio online file requirements as we did for the television online file. Specifically, we

⁷³ *Id.* at 5.

⁷⁴ *Id.* According to NAB, when website congestion leads to delays in uploading files, the FCC's help desk routinely recommends that stations wait until off-hours to upload documents. *Id.* at 7. See also Comments of Missouri and California Associations at 8 (arguing that it is incumbent on the Commission staff to perform tests and convincingly demonstrate system reliability before expanding the online file to more than 15,000 new radio station users).

⁷⁵ See Comments of 50 State Associations at 4. This commenter notes that, while the Commission often acts to extend filing deadlines when problems with online filing arise, this situation is disruptive as filers are unsure if the deadline will be extended in their situation and/or may not be aware of an extension until after the deadline passes. *Id.* at 3. However, we note that the vast majority of filings occur in the last two business days before a deadline; to the extent that extending a deadline merely shifts the heavy volume to a different two-day period, it is unlikely that the extension would alleviate stress on the database.

⁷⁶ See *Second Report and Order*, 27 FCC Rcd at 4566, ¶ 61.

⁷⁷ See Comments of Missouri and California Associations at 1-2, 6-7.

⁷⁸ Commenters also note that television stations today often have to upload the identical file into the online file individually for every station in a station group. The file does not permit this task to be accomplished using a single upload. *Id.* at 6.

propose that these entities' entire public files be hosted online by the Commission⁷⁹ and that entities be responsible for uploading only items now required to be in the public file but not otherwise filed with the Commission or available on the Commission's website. As with the television online file, we propose that the Commission itself upload to the online public file material that is already on file with the Commission or that currently resides in a Commission database.

26. Political file. With respect to the political file, we also propose that cable operators, broadcast radio licensees, DBS operators, and SDARS entities not be required to upload their existing political files to the online file. Instead, as we required with television licensees, we propose that these entities be permitted to maintain at the station those documents already in place in their political file at the time the new rules become effective, and only upload documents to the online political files on a going-forward basis. Under this proposal, existing political file material must be retained in the local political file at the station or cable system for the remainder of the two-year retention period. Exempting existing political file material from the online file will substantially reduce the burden of transitioning to the online public file while allowing online access to the political file material most likely to be of interest to the public. The retention period for the political file for cable, DBS, and radio is two years, similar to the political file retention period for television stations. Consequently, as the Commission noted in the *Second Report and Order*, exempting the existing political file will require entities to continue to maintain this file locally only for a relatively short period.⁸⁰ Consistent with the requirement we imposed on television broadcasters in the *Second Report and Order*, we also propose that, following the effective date of the new rules, cable, DBS, broadcast radio, and SDARS entities be required to upload new records to their online political file immediately absent unusual circumstances.⁸¹ We seek comment generally on these proposals.

27. Organization. In light of the expansion of the online file we propose herein, we invite comment on any steps we might take to improve the organization of the online file and facilitate the uploading and downloading of material. With respect to the television online political file, the Commission designed an organizational structure of folders and subfolders that ensures that the contents of the files are orderly as required by our rules.⁸² Each political file is first organized by year, then by type.⁸³ Beyond that, we "populated" some additional subfolders by creating folders for major races and jurisdictions.⁸⁴ The Commission then provided stations with the ability to create additional subfolders and subcategories for specific candidates, or other organizing structure, in compliance with their own practices. We intend to take the same approach in designing the online political file for cable, DBS, broadcast radio, and SDARS entities, and invite comment on this approach. We expect entities required to upload material to the online political file to do so in an organized manner so that candidates and members of public seeking information can easily navigate it.

28. Compliance dates. We intend to give entities sufficient time to familiarize themselves with the online public file before the effective date of any posting requirement. With respect to

⁷⁹ The Commission exempted letters and emails from the public from the online public file requirement, instead requiring that such material be maintained at the station in a correspondence file. See *Second Report and Order*, 27 FCC Rcd at 4565-66, ¶ 62. We propose herein to take the same approach with respect to radio stations' correspondence files. See, *infra*, ¶ 74.

⁸⁰ See *Second Report and Order*, 27 FCC Rcd at 4557-58, ¶ 44.

⁸¹ *Id.* at 4562, ¶ 55. See also 47 C.F.R. §§ 73.1943(c), 76.1701(c), (requiring that records be placed in the political file "as soon as possible" and stating that "as soon as possible means immediately absent unusual circumstances").

⁸² The Commission's rules require cable operators, DBS providers, and radio licensees to maintain "a complete and orderly" political file. See 47 C.F.R. §§ 73.1943(a), 76.1701(a), 25.701(d).

⁸³ The five types are federal, state, local, non-candidate issue ads, and terms and disclosures.

⁸⁴ For example, in the federal folders, we included subfolders for specific federal races, including President, U.S. House and U.S. Senate. And in the state folders, we included all of the states included within a station's contour.

documents required to be placed in the file on a “going forward” basis, television stations were required to begin using the online public file upon the effective date of the *Second Report and Order*, which was 30 days after the Commission announced in the Federal Register that OMB had completed its review under the Paperwork Reduction Act and had approved the information collection.⁸⁵ Should we follow the same timeline for documents required to be placed in the file on a “going forward” basis in this proceeding?

29. With respect to existing public file materials, we also seek comment on the amount of time we should provide entities to upload these documents to the online public file. Television stations were given six months from the effective date of the *Second Report and Order* to complete the uploading process.⁸⁶ Is this amount of time sufficient for cable, DBS, and broadcast and satellite radio? Should we adopt a staggered date by service (cable, DBS, broadcast radio, and SDARS) or by some other basis? Should any of these entities be given more time to upload existing files? We note that we propose below to temporarily exempt radio stations in smaller markets from online public file requirements, and seek comment on whether also to temporarily exempt stations with few employees. We propose to permit these stations to commence uploading material to the online file early on a voluntary basis. This would provide these radio stations with more time to upload existing public file material and to budget for any additional cost or staff resources necessary to accomplish this task.

30. Back-up files. In addition, consistent with the approach the Commission took in the *Second Report and Order*, we propose that cable, DBS, and broadcast and satellite radio entities not be required to maintain back-up copies of all public file materials.⁸⁷ Instead, as we do for the television online file, the Commission itself will create a mirror copy of each public file daily to ensure that, if the data in the online public file are compromised, the file can be reconstituted using the back-up copy. If the Commission’s online file becomes temporarily inaccessible for the uploading of new documents, we will require entities to maintain those documents and upload them to the file once it is available again for upload. However, consistent with the approach taken with respect to television broadcasters, we propose that cable, DBS, and all radio entities be required to maintain local back-up files for the political file to ensure that they can comply with their statutory obligation to make that information available to candidates, the public, and others as soon as possible.⁸⁸ Stations will only be required to make these backups available if and during such rare times as the Commission’s online public file is unavailable and the Commission has tools available to entities that will minimize any burden caused by this requirement.⁸⁹ We seek comment on this approach.

31. Format. The Commission determined in the *Second Report and Order* that it would not establish specific formatting requirements for documents posted to the online file⁹⁰ and we do not anticipate changes to that approach at this time. We propose to require cable, DBS, and broadcast and satellite radio entities to upload any electronic documents in their existing format to the extent feasible;

⁸⁵ See *Second Report and Order*, 27 FCC Rcd at 4580, ¶ 97. See also *Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files*, Public Notice, DA- 12-1057, MM Docket Nos. 00-168 and 00-44 (rel. July 3, 2012).

⁸⁶ See *Second Report and Order*, 27 FCC Rcd at 4580-81, ¶ 98.

⁸⁷ See *Second Report and Order*, 27 FCC Rcd at 4578, ¶ 92.

⁸⁸ *Id.* See also 47 U.S.C. § 315(e)(3).

⁸⁹ Under our proposal, as with television stations, entities may choose to meet the political file back-up requirement by periodically downloading a mirror copy of the public file, including the political file. To ensure that the political file is complete, entities that choose this option will be required to retain any political file records that have not been uploaded or were uploaded after their last download of a mirror copy of the online public file. See *Second Report and Order*, 27 FCC Rcd at 4580, ¶ 96.

⁹⁰ *Id.* at 4575, ¶ 85.

we will then display the documents in both the uploaded format and in a pdf version.⁹¹ To the extent that a required document already exists in a searchable format, we propose to require these entities to upload the filing in that format to the extent technically feasible.⁹² We seek comment on these proposals.

32. Announcements and links. Consistent with the Commission's approach in the *Second Report and Order*, we propose to require cable operators, DBS providers, and broadcast and satellite radio licensees that have websites to place a link to the online public file on their home pages.⁹³ We also propose that these entities that have websites include on their home page contact information for a representative who can assist any person with disabilities with issues related to the content of the public file.⁹⁴ We do not propose that cable and DBS operators or broadcast or satellite radio stations be required to make on-air announcements regarding the change in location of their public file.⁹⁵ As required of television stations in the *Second Report and Order*,⁹⁶ however, we propose to require radio stations to revise their on-air pre- and post-filing renewal announcements to reflect the availability of a station's renewal application on the Commission's website, as reflected in Appendix B. We invite comment on these proposals.

33. Location of public inspection file and designated contact information. As the Commission required with respect to television stations,⁹⁷ we also propose that cable and DBS operators and broadcast and satellite radio licensees be required to provide information in the online public file about the location of the local public file and the individual who may be contacted for questions about the file. This information would be provided when the operator or licensee first establishes its online public file, but should be updated if and when staffing or location changes occur. We believe this information is necessary to inform the public of the location of the existing political file (until its retention period expires in two years), which will be publicly available at the local public file location, as well as the correspondence folder retained by commercial broadcasters. We seek comment on this proposal.

34. EEO materials. In the *Second Report and Order*, we continued to require that television stations make their EEO materials available on their websites, if they have one,⁹⁸ and we propose to take the same approach in this proceeding with respect to cable operators, DBS providers, and broadcast and satellite radio licensees. Similar to television stations, we propose to permit these entities to fulfill this website posting requirement by providing, on their own website, a link to the EEO materials on their online public file page on the Commission's website.⁹⁹ We seek comment on this proposal.

35. No major changes to public file obligations. Finally, with only minor exceptions, we do not propose to impose new public file obligations on cable, DBS, or broadcast or satellite radio entities in connection with this transition to the online public file.¹⁰⁰ While we propose below a reorganization of

⁹¹ *Id.* at 4576, ¶ 86.

⁹² *Id.*

⁹³ *Id.* at 4585, ¶ 109.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at ¶ 108.

⁹⁷ *Id.* at 4568-9, ¶ 69.

⁹⁸ See *Second Report and Order*, 27 FCC Rcd at 4572, ¶ 77.

⁹⁹ *Id.*

¹⁰⁰ As discussed further below, we propose that cable operators provide geographic information to the online file database to help users identify the location of the system. This would be a one-time only filing requirement and the amount of information provided would be minimal. See, *infra*, ¶ 50. As discussed above, we also propose that cable and satellite providers and broadcast and satellite radio licensees provide information about the location of the local public file and the individual who may be contacted for questions about the file. See, *supra*, ¶ 33. This

(continued....)

the existing cable public file rules for purposes of clarification and seek comment on other minor changes to those rules, our intention for purposes of the initial transition to a centralized, online file for cable operators, DBS providers, and broadcast and satellite radio licensees is to simply adapt our existing requirements to the online file format. We seek comment generally on these proposals.

36. OVS. We note that Open Video System (“OVS”) operators have several public file obligations.¹⁰¹ Should OVS operators be required to make this information available on the Commission’s online public file database, or is it sufficient that this information be made available by the operator locally? How can we identify those entities that do not have Physical System IDs (“PSIDs”) or facility ID numbers?

E. Requirements and Issues Unique to Each Service

37. Certain issues related to the online public file requirement are unique to each service. Accordingly, we address each service separately below and also address whether and how to phase-in certain requirements for each service.

1. Cable Public Inspection File

a. Current rules

38. The FCC’s rules regarding records to be maintained by cable systems distinguish between records that must be retained for inspection by the public and those that must be made available to Commission representatives or local franchisors only.¹⁰² The rules also impose different recordkeeping requirements based on the number of subscribers to the cable system. Operators of cable systems with fewer than 1,000 subscribers are exempt from many public inspection file requirements, including the political file, sponsorship identification, EEO records, and records regarding children’s commercial programming.¹⁰³ Operators of systems with between 1,000 and 5,000 subscribers must provide certain information “upon request” but must also “maintain for public inspection” a political file,¹⁰⁴ while operators of systems having 5,000 or more subscribers must “maintain for public inspection” a political file and records regarding, among other things, sponsorship identification, EEO, and children’s programming commercials.¹⁰⁵ The rules state that the public inspection file must be maintained “at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s).”¹⁰⁶

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information would also be provided when the entity first establishes its public file, and would require no further input unless and until the information changes.

¹⁰¹ For example, OVS operators are required to maintain a file with certain EEO materials as well as information regarding qualified video programming providers who have requested carriage. See 47 C.F.R. §§ 76.1510, 76.1702, and 76.1712.

¹⁰² For example, information about complaints must “be made available for inspection by the Commission and franchising authorities, upon request.” 47 C.F.R. § 76.1713. See also discussion of proof-of-performance test data and signal leakage logs and repair records, *infra*, ¶ 52.

¹⁰³ See 47 C.F.R. § 76.1700(a). The rules do not exempt cable systems serving 1,000 or fewer subscribers from the requirement to maintain records regarding the channels delivered to subscribers, the designation and location of the cable system’s principal headend, the broadcast television stations carried in fulfillment of mandatory carriage requirements, the nature and extent of any attributable interests the cable operator has in video programming services and, for open video system operators, the list of qualified video programming providers who have requested carriage. See 47 C.F.R. §§ 76.1705, 76.1708, 76.1709, 76.1710, 76.1712.

¹⁰⁴ 47 C.F.R. § 76.1700(a).

¹⁰⁵ *Id.*

¹⁰⁶ 47 C.F.R. § 76.1700(b).

39. Cable system political file requirements are similar to those for television stations. The political file must contain a “complete and orderly record...of all requests for cablecast time made by or on behalf of a candidate for public office” including the disposition of such requests.¹⁰⁷ The file must also show the “schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.”¹⁰⁸ With respect to issue advertisements, the file must disclose the name of the purchasing organization and a list of the board of directors.¹⁰⁹ These records must be filed “immediately absent unusual circumstances,” and must be retained for at least two years.¹¹⁰

b. Proposed online public file requirements

(i) Content required to be maintained in the online file

40. As discussed above, consistent with the rules we adopted for television broadcasters, we propose to require that cable operators upload to the online public file all documents and information that are required to be in the public file but which are not also filed in COALS or maintained by the Commission on its own website. The Commission proposes to import these latter documents or information into the online public file itself.

41. We note that the only document that cable operators file with the Commission that must also be retained in their public inspection files is the EEO program annual report,¹¹¹ which we propose that the Commission upload to the online file. Cable operators are not required to maintain in their public inspection files documents similar to The Public and Broadcasting manual, which television and radio broadcasters must retain in their public files and which the Commission makes available to the online file for television stations and will make available to the online file for radio stations. Accordingly, as the Commission maintains very few documents cable operators must retain in their public inspection files, most documents in the cable online file will be required to be uploaded by cable operators themselves.

42. Certain information that must be included in cable operators’ public files is collected through FCC Form 325 (Annual Cable Operator Report), which is filed annually by cable systems with 20,000 or more subscribers.¹¹² For example, operators must maintain at the “local office” a “current” listing of the cable television channels delivered to subscribers¹¹³ and must “maintain for public inspection” a list of all broadcast television stations carried in fulfillment of the must-carry requirements.¹¹⁴ Some of this information is also collected on FCC Form 325. Cable operators required to file the form are required to identify on the form whether a broadcast station is carried pursuant to must-carry obligations, but the form does not request all of the specific information about the system’s must-carry channels that is required to be placed in the public file pursuant to 47 C.F.R. Section

¹⁰⁷ 47 C.F.R. §76.1701(a).

¹⁰⁸ *Id.*

¹⁰⁹ 47 C.F.R. §76.1701(d).

¹¹⁰ 47 C.F.R. §76.1701(c).

¹¹¹ 47 C.F.R. § 76.1702.

¹¹² *See* 47 C.F.R. § 76.403. This group represents about 10 percent of all cable systems. Form 325 must be filed within 60 days after the date the Commission notifies the operator that the form is due. The Commission retains the authority to require Form 325 to be filed by a sampling of cable operators with less than 20,000 subscribers. *Id.*

¹¹³ 47 C.F.R. § 76.1705 (Performance tests (channels delivered)).

¹¹⁴ 47 C.F.R. §76.1709 (Availability of signals). This rule requires that the list of must-carry stations include the “call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.”

76.1709.¹¹⁵ We invite comment on whether the Commission should make FCC Form 325 available in the online file for those systems required to file this form annually. We also invite comment on any other ways we can import to the online file information cable operators would otherwise be required to upload to the file themselves in order to reduce the burden on operators of uploading information to the online file.

43. NCTA requests that the Commission review the ongoing need for channel lineups to be placed in the public inspection file as this information is provided to consumers in paper format and, according to NCTA, is available on operators' websites.¹¹⁶ We seek comment on this request. If most operators maintain this information electronically, we believe it would not be burdensome to require operators to upload this information to the online public file. We seek comment on this view. If we were to require all cable systems to upload channel lineups to the online file, should we require this information to be uploaded or updated annually or on some other schedule? To the extent an operator maintains the required information on a channel lineup its own website, we also seek comment on whether the operator should be permitted to provide a link directly to this channel lineup in lieu of uploading this information to the public file.

44. As discussed below, we propose to clarify our rules regarding proof-of-performance test data and signal leakage logs and repair data.¹¹⁷ Specifically, we propose to make it clear in our rules that this information must be made available only to the Commission and, in the case of proof-of-performance test data, also to the franchisor, and not to the public. Accordingly, this information would not be required to be included in the online public inspection file, thereby reducing the amount of material cable operators would be required to upload to the file.

45. We propose that cable systems be required to upload other material currently required to be maintained for public inspection or made available to the public "upon request." For cable systems with 1,000 or more subscribers, this material would include new political file material,¹¹⁸ sponsorship identification information,¹¹⁹ commercial records on children's programs,¹²⁰ certain EEO materials,¹²¹ leased access policy information,¹²² records concerning operator interests in video programming,¹²³ and copies of requests for waiver of the prohibition on scrambling/encryption.¹²⁴ While cable systems with 1,000 or more subscribers but fewer than 5,000 subscribers are currently required to provide certain materials to the public only "upon request," we believe these systems should be required to place these materials in the online file as this will facilitate public access to these materials. We believe this requirement will be no more burdensome than placing the materials in a physical file and should be less

¹¹⁵ Systems do not report on the form the broadcast television station's community of license, broadcast channel number, cable channel number, or for NCE stations whether the station was carried by the system on March 29, 1990. See 47 C.F.R. § 76.1709(a).

¹¹⁶ See NCTA Comments at 7.

¹¹⁷ See, *infra*, ¶ 52.

¹¹⁸ See 47 C.F.R. § 76.1701.

¹¹⁹ See 47 C.F.R. § 76.1715.

¹²⁰ See 47 C.F.R. § 76.1703.

¹²¹ See 47 C.F.R. § 76.1702.

¹²² See 47 C.F.R. § 76.1707.

¹²³ See 47 C.F.R. § 76.1710.

¹²⁴ See 47 C.F.R. § 76.630.

burdensome over time.¹²⁵ We invite comment on this approach.

46. We also propose to exempt cable systems with fewer than 1,000 subscribers from all online public file requirements, either permanently or at least initially. As discussed above, these systems have far fewer public file requirements than larger systems and are not required to maintain a political file. Alternatively, we could exempt systems with fewer than 1,000 subscribers that maintain public file information on their own websites. We seek comment on these possible approaches and any other suggestions for ways we should provide regulatory relief to very small cable systems.

47. Political file. As discussed above, consistent with the approach we adopted for television broadcasters, we propose that cable operators not be required to upload their existing political files to the online file; rather, we propose that they be permitted to maintain existing material in their physical political file and only upload documents to the online political file on a going-forward basis. We believe this approach will minimize the burden of transitioning to the online file for cable operators, while providing convenient access to the information most likely to be of interest to the public, and invite comment on this proposal. We note that Time Warner Cable, which is not currently required to maintain its public file online, already posts its political files online to save costs and expedite access to this material.¹²⁶ We invite comment on whether there are any aspects of our current cable political file requirements that are unclear and that should be clarified in connection with our proposal to transition to an online political file.

48. To smooth the transition for both cable operators and the Commission and to allow smaller cable systems additional time to begin posting their political files online, we propose to phase-in the requirement to commence uploading political file documents to the online file for smaller cable systems. We invite comment on ways in which this phase-in period should be structured. One approach would be to start by requiring cable systems with 5,000 or more subscribers to post new political file materials online, while exempting systems with fewer than 5,000 subscribers for some period of time. As cable systems with fewer than 1,000 subscribers are exempt from all political file requirements, this temporary exemption would apply to systems with 1,000 or more subscribers but fewer than 5,000 subscribers. As discussed above, the rules currently exempt systems with fewer than 5,000 subscribers from some recordkeeping requirements,¹²⁷ and we invite comment on whether this 5,000 subscriber cutoff should also be used to provide regulatory relief in this context. Another approach would be to define “small cable system” for purposes of the exemption as a system with fewer than 15,000 subscribers that is not affiliated with a larger operator serving more than 10 percent of all MVPD subscribers.¹²⁸ The Commission used this definition for purposes of determining eligibility for a streamlined financial

¹²⁵ As noted above, the staff estimates that cable public files are 50% as large as television public files. See, *supra*, note 71. Unlike television broadcasters, cable operators are not required to place in the public inspection file issues/programs lists, citizen agreements, contour maps, ownership reports and related materials, children’s television programming reports, or letters and emails from the public.

¹²⁶ See Petition at 8 (citing Keenan Steiner, Time Warner Cable Posts its Political File Online, So Why the Fuss, NAB?, Sunlight Foundation (June 15, 2012), <http://sunlightfoundation.com/blog/2012/06/15/time-warner-cable-already-posting-its-political-file-online?>

¹²⁷ See 47 C.F.R. § 76.1700(a). The Commission reduced the public file requirements for systems with between 1,000 and 5,000 subscribers in 1999 to “provide regulatory relief.” *1998 Biennial Regulatory Review – Streamlining of Cable Television Services Part 76 Public File and Notice Requirements*, Report and Order, 14 FCC Rcd 4653, 4665, ¶ 25 (1999) (“*1998 Biennial Review Order*”).

¹²⁸ We note that in the *1998 Biennial Review Order* the Commission rejected a proposal to provide regulatory relief to systems with 15,000 or fewer subscribers that were owned by cable companies with 400,000 or fewer subscribers over all their systems. *1998 Biennial Review Order*, 14 FCC Rcd at 4665, ¶ 25. The Commission determined that, for purposes of the public inspection file requirements, regulatory relief was appropriately evaluated based on the number of subscribers in the particular community involved without reference to whether the same operator owns systems elsewhere. *Id.*

hardship waiver in the CALM Act *Report and Order*.¹²⁹ The Commission explained in that Order that it believed that the streamlined waiver “should be available only to those systems that are most likely to face financial hardships in complying with” the Commission’s CALM Act requirements.¹³⁰ We invite comment on the appropriate definition of “small cable system” for purposes of the political file exemption and on the appropriate period of time we should exempt small systems from the requirement to commence posting political file material online. Should there be a means of providing the public with information regarding which systems’ political files are included in the online file, and which are exempt, either temporarily or permanently?

49. While we are proposing to delay the transition to the online political file for small cable systems, we propose to allow these systems to commence uploading documents to the online political file on a voluntary basis at the same time that online political file requirements become effective for larger cable systems. In addition, if we were to decide to exempt systems with fewer than 1,000 subscribers from all online public file obligations, we propose to allow these systems to participate in the online file database on a voluntary basis. Regardless of whether we determine to delay or exempt small systems from online filing requirements, we believe it is appropriate to permit any system that desires to participate in the online database to do so voluntarily. We invite comment on this proposal.

50. Geographic information. We propose to require cable operators, when first establishing their online public file, to provide a list of the geographic areas served by the system. The Commission currently lacks precise information about the geographic areas served by cable systems and we believe that making this information available in the online public file will make the information in the file, and especially the political file, more useful to subscribers, advertisers, candidates, and others. We propose to require cable systems to provide information regarding the ZIP Codes served by the system and the Designated Market Area (“DMA”) or areas it serves, and we seek comment on this proposal. We also seek comment on alternative proposals for collecting geographic information, such as Census Block or Census Tract information. We note that operators would have to provide this information when they first establish their public files on the Commission’s database, and update it only to reflect changes. Therefore, we do not believe this requirement would be burdensome.

51. We also invite comment on any ways to facilitate access to the online database by consumers. Cable operators are currently required to maintain their public files on a per-system basis and we tentatively conclude that the same should apply to the online database.¹³¹ However, as NCTA notes, cable public files cannot be organized by call sign and the analogous unit, a physical system identifier, is not readily known by consumers.¹³² If we require cable operators to provide information on the geographic area served by the system, should we use that geographic information to help identify cable systems in the cable online file? Are there other ways in which systems can be identified to consumers so that they can quickly find the information they are seeking?

(ii) Clarification and streamlining of current recordkeeping requirements

52. NCTA argues that we should streamline cable public file requirements to avoid requiring cable operators to incur the cost of posting unnecessary material.¹³³ While we decline to undertake a

¹²⁹ See *In the Matter of Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, 26 FCC Rcd 17222, 17254, ¶ 54 (2011) (“*CALM Act Report and Order*”).

¹³⁰ *Id.*

¹³¹ As noted in paragraph 23, *supra*, to reduce administrative burdens, we plan to investigate allowing entities to upload documents that may be common across multiple stations or systems only once, placing such documents in the online file for each station or system whose file is required to contain the document.

¹³² See NCTA Comments at 3-4 and NCTA Reply Comments at 2, note 5.

¹³³ See NCTA Comments at 6-8.

comprehensive review of cable public inspection file requirements in this proceeding, we seek comment on several issues raised by NCTA and propose to clarify certain requirements. First, NCTA asks that we eliminate the requirement that proof-of-performance and signal leakage information be retained in the public inspection file.¹³⁴ We note that the current recordkeeping rules regarding this information are unclear. While Section 76.1700(a), which sets out recordkeeping requirements, includes “proof-of-performance test data” and “signal leakage logs and repair records” in the list of items either to be made available “upon request” (for systems with 1,000 or more but fewer than 5,000 subscribers) or to be maintained in the public inspection file (for systems with 5,000 or more subscribers), the rule sections specifically addressing these requirements require only that this information be maintained for inspection by the Commission and local franchisor.¹³⁵ We agree with NCTA that this information is unlikely to be of interest to the general public and does not need to be made available online. Accordingly, we propose to clarify that this information must be maintained and made available to the Commission and franchisor upon request, but does not need to be maintained in the system’s public inspection file or uploaded to the online file. We seek comment on this proposal.

53. Second, NCTA requests that the Commission evaluate whether it should exclude headend location information from any online public inspection file as it is of no interest to the general public and revealing this information in a centralized database available to Internet users “raises potentially serious security risks.”¹³⁶ We propose to exclude headend location information from the online public file and seek comment on this proposal.

54. Third, NCTA requests that the Commission consider eliminating the current requirement that cable operators post certain EEO materials on the system’s own website, if it has one, as these materials would be available on the Commission’s online public file.¹³⁷ As discussed above, in the *Second Report and Order*, we continued to require that television stations make certain EEO materials available on their websites, if they have one, and we propose to take the same approach in this proceeding with respect to cable operators, DBS providers, and broadcast and satellite radio licensees.¹³⁸ Consistent with the rules for television stations, however, we propose to permit these entities to fulfill this website posting requirement by providing, on their own website, a link to the EEO materials on their online public file page on the Commission’s website.¹³⁹

(iii) Reorganization of the cable public inspection file rules

55. We believe that a limited reorganization and clarification of the public inspection file rules would make them easier to locate and understand. The public inspection file rules for broadcasters are contained in two rule sections that identify all public inspection file requirements for commercial and noncommercial educational broadcasters, with references to other rule sections as appropriate.¹⁴⁰ In

¹³⁴ See NCTA Comments at 7.

¹³⁵ Section 76.1704 states that proof-of-performance test data “shall be maintained on file at the operator’s local office” and “made available for inspection by the Commission or the local franchisor, upon request.” 47 C.F.R. § 76.1704(a). See also 47 C.F.R. § 76.1717 (Compliance with technical standards) (requiring operators to show “on request by an authorized representative of the Commission or the local franchising authority” that the system complies with the FCC’s technical standards). With respect to signal leakage logs and repair records, Section 76.1706 states that cable operators “shall maintain a log” with information about the leakage which “shall be made available to authorized representatives of the Commission upon request.” 47 C.F.R. § 76.1706.

¹³⁶ NCTA Comments at 7-8. See 47 C.F.R. § 76.1708 (requiring cable operators to “maintain for public inspection the designation and location of its principal headend”).

¹³⁷ See NCTA Comments at 8.

¹³⁸ See, *supra*, ¶ 34.

¹³⁹ *Id.*

¹⁴⁰ See 47 C.F.R. §§ 73.3526 (commercial stations) and 73.3527 (noncommercial educational stations).

contrast, the cable recordkeeping requirements are spread over several rule sections in Part 76, Subpart U (Documents to be Maintained for Inspection),¹⁴¹ with some requirements contained in a separate rule subpart.¹⁴² While Section 76.1700 of the rules includes references to many of these recordkeeping requirements it does not cite them all.¹⁴³ Revising our rules to identify all cable recordkeeping requirements in a single rule section, with references to other sections as appropriate, would make these requirements easier to locate and facilitate compliance. Moreover, as confirmed by our discussion above regarding maintenance of proof-of-performance and signal leakage information, some of the current rules are confusing and inconsistent. We propose to revise Section 76.1700 to include references to all public inspection file requirements and to more clearly address which records must be maintained in the file versus those that must be made available to the Commission or franchising authority. We invite comment on these proposed revisions, which are set out in Appendix B.¹⁴⁴

2. DBS Public Inspection File

a. Current rules

56. DBS providers are required to maintain a public file containing four categories of information: information regarding compliance with the carriage obligation for noncommercial programming (the “noncommercial set-aside”); information regarding compliance with the commercial limits in children’s programming; certain EEO materials; and a political file. With respect to the noncommercial set-aside, the rules require that DBS providers “keep and permit public inspection of a complete and orderly record of,” among other things, measurements of channel capacity, a record of entities to whom noncommercial capacity is being provided, the rates paid by the entity to whom capacity is provided, and a record of entities requesting capacity and the disposition of those requests.¹⁴⁵ With respect to compliance with the children’s programming commercial limits, DBS providers airing children’s programming must maintain records sufficient to verify compliance with the rules and “make such records available to the public.”¹⁴⁶ With respect to EEO materials, DBS operators are required to maintain in their public file EEO reports and certain EEO program information.¹⁴⁷

57. DBS providers are also required to “keep and permit public inspection of a complete and orderly political file” and to “prominently disclose the physical location of the file and the telephonic and electronic means to access” it.¹⁴⁸ The file must include, among other things, records of “all requests for DBS origination time” and the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased for each request.¹⁴⁹ These records must be placed in the file “as soon as

¹⁴¹ See 47 C.F.R. §§ 76.1700 (Records to be maintained by cable system operators), 76.1701 (Political file), 76.1702 (Equal employment opportunity), 76.1703 (Commercial records on children’s programs), 76.1704 (Proof-of-performance test data), 76.1705 (Performance tests (channels delivered)), 76.1706 (Signal leakage logs and repair records), 76.1707 (Leased access), 76.1708 (Principal headend), 76.1709 (Availability of signals), 76.1710 (Operators interests in video programming), 76.1711 (Emergency alert system (EAS) tests and activation), 76.1712 (Open video system (OVS) requests for carriage), 76.1713 (Complaint resolution), 76.1714 (FCC rules and regulations), 76.1715 (Sponsorship identification), 76.1716 (Subscriber records and public inspection file), and 76.1717 (Compliance with technical standards).

¹⁴² See 47 C.F.R. § 76.630 (Compatibility with consumer electronics equipment).

¹⁴³ For example, Section 76.1700 does not reference the requirements in Sections 76.630 or 76.1707 – 76.1716.

¹⁴⁴ See Appendix B (Proposed Rules).

¹⁴⁵ 47 C.F.R. §25.701(f)(6).

¹⁴⁶ 47 C.F.R. §25.701(e)(3).

¹⁴⁷ See 47 C.F.R. §§ 25.601, 76.71, 76.1702.

¹⁴⁸ 47 C.F.R. §25.701(d).

¹⁴⁹ 47 C.F.R. §25.701(d)(1).

possible” and must be retained for at least two years.¹⁵⁰ Unlike broadcasters and cable systems, DBS providers must “make available via fax, e-mail, or by mail upon telephone request, photocopies of documents in their political files and shall assist callers by answering questions about the contents of their political files.”¹⁵¹ In 2004, the Commission explained that it was requiring

DBS providers to abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems. Because DBS is a national service and each provider's headquarters is not necessarily readily accessible to most of its viewers and to candidates, we require DBS providers to make their political files available upon telephone or electronic request. They may provide access to the file by fax, e-mail, via Internet website access, or, if so requested, by mailing photocopies of the documents in their political files. We expect that DBS providers will assist callers by promptly answering questions about how to access the contents of the DBS providers' political files. DBS providers may require individuals requesting documents to pay for photocopying if the requester prefers delivery by mail, but the DBS provider must pay for postage. DBS providers are encouraged to put their political files on their respective web sites but must provide alternatives for individuals who do not have Internet access. In view of these requirements and expectations, we do not find it necessary to require that a provider maintain a public file in every community that receives its signal. We do, however, require, that DBS providers prominently disclose the toll-free telephone number and e-mail address of the department responsible for responding to requests for access to the political file. In addition, because DBS experience with the political broadcasting rules is relatively new, and to facilitate a future Staff Report, we will require that DBS providers maintain all requests for time from candidates or individuals on behalf of candidates, including general requests for availabilities and rate information. In addition, and for the same reasons, DBS providers will be required to retain information in their political files for four years, until 2006, and thereafter for two years, as is required of cable operators and terrestrial broadcast stations.¹⁵²

b. Proposed online public file requirements

58. We propose to treat DBS providers in the same manner as television, cable, and broadcast and satellite radio entities by requiring them to upload to the online file only material that is not already on file at the Commission. Similar to cable operators, the only document that DBS providers file with the Commission that must also be retained in their public inspection files is the EEO program annual report,¹⁵³ which we propose that the Commission upload to the online file. Like cable operators, the other information DBS providers are required to maintain in their public inspection files is not currently filed with or maintained by the Commission. Accordingly, most material required to be kept in the online file would have to be uploaded by DBS providers themselves, which includes channel capacity measurements and other records related to the use of and requests for noncommercial capacity, records related to compliance with children’s commercial limits, certain EEO materials, and political file material.

59. We do not believe that requiring DBS providers to upload this material to the online file would be onerous. As compared to television and radio broadcasters and cable operators, DBS providers

¹⁵⁰ 47 C.F.R. §25.701(d)(2).

¹⁵¹ 47 C.F.R. §25.701(d)(3).

¹⁵² *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992*, 19 FCC Rcd 5647, 5661-62, ¶ 35 (2004) (footnotes omitted).

¹⁵³ 47 C.F.R. §§ 25.601, 76.1702.

have the fewest number of public file requirements. In addition, there are currently only two U.S. DBS operators, each of which has sufficient financial resources to comply with any online file requirements we ultimately adopt in this proceeding.¹⁵⁴ We agree with Petitioners that the transition to an online file is particularly important for DBS because of that service's nationwide reach.¹⁵⁵ Each DBS provider is required to maintain only one public and political file for the entire U.S. at its headquarters, making in-person access very difficult. While staff members must copy and mail public and political file documents upon request under the current rules, making this material available online would considerably improve public access. Moreover, we believe that, for DBS providers, maintaining an online file hosted by the Commission will prove to be more efficient and less expensive over time than maintaining a local file, particularly in light of the extra steps DBS providers are required to take to assist callers requesting materials from the file.

60. We tentatively conclude, consistent with our approach for television stations and our proposal herein for cable systems and broadcast radio licensees, that DBS providers should not be required to upload their existing political files to the online file but rather should be permitted to maintain existing material in their physical political file and only upload documents to the online political file on a going-forward basis. If we require DBS providers to upload their political files, we propose to eliminate the requirement that they mail photocopies of documents in that file to individuals requesting copies, as these materials would be available online. Additionally, to the extent that political file materials relate to ads shown on a local or hyper-local basis, we seek comment on how DBS providers can indicate in their public files the area in which such ads were or will be shown. We also invite comment on whether there are any aspects of our current DBS political file requirements that are unclear and that should be clarified in connection with our proposal to transition to an online political file.

3. Broadcast Radio Public Inspection File

a. Current rules

61. The public inspection file rules for radio broadcasters are generally similar to those for television broadcasters. Every permittee or licensee of an AM or FM station in the commercial or noncommercial educational broadcast service must maintain a public inspection file containing, among other things, FCC authorizations, applications, contour maps, ownership reports, EEO materials, issues/programs lists, and time brokerage (also known as "local marketing") and joint sales agreements.¹⁵⁶ The file must be maintained at the station's main studio.¹⁵⁷

62. Radio stations must maintain a political file as part of the public inspection file.¹⁵⁸ The

¹⁵⁴ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 28 FCC Rcd 10496, 10507, ¶ 27 (2013). DIRECTV is the largest DBS provider and second largest MVPD, serving almost 20 million subscribers. DISH Network is the second largest DBS provider and third largest MVPD, with over 14 million subscribers. *Id.*

¹⁵⁵ See Petition at 7.

¹⁵⁶ See 47 C.F.R. §§ 73.3526, 73.3527. Unlike television broadcasters, radio broadcasters do not have children's educational programming obligations or limits on the amount of commercial time in children's programming and, therefore, are not required to maintain records in the public file concerning compliance with these obligations. Commercial radio stations must maintain letters and emails from the public, see 47 C.F.R. § 73.3526(e)(9), but noncommercial radio stations do not. Noncommercial stations must, however, retain lists of donors supporting specific programs. See 47 C.F.R. § 73.3527(e)(9). Applicants for a construction permit for a new station must also maintain a public inspection file. See 47 C.F.R. §§ 73.3526(a)(1), 73.3527(a)(1).

¹⁵⁷ Radio stations that maintain a main studio and public file outside its community of license must take extra steps to assist members of the public by identifying, and mailing copies of, documents in the file. See 47 C.F.R. §§ 73.3526(c), 73.3527(c).

¹⁵⁸ 47 C.F.R. §§ 73.3526(e)(6), 73.3527(e)(5), 73.1943. Although noncommercial radio stations are prohibited by Section 399B of the Communications Act, 47 U.S.C. § 399B, from accepting paid political and issue advertising,

(continued....)

political file must contain a “complete and orderly record” of requests for broadcast time made by or on behalf of a candidate for public office.¹⁵⁹ The file must also show the “schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.”¹⁶⁰ With respect to issue advertisements, stations must disclose the name of the purchasing organization and a list of the board of directors.¹⁶¹ These records must be filed “as soon as possible, meaning immediately, absent unusual circumstances,” and must be retained for at least two years.¹⁶²

b. Proposed online public file requirements

(i) Content required to be maintained in the online file

63. As discussed above, consistent with the rules we adopted for television broadcasters we propose to require that radio broadcast licensees upload to the online public file all documents and information that are required to be in the public file but that are not also filed in CDBS (or LMS) or otherwise maintained by the Commission on its own website. Under this proposal, radio stations would be required to upload citizen agreements,¹⁶³ certain EEO materials,¹⁶⁴ issues/programs lists,¹⁶⁵ local public notice announcements,¹⁶⁶ time brokerage agreements,¹⁶⁷ joint sales agreements,¹⁶⁸ materials related to FCC investigations or complaints (other than investigative information requests from the Commission),¹⁶⁹ and any new political file material. We propose that any document or information required to be in the public file that is electronically filed with CDBS (or LMS) will be imported to the online file by the Commission. For radio broadcasters, under this proposal the documents the Commission would upload to the online file include authorizations, applications and related materials, contour maps, ownership reports and related materials, EEO Reports, The Public and Broadcasting manual, and Letters of Inquiry and other investigative requests from the Commission, unless otherwise directed by the inquiry itself.

64. While all stations will have issues/programs lists and materials related to local public notice announcements, few will have time brokerage agreements and very few will have citizen agreements or materials related to an FCC investigation or complaint. While many stations will have political file material, in general we expect that these files will be smaller for radio stations than for television stations as fewer political advertisements air on radio.¹⁷⁰ In addition, radio stations with fewer

(Continued from previous page) _____

they are required to maintain a political file for documenting any candidate “uses” that would trigger “equal opportunities” under the Act. In addition, noncommercial stations must maintain a record in the political file of any candidate requests for free or furnished time.

¹⁵⁹ 47 C.F.R. §73.1943(a).

¹⁶⁰ *Id.*

¹⁶¹ 47 C.F.R. §73.1212(e).

¹⁶² 47 C.F.R. §73.1943(c).

¹⁶³ *See* 47 C.F.R. § 73.3526(e)(3).

¹⁶⁴ *See* 47 C.F.R. §§ 73.3526(e)(7), 73.3527(e)(6), 73.2080.

¹⁶⁵ *See* 47 C.F.R. §§ 73.3526(e)(12), 73.3527(e)(8).

¹⁶⁶ *See* 47 C.F.R. §§ 73.3526(e)(13), 73.3527(e)(10).

¹⁶⁷ *See* 47 C.F.R. §§ 73.3526(e)(14).

¹⁶⁸ *See* 47 C.F.R. §§ 73.3526(e)(16).

¹⁶⁹ *See* 47 C.F.R. §§ 73.3526(e)(10), 73.3527(e)(11).

¹⁷⁰ As noted above, total spending on political advertising on radio in 2012 ranked third behind broadcast television and cable television. *See, supra*, ¶ 16. Also, as noted above, the staff estimates that radio public files are 60% as large as television public files. *See, supra*, note 71.

than five full-time employees are exempt from many of the EEO recordkeeping requirements.¹⁷¹ We seek comment on these issues.

65. Political file. As discussed above, consistent with the approach we adopted for television broadcasters and that we propose herein for cable operators, we propose that broadcast radio licensees not be required to upload their existing political files to the online file, but rather that they be permitted to maintain existing material in their local political file and only upload documents to the online political file on a going-forward basis. We believe this approach will minimize the burden of transitioning to the online file for radio licensees. We seek comment on this approach.

66. Delay in implementation for small market stations. We propose to implement the online public file for broadcast radio stations by imposing requirements, at first, only on stations with more resources. We propose to delay all mandatory online filing for other radio stations for some period of time. As discussed above, several commenters express concern about whether radio stations have sufficient resources to implement and maintain an online public file, particularly small stations with limited financial resources and small staffs.¹⁷² Some commenters argue that we should postpone any consideration of moving to an online file for broadcast radio or, if we do adopt online file obligations for that medium in this proceeding, that we exempt smaller stations and/or NCE stations. Those advocating an exemption for NCE stations argue that many of these stations have very small staffs and limited resources and that compliance with an online requirement would create a severe financial and staffing hardship.¹⁷³ Ampers and NFCB also note that NCEs are prohibited from accepting funds from political candidates and organizations advocating on behalf of a candidate or political issue, making online access to the political file less important for these stations.¹⁷⁴ Other commenters argue that, in order to minimize the risk of online public file requirements becoming the “proverbial straw that breaks the camel’s back” for already struggling small radio stations, the Commission should not require small stations to upload the contents of their existing public files, or at least should provide stations with an extended period of time during which they could incrementally add those materials to the online file.¹⁷⁵

67. Another issue raised by radio commenters is the lack of computer or Internet access at some small, rural stations. According to NAB, some radio stations in remote locations, including Alaska, Maine, and areas of the Southwest, do not have access to reliable Internet service or even are without Internet access altogether.¹⁷⁶ Other stations have no in-house computing resources or broadband capacity.¹⁷⁷ According to Native Public Media, many Native-owned NCE radio stations operate on Tribal lands where broadband penetration rates are between five and 10 percent.¹⁷⁸ Moreover, according to these commenters, in communities where broadband is theoretically available actual access is often severely hampered by high latency, slow dial-up speeds, and unreliable coverage.¹⁷⁹ Native Public Media argues

¹⁷¹ See 47 C.F.R. § 73.2080(d).

¹⁷² See, *supra*, ¶ 19. According to Missouri and California Associations, because of the limited number of staff at smaller stations, a single employee is often required to take on tasks assumed by several employees at larger stations. See Comments of Missouri and California Associations at 3-5.

¹⁷³ See Comments of The Association of Minnesota Public Educational Radio Stations (“Ampers”) at 1, and NFCB at 2, and WRTC, Trinity College at 1. CLC supports an exemption for NCEs with five or fewer employees. See CLC Reply Comments at 3.

¹⁷⁴ See Ampers Comments at 1 and NFCB Comments at 2.

¹⁷⁵ See Small Radio Broadcasters Comments at 6-7.

¹⁷⁶ See NAB Comments at 5-6 and note 13.

¹⁷⁷ See NAB Comments at 5-6.

¹⁷⁸ See Native Public Media Comments at 6.

¹⁷⁹ *Id.*

that it would be difficult, if not impossible, to require stations facing these circumstances to upload large files to the Commission's online database.¹⁸⁰ In addition, these commenters argue that the cost of maintaining an online file would significantly outweigh the benefits in communities where listeners have limited Internet access.¹⁸¹

68. We recognize that some radio stations may face financial or other obstacles that could make the transition to an online public file more difficult. Accordingly, we believe that it is reasonable to commence the transition to an online public file for radio with stations with more resources while delaying, for some period of time, all mandatory online public file requirements for other stations. We propose that other stations be permitted to voluntarily transition to the online file early, but not be required to participate until we have gained some experience with the inclusion of stations with greater resources. Adding radio stations to the online file incrementally over time will give us more time to address any technical issues that may arise in connection with our online file database as the volume of users increases. Given the large number of radio stations and the volume of material they will be uploading to the online file, we believe it makes sense to proceed in stages to include radio stations in the Commission's online database.

69. We seek comment generally on this approach. Is it appropriate to temporarily exempt a certain category of radio stations from all online public file requirements or should we instead temporarily exempt some stations from only the online political file?¹⁸² How should we define the category of stations that should be eligible for a temporary exemption? We note that, in the television online file proceeding, we implemented the online political file first with television stations in the top 50 DMAs that were also affiliated with the top four networks.¹⁸³ With respect to radio, however, network affiliation is not a useful way to identify stations with more resources. Accordingly, we propose to begin implementation of online public file requirements for radio with commercial stations in markets 1 through 50, as defined by Nielsen Audio (formerly Arbitron), that have five or more full-time employees. We propose that these stations commence compliance with online public file requirements at the same time as cable, DBS, and SDARS entities. With respect to all other radio stations, we propose to delay all online public file requirements for two years.¹⁸⁴ This two-year delay is the same length of time we delayed, in the television online file proceeding, the implementation of political file obligations for television stations in smaller markets and those unaffiliated with the top four networks. We propose to initially exempt NCE radio stations as well as those with fewer than five full-time employees from the online public file to help ensure that we commence online file requirements for radio with stations with greater resources. With respect to radio stations with fewer than five full-time employees, as noted above our rules exempt these stations from many EEO requirements.¹⁸⁵ One advantage of tying an exemption for small radio stations to this EEO exemption is that information regarding the stations that are exempt from EEO requirements is readily available to the public, as this information is filed with the FCC and is available via the FCC's website.¹⁸⁶ We seek comment on this and any other possible approach to structuring the

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 6-7.

¹⁸² The Torres Law Group, PLLC ("TLG") supports including radio stations in larger markets or with a high number of listeners in the online political file initially and then gradually expanding the political file to smaller markets and, possibly, NCEs. See TLG Reply Comments at 4.

¹⁸³ See, *supra*, ¶ 9.

¹⁸⁴ Many radio stations are located outside recognized radio markets. See Comments of Missouri and California Associations at 3.

¹⁸⁵ See, *supra*, ¶ 64.

¹⁸⁶ All radio stations, including those with fewer than five full-time employees, must file a Broadcast Equal Employment Opportunity Program Report (FCC Form 396) with their renewal application. See 47 C.F.R. §

(continued....)

temporary delay in online file requirements for certain radio stations. We also seek comment on whether we should permanently exclude certain radio stations, such as NCEs and stations with fewer than five full-time employees, from all online public file requirements, rather than simply delaying implementation of online file requirements for these stations.

70. While we are proposing to delay the transition to the online public file for certain radio stations, we also propose to allow these stations to commence uploading all or part of their public file documents to the online file on a voluntary basis before the delayed effective date of any online file requirement for these stations.¹⁸⁷ As discussed above, public television licensees in the television online file proceeding requested that we allow NCE radio stations, or at least those licensed to the same entity as, or under common control with, an NCE television station, to maintain their public inspection files online on the Commission's website on a voluntary basis. Public television licensees argued that this would allow radio stations that were jointly owned or operated with television stations to avoid duplicative efforts from having to maintain two separate public file systems, involving some of the same documents. If we decide to delay implementation of online file requirements for all or some NCEs in this proceeding, we believe it is appropriate to allow them and any other smaller radio station to voluntarily transition to the Commission's online file early. We seek comment on this proposal.

71. We believe our proposal addresses many of the concerns raised regarding radio stations that may have fewer resources and, therefore, might find transitioning to the online file more burdensome. These stations would not be required to commence uploading documents to the Commission's database until stations with more resources have completed part or all of their transition to the online file. This delayed transition will assist small stations to budget for any initial costs to upload documents to the file and any extra staff time required for this effort. In the meantime, stations may commence uploading documents to the online database early on a voluntary basis.¹⁸⁸ We invite comment on this approach and on ways we can help ensure that permitting stations to commence uploading documents early on a voluntary basis is not confusing to members of the public trying to locate and access public file material.

(ii) Contour map and main studio information

72. Radio stations are currently required to include in their public inspection files "any service contour maps submitted with any application" together with "any other information in the application showing service contours and/or main studio and transmitter location."¹⁸⁹ We propose to have the Commission create contour maps for the online file based upon existing data. Given the complexities of AM contour mapping, we may not be able to use the same tools that we used to map TV contours and that we anticipate using to map FM contours.¹⁹⁰ We seek comment on ways to address this issue. Should AM stations be required to upload contour maps to the online file?

73. We also propose to require stations to provide information to the online file regarding the

(Continued from previous page) _____

73.2080(f)(1). Stations identify on this form whether the station has five or more full-time employees. These forms are available on the FCC's website at www.fcc.gov.

¹⁸⁷ Stations would be required to maintain in their local public inspection file any documents required to be in the file that have not been uploaded to the Commission's online file database.

¹⁸⁸ This voluntary, early transition to the online file could commence after the effective date of the rules for larger radio stations.

¹⁸⁹ See 47 C.F.R. §§ 73.3526(e)(4), 73.3527(e)(3). These rules require radio stations to retain in the public inspection file "[a] copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station." *Id.*

¹⁹⁰ We expect to automate this process using existing data. See <http://www.fcc.gov/encyclopedia/fm-service-contour-data-points>.

location of the station's main studio. The Commission's rules do not currently require the reporting of this information and it is not included on contour maps. We believe that information regarding the location of the main studio would help members of the public to engage in an active dialogue with radio licensees regarding their service, which is one of the goals of this proceeding. In addition, we believe this information is necessary to inform the public of the location of the correspondence file¹⁹¹ and existing political file (until its retention period expires in two years), both of which will be publicly available at the station. Therefore, consistent with the approach we took in the television station online file proceeding,¹⁹² we propose to require stations to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. In addition, we propose that stations with a main studio located outside of their community of license be required to list the location of the correspondence file and existing political file, as well as the required local or toll free number. We seek comment on this proposal.

(iii) Letters from the public

74. In the *Second Report and Order*, the Commission exempted letters and emails from the public from the online public file and instead required that such material be maintained at the station in a correspondence file.¹⁹³ The Commission determined that including these documents in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome.¹⁹⁴ The Commission determined that letters and emails from the public should be maintained at the station's main studio either in a paper file or electronically on a computer.¹⁹⁵ Further, the Commission clarified that, as required under the current public inspection file rules, this file should include all letters and emails from the public regarding operation of the station unless the letter writer has requested that the letter not be made public or the licensee feels that it should be excluded due to the nature of its content.¹⁹⁶ Finally, the Commission determined that it would not require stations to retain social media messages in their correspondence file.¹⁹⁷ We propose to take the same approach with respect to broadcast radio stations and the letters and emails they receive from the public, and seek comment on this proposal.

(iv) Donor lists

75. NCE stations are required to retain in the public inspection file lists of donors supporting specific programs.¹⁹⁸ Native Public Media asks that, for the same reason the Commission excluded letters and emails from the public from the television online file requirement, donor lists also be excluded from

¹⁹¹ See, *infra*, ¶ 74.

¹⁹² See *Second Report and Order*, 27 FCC Rcd at 4568-9, ¶ 69.

¹⁹³ *Id.* at 4565, ¶ 62. Commercial radio stations are required to retain such material in the public inspection file. See 47 C.F.R. § 73.3526(e)(9).

¹⁹⁴ In particular, the Commission stated its concern that requiring correspondence to be placed in the online public file might result in violations of the Children's Online Privacy Protection Act (COPPA) which prohibits posting children's personally identifiable information online. The Commission stated that, because letters and emails from the public can account for a substantial amount of the content of a station's public file, requiring stations to review these documents for compliance with COPPA before uploading them could pose a burden. See *Second Report and Order*, 27 FCC Rcd at 4567, ¶ 63.

¹⁹⁵ See *Second Report and Order*, 27 FCC Rcd at 4565, ¶ 62.

¹⁹⁶ *Id.* at 4567, ¶ 64.

¹⁹⁷ *Id.* at 4568, ¶ 66.

¹⁹⁸ See 47 C.F.R. § 73.3527(e)(9).

any NCE online file requirements to ensure the privacy of donors.¹⁹⁹ In the *Second Report and Order* we required NCE television broadcasters to include donor lists in their online public files,²⁰⁰ and we propose to take the same approach with respect to radio. We seek comment on this issue. Is there a reason to treat NCE radio station donor lists differently from NCE television station donor lists?

4. Satellite Radio Public Inspection File

a. Current requirements

76. Licensees in the satellite radio service are required to maintain a public file with two categories of material. First, as discussed above,²⁰¹ SDARS licensees are required to comply with EEO requirements similar to those imposed on broadcasters, including the requirement to file EEO reports and to maintain those reports in their public file together with other EEO program information.²⁰² Second, also as discussed above,²⁰³ satellite radio licensees are required to maintain a political file. In addition, SiriusXM, the current, sole U.S. SDARS licensee, is required to retain a third category of material in the public file. SiriusXM made a voluntary commitment to make capacity available for noncommercial educational and informational programming, similar to the requirement imposed on DBS providers, in connection with its merger application.²⁰⁴ As part of its approval of the merger, the Commission required that the merged entity reserve channels for educational and informational programming, offer those channels to qualified programmers, and comply with the public file requirements of 47 C.F.R. § 25.701(f)(6), which sets forth public file requirements for the noncommercial set-aside for DBS providers.²⁰⁵

b. Proposed online public file requirements

77. We propose to treat satellite radio licensees in the same manner as television, cable, DBS, and broadcast radio entities by requiring them to upload to the online file only material that is not already on file at the Commission. We seek comment on this proposal. Similar to cable operators and DBS providers, the only document that SDARS entities file with the Commission that must be retained in the public inspection file is the EEO program annual report, which we propose that the Commission upload to the online file. We do not believe that requiring SDARS licensees to upload to the online file other material required to be maintained in the public file would be burdensome as the number of public file requirements for this service is fewer than for other services and entities discussed in this item and because the current, sole U.S. SDARS licensee has ample financial resources to comply with any online file requirement we ultimately adopt in this proceeding. We also believe that, similar to DBS, the transition to an online file is particularly important for satellite radio because of that service's nationwide reach and the fact that the current licensee maintains only one public and political file for the entire U.S., making in-person access very difficult.

78. With respect to the political file, we propose to treat satellite radio similar to DBS, as they are both nationwide services with few licensed service providers. As we do with respect to the DBS political file herein,²⁰⁶ we tentatively conclude, consistent with our approach for television stations and

¹⁹⁹ See Comments of Native Public Media at 4. This commenter also notes that NCE stations that receive grants from the Corporation for Public Broadcasting are required to protect the privacy rights of their donors. *Id.* (citing 47 U.S.C. § 396(k)(12)).

²⁰⁰ See *Second Report and Order*, 27 FCC Rcd at 4540, ¶ 11 and at 4546, ¶ 21.

²⁰¹ See, *supra*, ¶ 4 and note 18.

²⁰² See *XM-Sirius Merger Order*, 23 FCC Rcd at 12426, ¶ 174 and note 551.

²⁰³ See, *supra*, ¶ 4 and note 18.

²⁰⁴ See *XM-Sirius Merger Order*, 23 FCC Rcd at 12413, ¶ 140.

²⁰⁵ *Id.* at 12415, ¶ 146.

²⁰⁶ See, *supra*, ¶ 60.

our proposal herein for cable systems and radio broadcasters, that SDARS licensees should not be required to upload their existing political files to the online file but rather should be permitted to maintain existing material in their physical political file, and only upload documents to the online political file on a going-forward basis. In addition, to the extent that political file materials relate to ads shown on a local or hyper-local basis, we seek comment on how satellite radio licensees can indicate in their public files the area in which such ads were or will be shown.

IV. PROCEDURAL MATTERS

A. Ex Parte Presentations

79. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.²⁰⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

B. Initial Regulatory Flexibility Act Analysis.

80. The Regulatory Flexibility Act of 1980, as amended (“RFA”), requires that a regulatory flexibility analysis be prepared for notice and comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 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 Small Business Administration (SBA).

81. With respect to this Notice, an Initial Regulatory Flexibility Analysis (“IRFA”) under the Regulatory Flexibility Act²⁰⁸ is contained in Appendix C. Written public comments are requested in the IRFA, and must be filed in accordance with the same filing deadlines as comments on the *NPRM*, with a distinct heading designating them as responses to the IRFA. The Commission will send a copy of this *NPRM*, including the IRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, a copy of this *NPRM* and the IRFA will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the *Federal Register*.

²⁰⁷ 47 C.F.R. §§ 1.1200 *et seq.*

²⁰⁸ *See* 5 U.S.C. § 603.

C. Paperwork Reduction Act Analysis.

82. This document contains proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements proposed in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees

D. Comment Filing Procedures

83. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

84. *Additional Information:* For additional information on this proceeding, please contact Kim Matthews of the Media Bureau, Policy Division, Kim.Matthews@fcc.gov, (202) 418-2154.

V. ORDERING CLAUSES

85. Accordingly, **IT IS ORDERED** that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 303(r), and 335 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303(r), and 335 this Notice of Proposed Rulemaking **IS ADOPTED**.

86. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

87. **IT IS FURTHER ORDERED** that the Petition for Rulemaking filed by the Campaign Legal Center, Common Cause, and the Sunlight Foundation **IS GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**List of Commenters****Comments filed in MB Docket No. 14-127**

50 State Broadcasters Associations (“50 State Associations”)
American Public Media Group, Minnesota Public Radio, Southern California Public Radio, and Classical South Florida (“American Public Media”)
Association of Minnesota Public Educational Radio Stations (“Ampers”)
Blount Masscom, Inc., et al. (“Blount”)
Campaign Legal Center, Common Cause, and Sunlight Foundation (“CLC”)
Educational Media Foundation (“EMF”)
Entertainment Media Trust (“EMT”)
LeSEA Broadcasting Corporation (“LeSEA”)
Local and Regional Small Radio Broadcasters (“Small Radio Broadcasters”)
Martha Whitman
Mentor Partners, Inc. (“Mentor”)
Missouri and California Broadcasters Associations (“Missouri and California Associations”)
National Association of Broadcasters (“NAB”)
National Cable & Telecommunications Association (“NCTA”)
National Federation of Community Broadcasters (“NFCB”)
Native Public Media
Patrick Ruffini

Reply Comments filed in MB Docket No. 14-127

Campaign Legal Center, Common Cause, and Sunlight Foundation (“CLC”)
National Cable & Telecommunications Association (“NCTA”)
Torres Law Group, PLLC (“TLG”)

In addition, a number of individuals filed comments in this proceeding.

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 73.1943 is amended by revising § 73.1943(d) to read as follows:

§ 73.1943 Political File.

* * * * *

(d) Location of the file. A licensee or applicant must post all of the contents added to its political file after the effective date of this subsection in the political file component of its online public file hosted by the Commission. A station must retain in its political file maintained at the station, at the location specified in Section 73.3526(b) or 73.3527(b), all material required to be included in the political file and added to the file prior to the effective date of this subsection. The online political file must be updated in the same manner as subsection (c).

3. Section 73.3526 is amended by revising § 73.3526(b) 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:

(1) For radio licensees temporarily exempt from the online file, as discussed in paragraph (b)(2), a hard copy of the public inspection file shall be maintained at the main studio of the station. For all licensees, letters and emails from the public, as required by paragraph (e)(9), 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.

(2) (i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of its public inspection file on the online file hosted by the Commission, with the exception of letters and emails from the public as required by paragraph (e)(9), which shall be retained at the station in the manner discussed in paragraph (b)(1); and the political file as required by paragraph (e)(6), as discussed in paragraph (b)(3). Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the

manner discussed in paragraph (b)(1) until [2 years following the effective date of the Report and Order in MB Docket No. 14-127]. However, any radio station that is not required to place its public inspection file in the online file hosted by the Commission before [2 years following the effective date of the Report and Order in MB Docket No. 14-127] may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(ii) A station must provide a 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, and provide contact information on its website for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

(3) (i) A licensee or applicant shall place the contents required by paragraph (e)(6) of its political inspection file in the online file hosted by the Commission. Political inspection file material in existence 30 days after the effective date of this provision shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period.

(ii) Any television station not in the top 50 DMAs, and any station not affiliated with one of the top four broadcast networks, regardless of the size of the market it serves, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) until July 1, 2014. For these stations, effective July 1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's website, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any station that is not required to place its political file in the online file hosted by the Commission before July 1, 2014 may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(iii) Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) until [2 years following the effective date of the Report and Order in MB Docket No. 14-127]. For these stations, effective [2 years following the effective date of the Report and Order in MB Docket No. 14-127], any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of [2 years following the effective date of the Report and Order in MB Docket No. 14-127], if not placed in the online file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any station that is not required to place its political file on the Commission's website before [2 years following the effective date of the Report and Order in MB Docket No. 14-127] may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(4) 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"; Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself; 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.

* * * * *

4. 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:

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station until [2 years following the effective date of the Report and Order in MB Docket No. 14-127] except that, as discussed in paragraph (b)(2)(ii), any radio station may voluntarily place its public inspection file online before [2 years following the effective date of the Report and Order in MB Docket No. 14-127] if it chooses do so instead of retaining the file at 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.

(2) (i) A noncommercial educational television station licensee or applicant shall place the contents required by paragraph (e) of its public inspection file in the online file hosted by the Commission, with the exception of the political file as required by paragraph (e)(5), which may be retained at the station in the manner discussed in paragraph (b)(1) until July 1, 2014. Effective July 1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed on the Commission's website, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any noncommercial educational station that is not required to place its political file in the online file hosted by the Commission before July 1, 2014 may choose to do so instead of retaining the political file at the station in the manner discussed in paragraph (b)(1).

(ii) Beginning [2 years following the effective date of the Report and Order in MB Docket No. 14-127], noncommercial educational radio station licensees and applicants shall place the contents required by paragraph (e) in the online public inspection file hosted by the Commission. For these stations, effective [2 years following the effective date of the Report and Order in MB Docket No. 14-127], any new political file material shall be placed on the Commission's website, while the material in the political file as of [2 years following the effective date of the Report and Order in MB Docket No. 14-127], if not placed in the online file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) until the end of its retention period. However, any radio station that is not required to place its public inspection file in the online file hosted by the Commission before [2 years following the effective date of the Report and Order in MB Docket No. 14-127] may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(iii) A station must provide a 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, and provide contact information for a station representative on its website that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's

website, depending upon where the documents are required to be maintained under the Commission's rules.

(3) 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; and "The Public and Broadcasting".

* * * * *

5. Section 73.3580 is amended by revising §§ 73.3580(d)(4)(i) and (ii) to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

(i) Pre-filing announcements. During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, DC 20554.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

* * *

(ii) Post-filing announcements. During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, DC 20554.

Part 76 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 76 – MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

6. The Authority citation for Part 76 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

7. Section 76.630 is amended by revising § 76.630(a)(2) to read as follows:

§ 76.630 Compatibility with consumer electronics equipment.

* * * * *

(2) Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than 30 calendar days from the date the request for waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver shall be available for public inspection at www.fcc.gov

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business).

Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

* * * * *

8. Section 76.1700 is amended by revising § 76.1700(a), (b), (c), (d), and (e), and by adding § 76.1700(f) and (g), to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a)*Public inspection file.* The following records must be placed in the online public file hosted by the Commission, except as indicated in § 76.1700(d) and except that the records listed in 76.1700(1) (political file) that are in existence 30 days after the effective date of this provision shall continue to be retained at the system and made available to the public in the manner discussed in paragraph (e) until the end of the retention period. In addition, any cable system with fewer than 5,000 subscribers shall continue to retain the political file at the system in the manner discussed in paragraph (e) until [2 years following the effective date of the Report and Order in MB Docket No. 14-127]. For these systems, effective [2 years following the effective date of the Report and Order in MB Docket No. 14-127], any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of [2 years following the effective date of the Report and Order in MB Docket No. 14-127], if not placed on the Commission's website, shall continue to be retained at the system in the manner discussed in paragraph (e) until the end of its retention period. However, any system that is not required to place its

political file on the Commission's website before [2 years following the effective date of the Report and Order in MB Docket No. 14-127] may choose to do so, instead of retaining the political file at the system, in the manner discussed in paragraph (e).

(1) Political file. All requests for cablecast time made by or on behalf of a candidate for public office and all other information required to be maintained pursuant to §76.1701;

(2) Equal employment opportunity. All EEO materials described in §76.1702 except for any EEO program annual reports, which the Commission will link to the electronic version of all systems' public inspection files;

(3) Commercial records on children's programs. Sufficient records to verify compliance with §76.225 in accordance with §76.1703;

(4) Performance tests (channels delivered). The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers in accordance with §76.1705;

(5) Leased access. If a cable operator adopts and enforces written policy regarding indecent leased access programming, such a policy shall be published in accordance with §76.1707;

(6) Principal headend. The operator of every cable system shall maintain the designation and location of its principal headend in accordance with §76.1708;

(7) Availability of signals. The operator of every cable television system shall maintain a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements in accordance with §76.1709;

(8) Operator interests in video programming. Cable operators shall maintain records regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interests in accordance with §76.1710;

(9) Sponsorship identification. Whenever sponsorship announcements are omitted pursuant to §76.1615(f) of subpart T, the cable television system operator shall maintain a list in accordance with §76.1715;

(10) Compatibility with consumer electronics equipment. Cable system operators generally may not scramble or otherwise encrypt signals carried on the basic service tier. Copies of requests for waivers of this prohibition must be available in the public inspection file in accordance with §76.630.

(b) *Information available to the franchisor.* These records must be made available by cable system operators to local franchising authorities on reasonable notice and during regular business hours, except as indicated in § 76.1700(d).

(1) Proof-of-performance test data. The proof of performance tests shall be made available upon request in accordance with §76.1704;

(2) Complaint resolution. Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with §76.1713.

(c) *Information available to the Commission.* These records must be made available by cable system operators to the Commission on reasonable notice and during regular business hours, except as indicated in § 76.1700(d).

(1) Proof-of-performance test data. The proof of performance tests shall be made available upon request in accordance with §76.1704;

(2) Signal leakage logs and repair records. Cable operators shall maintain a log showing the date and location of each leakage source in accordance with §76.1706;

(3) Emergency alert system and activations. Every cable system shall keep a record of each test and activation of the Emergency Alert System (EAS). The test is performed pursuant to the procedures and requirements of part 11 of this chapter and the EAS Operating Handbook. The records are kept in accordance with Part 11 and §76.1711 of this chapter;

(4) Complaint resolution. Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with §76.1713;

(5) Subscriber records and public inspection file. The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request in accordance with §76.1716.

(d) *Exceptions to the public inspection file requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the online public file and from the public record requirements contained in §76.1701 (political file); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); §76.1706 (signal leakage logs and repair records); §76.1714 (FCC rules and regulations); and §76.1715 (sponsorship identification).

(e) *Location of records.* Political file material that continues to be retained at the system shall be retained in a public inspection file maintained at the office in the community served by the system that the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business and, if the system operator does not maintain such an office in the community, at any accessible place in the communities served by the system (such as a public registry for documents or an attorney's office). Public file locations will be open at least during normal business hours and will be conveniently located. The public inspection file shall be available for public inspection at any time during regular business hours for the facility where they are kept. All or part of the public inspection file may be maintained in a computer database, as long as a computer terminal capable of accessing the database is made available, at the location of the file, to members of the public who wish to review the file.

(f) *Links and contact and geographic information.* A system must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the system has a website, and provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the geographic areas served by the system. To the extent this section refers to the local public inspection file, it refers to the public file of a physical system, which is either maintained at the location described in paragraph (e) or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

(g) *Reproduction of records.* Copies of any material in the public inspection file shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

* * * * *

9. Section 76.1709 is amended by revising (a) and (b) to read as follows:

§76.1709 Availability of signals.

(a) The operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to §76.56. Such list shall include the call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

(b) Such records must be maintained in accordance with the provisions of §76.1700.

(c) A cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of §76.56.

Part 25 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 25 – SATELLITE COMMUNICATIONS

10. The Authority citation for Part 25 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, and 332.

11. Section 25.601 is amended to read as follows:

§ 25.601 Equal employment opportunities.

Notwithstanding other EEO provisions within these rules, an entity that uses an owned or leased Fixed-Satellite Service or Direct Broadcast Satellite Service or 17/24 GHz Broadcasting-Satellite Service facility (operating under this part) to provide video programming directly to the public on a subscription basis must comply with the equal employment opportunity requirements set forth in part 76, subpart E, of this chapter, if such entity exercises control (as defined in part 76, subpart E, of this chapter) over the video programming it distributes. Notwithstanding other EEO provisions within these rules, a licensee or permittee of a direct broadcast satellite station operating as a broadcaster, and a licensee or permittee in the satellite DARS service, must comply with the equal employment opportunity requirements set forth in part 73.

12. Section 25.701 is amended by revising the title and § 25.701(d), (e)(3), and (f)(6) to read as follows:

§ 25.701 Other DBS Public interest obligations.

* * * * *

(d) Political file. Each DBS provider shall maintain a complete and orderly political file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for DBS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The “disposition” includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) All records required to be retained by this section must be placed in the political file as soon as possible and must be retained for a period of two years. After the effective date of this section, DBS providers shall place all new political file material required to be retained by this section in the online file hosted by the Commission.

(3) DBS providers shall assist callers by answering questions about the contents of their political files.

(e) *Commercial limits in children’s programs.* (1) No DBS provider shall air more than 10.5 minutes of commercial matter per hour during children’s programming on weekends, or more than 12 minutes of commercial matter per hour on week days.

(2) This rule shall not apply to programs aired on a broadcast television channel which the DBS provider passively carries, or to channels over which the DBS provider may not exercise editorial control, pursuant to 47 U.S.C. 335(b)(3).

(3) DBS providers airing children’s programming must maintain in the online file hosted by the Commission records sufficient to verify compliance with this rule. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

* * *

(6) *Public file.* (i) In addition to the political file requirements in §25.701, each DBS provider shall maintain in the online file hosted by the Commission a complete and orderly record of:

(A) Quarterly measurements of channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its response to any capacity changes;

(B) A record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity;

(C) A record of entities that have requested capacity, disposition of those requests and reasons for the disposition.

(ii) All records required by subparagraph (i) of this paragraph shall be placed in the online file hosted by the Commission as soon as possible and shall be retained for a period of two years.

(iii) Each DBS provider must also place in the online file hosted by the Commission the records required to be placed in the public inspection file by §25.701(e) (commercial limits in children’s programs) and by §25.601

and 47 C.F.R. Part 76, Subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules.

(iv) Each DBS provider must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the provider has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider also must include in the online public file the address of the provider's local public file and the name, phone number, and email address of the provider's designated contact for questions about the public file.

* * * * *

13. New section 25.702 is added to read as follows:

§ 25.702 Other SDARS Public interest obligations.

(a) *Political broadcasting requirements.* The following political broadcasting rules shall apply to all SDARS licensees: 47 C.F.R. §§ 73.1940 (Legally qualified candidates for public office), 73.1941 (Equal opportunities), and 73.1944 (Reasonable access).

(b) *Political file.* Each SDARS licensee shall maintain a complete and orderly political file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for SDARS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) SDARS licensees shall place all records required by this section in the political file as soon as possible and shall retain the records for a period of two years. After the effective date of this section, SDARS licensees shall place all new political file material required to be retained by this section in the online file hosted by the Commission.

(c) *Public inspection file.* Each SDARS applicant or licensee must also place in the online file hosted by the Commission the records required to be placed in the public inspection file by 47 C.F.R. §§ 25.601 and 73.2080 (equal employment opportunities (EEO)) and retain those records for the period required by those rules.

Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the licensee has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee also must include in the online public file the address of the licensee's local public file and the name, phone number, and email address of the licensee's designated contact for questions about the public file.

* * * * *

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 Initial Regulatory Flexibility Analysis (“IRFA”) concerning the possible significant economic impact on small entities of the policies and rules proposed in the *Notice of Proposed Rulemaking* (“NPRM”). 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 *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”).² In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the Federal Register.³

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

2. The *NPRM* proposes to expand to cable and Direct Broadcast Satellite (“DBS”) operators and broadcast and satellite radio (“SDARS”) licensees the requirement that public and political files be posted to the online public file database hosted by the Commission. In 2012, the Commission adopted online public file rules for broadcast television stations which required them to post public file documents to a central, FCC-hosted online database rather than maintaining the files locally at their main studios.⁴ The Commission’s goal was to modernize the procedures television broadcasters use to inform the public about how they are serving their communities by harnessing current technology to make information more accessible to the public and, over time, to reduce the cost of compliance.⁵ We are initiating this proceeding to extend our modernization effort to include the public file documents required to be maintained by cable operators, DBS providers, broadcast radio licensees, and SDARS licensees. While the Commission first included only television broadcasters in its public file database to “ease the initial implementation of the online public file,”⁶ television broadcasters have now successfully transitioned to the online file over the past two years. Accordingly, we now believe it is appropriate to commence the process of expanding the online file to other media in order to extend the benefits of improved public access to public inspection files and, ultimately, reduce the burden on these other entities of maintaining those files.

3. In general, the *NPRM* proposes to adopt a similar approach with respect to cable, DBS, and broadcast and satellite radio online file requirements as we did for the television online file. Specifically, we propose that these entities’ entire public files be hosted online by the Commission⁷ and that entities be responsible for uploading only items now required to be in the public file but not otherwise filed with the Commission or available on the Commission’s website. As with the television

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 *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order*, 27 FCC Rcd 4535 (2012) (“*Second Report and Order*”).

⁵ *Id.* at 4536, ¶ 1.

⁶ *Id.* at 4586, ¶ 111.

⁷ The Commission exempted letters and emails from the public from the television online public file requirement, instead requiring that such material be maintained at the station in a correspondence file. See *Second Report and Order*, 27 FCC Rcd at 4565-66, ¶ 62. The *NPRM* proposes to take the same approach with respect to radio stations’ correspondence files.

online file, we propose that the Commission itself upload to the online public file material that is already on file with the Commission or that currently resides in a Commission database. With respect to the political file, we also propose that cable, DBS, broadcast radio, and satellite radio entities not be required to upload their existing political files to the online file. Instead, as we required with television licensees, we propose that these entities be permitted to maintain at the station those documents already in place in their political file at the time the new rules become effective, and only upload documents to the online political file on a going-forward basis. With respect to radio, the NPRM proposes to commence the transition to the online file with commercial stations in larger markets with five or more full-time employees. In addition, the item invites comment on whether to temporarily delay the requirement to upload new political file material to the online file for small cable systems.

B. Legal Basis

4. The proposed action is authorized pursuant to Sections 1, 2, 4(i), 303, 315, 317, 335, 601, 611, 651 and 653 of the Communications Act, 47 U.S.C. §§ 151, 152, 154(i), 303, 315, 317, 335, 601, 611, 651, and 653.

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.⁸ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁰ 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.¹¹ Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

6. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide.¹² Industry data shows that there were are currently 660 cable operators.¹³ Of this total, all but ten cable operators nationwide are small under

⁸ 5 U.S.C. § 603(b)(3).

⁹ 5 U.S.C. § 601(6).

¹⁰ 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).

¹¹ 15 U.S.C. § 632.

¹² 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. *Implementation of Sections of the Cable Television Consumer Protection And Competition Act of 1992: Rate Regulation*, MM Docket No. 92-266, MM Docket No. 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, ¶ 28 (1995).

¹³ NCTA, Industry Data, Number of Cable Operators and Systems, <http://www.ncta.com/Statistics.aspx> (visited October 13, 2014). Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service. See *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, MB Docket No. 12-203, Fifteenth Report, 28 FCC Rcd 10496, 10505-6, ¶ 24 (2013) (“15th Annual Competition Report”).

this size standard.¹⁴ In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.¹⁵ Current Commission records show 4,629 cable systems nationwide.¹⁶ Of this total, 4,057 cable systems have less than 20,000 subscribers, and 572 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

7. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."¹⁷ There are approximately 54 million cable video subscribers in the United States today.¹⁸ Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.¹⁹ Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard.²⁰ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.²¹ Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. *Direct Broadcast Satellite (DBS) Service*. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers,²² which was developed for small wireline

¹⁴ See SNL Kagan, "Top Cable MSOs – 12/12 Q"; available at <http://www.snl.com/InteractiveX/TopCableMSOs.aspx?period=2012Q4&sortcol=subscribersbasic&sortorder=desc>.

¹⁵ 47 C.F.R. § 76.901(c).

¹⁶ The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on October 10, 2014. A cable system is a physical system integrated to a principal headend.

¹⁷ 47 U.S.C. § 543(m)(2); see 47 C.F.R. § 76.901(f) & nn. 1-3.

¹⁸ See NCTA, Industry Data, Cable's Customer Base, <http://www.ncta.com/industry-data> (visited October 13, 2014).

¹⁹ 47 C.F.R. § 76.901(f); see *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (Cable Services Bureau 2001).

²⁰ See NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), <http://www.ncta.com/industry-data> (visited Aug. 30, 2013).

²¹ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. See 47 C.F.R. § 76.901(f).

²² See 13 C.F.R. § 121.201, 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.*" (*Emphasis* added to text relevant to satellite services.) U.S. Census

(continued...)

businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees.²³ Census data for 2007 shows that there were 3,188 firms that operated for that entire year.²⁴ Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees.²⁵ Therefore, under this size standard, the majority of such businesses can be considered small entities. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled “Cable and Other Program Distribution.” As of 2002, the SBA defined a small Cable and Other Program Distribution provider as one with \$12.5 million or less in annual receipts.²⁶ Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network.²⁷ Each currently offers subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined under the superseded SBA size standard would have the financial wherewithal to become a DBS service provider.

9. *Radio Broadcasting.* The SBA defines a radio broadcast station as a small business if such station has no more than \$38.5 million in annual receipts.²⁸ Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.”²⁹ According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of the then number of commercial radio stations (11,341) have revenues of \$35.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial radio stations to be 4,082.³⁰ 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. These stations rely primarily on grants and contributions for their operations, so we will assume that all of these entities qualify as small businesses. We note that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included.³¹ This estimate, therefore, likely overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

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Bureau, 2012 NAICS Definitions, “517110 Wired Telecommunications Carriers,” at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²³ 13 C.F.R. § 121.201; 2012 NAICS code 517110.

²⁴ U.S. Census Bureau, 2007 Economic Census. See U.S. Census Bureau, American FactFinder, “Information: Subject Series – Estab and Firm Size: Employment Size of Establishments for the United States: 2007 – 2007 Economic Census,” NAICS code 517110, Table EC0751SSSZ5; available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

²⁵ *Id.*

²⁶ See 13 C.F.R. § 121.201, NAICS code 517510 (2002).

²⁷ See 15th Annual Competition Report, 28 FCC Rcd at 10507, ¶¶ 27. As of June 2012, DIRECTV is the largest DBS operator and the second largest MVPD in the United States, serving approximately 19.9 million subscribers. DISH Network is the second largest DBS operator and the third largest MVPD, serving approximately 14.1 million subscribers. *Id.* at 10507, 10546, ¶¶ 27, 110-11.

²⁸ 13 C.F.R. § 121.201, 2012 NAICS code 515112.

²⁹ U.S. Census Bureau, 2012 NAICS Definitions: 515112 Radio Broadcasting, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515112&search=2012> (last visited October 13, 2014).

³⁰ See *Broadcast Station Totals as of June 30, 2014*, FCC News Release, July 9, 2014.

³¹ “[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 power to control both.” 13 C.F.R. § 121.103(a)(1).

10. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be 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. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

11. *Satellite Radio.* The rules proposed in this *NPRM* would affect the sole, current U.S. provider of satellite radio (“SDARS”) services, XM-Sirius, which offers subscription services. XM-Sirius reported revenue of \$3.8 billion in 2013 and a net income of \$377 million.³² In light of these figures, we believe it is unlikely that this entity would be considered small.

12. *Open Video Systems.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.³³ The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,³⁴ OVS falls within the SBA small business size standard covering cable services, which is “Wired Telecommunications Carriers.”³⁵ The SBA has developed a small business size standard for this category, which is: all such businesses having 1,500 or fewer employees.³⁶ Census data for 2007 shows that there were 3,188 firms that operated for that entire year.³⁷ Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees.³⁸ Therefore, under this size standard, we estimate that the majority of these businesses can be considered small entities.

³² See <http://investor.siriusxm.com/releasedetail.cfm?ReleaseID=823023>.

³³ 47 U.S.C. § 571(a)(3)-(4); see *Implementation of Section 19 of the 1992 Cable Act and Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189, Thirteenth Report, 24 FCC Rcd 542, 606, ¶ 135 (2009) (“13th Annual Competition Report”).

³⁴ See 47 U.S.C. § 573.

³⁵ See 13 C.F.R. § 121.201, 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.” U.S. Census Bureau, 2012 NAICS Definitions, “517110 Wired Telecommunications Carriers,” at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

³⁶ 13 C.F.R. § 121.201; 2012 NAICS code 517110.

³⁷ U.S. Census Bureau, 2007 Economic Census. See U.S. Census Bureau, American FactFinder, “Information: Subject Series – Estab and Firm Size: Employment Size of Establishments for the United States: 2007 – 2007 Economic Census,” NAICS code 517110, Table EC0751SSSZ5; available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³⁸ *Id.*

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

13. Certain rule changes proposed in the *NPRM* would affect reporting, recordkeeping, or other compliance requirements. Cable, DBS, radio, and SDARS entities are currently required to maintain a “local” copy of their public inspection files. The *NPRM* proposes to require that these files be maintained online in the database hosted by the Commission. Entities subject to this requirement would be required to upload certain documents currently maintained in their local files to the online database.

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

14. 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, standard; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.³⁹

15. The *NPRM* proposes a number of measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, we propose to require entities only to upload to the online file public file documents that are not already on file with the Commission or that the Commission maintains in its own database. We also propose to exempt existing political file material from the online file requirement and to require only that political file documents be uploaded on a going-forward basis. In addition, with only minor exceptions – requiring cable operators to provide information about the geographic areas they serve, clarifying the documents required to be included in the cable public file, and requiring cable, DBS, broadcast radio, and SDARS entities to provide the location and contact information for their local file – we do not propose new or modified public inspection file requirements in this proceeding. Our goal is simply to adapt our existing public file requirements to an online format. While we recognize that entities may incur a modest, one-time transitional cost to upload some portions of their existing public file to the online database, we believe this initial expense will be offset by the public benefits of online disclosure. We also believe that, over time, entities will benefit from the lower costs of sending documents electronically to the Commission as opposed to creating and maintaining a paper file at the local or headquarters’ office or main studio and assisting the public in accessing it. While we propose to place the entire public file online, we invite comment on whether we should instead require only that certain components of the public file be placed on the Commission’s online database. We note that limiting online file requirements to certain components of the public file would require entities to upload certain documents and maintain others in the local public file, thereby potentially imposing a greater burden than moving documents to the online file over time.

16. In addition, with respect to radio licensees the *NPRM* proposes to commence the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing temporarily all online file requirements for other radio stations. The *NPRM* also proposes to exempt small cable systems temporarily from the requirement to commence uploading new political file material to the online public file and proposes to exempt very small cable systems from all requirements to upload documents to the Commission’s online database. Finally, the *NPRM* also seeks comment on whether we should exclude certain radio stations from all online public file requirements, rather than simply delaying implementation of certain requirements.

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

17. None.

³⁹ 5 U.S.C. § 603(c).

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, MB Docket No. 14-127.

I am pleased to support this Notice of Proposed Rulemaking. The Commission must modernize its rules to reflect the digital age in which we live, and moving more regulated entities' public files online is a step in the right direction. I also appreciate the incorporation of many of my suggestions for reducing regulatory burdens as a part of this effort.

Going forward, I intend to pay particular attention to the feedback we receive from small radio stations. For example, last year I visited KZPA, a radio station in remote Fort Yukon, Alaska (population: 583), eight miles north of the Arctic Circle. KZPA devotes its extremely limited resources to serving the local Alaska Native Gwich'in population. We should be sensitive to the fact that KZPA and many other stations like it just don't have the bodies and bandwidth to handle every regulatory requirement Washington might conjure. The FCC should do what it can to revitalize such stations, particularly struggling stations in the AM band, not add to their difficulties. I hope the Commission will embrace this spirit as we move forward in this proceeding.