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Via Electronic Mail

June 15, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Dear FCC:

The FCC has invited public comment concerning *Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission* (“Collection”) on or before June 17, 2011.¹ Nonprofit community and college radio advocate Common Frequency, Inc. (“CFI”) submits this comment. *Collection* concentrated specifically upon whether the FCC local public inspection file is necessary. CFI believes the public file is indeed necessary. This comment delves into our reasoning.

1. Manner of FCC ascertainment of facts regarding public file relevancy was poorly initiated.

The FCC’s request from the public for input on public file obligations was cloaked in its choice of public notice, overall description, and collection technique. CFI feels the periodic information collection required by the FCC from the Office of Management and Budget was utilized as a mere conduit to bypass the usual transparent Notice of Proposed Rulemaking processes. Commenters were asked to submit comments to two FCC email addresses and not the Office of the Secretary, or the publicly viewable ECFS system. If anyone was to stumble upon page 21739 of Volume 26 of the Federal Register, the official Summary of the request does not even mention “public file”. The supplementary information is also ambiguous.

CFI believes that if the FCC is truly interested in seeking public input upon the public file issue, it would have released a wider inquiry through public notice/NPRM, asking licensees to participate in commenting, and inviting comments from the public from *reboot.fcc.gov*. CFI asserts that without enough public input on the issue, the FCC cannot make an informed judgment regarding the usefulness of the public file.

2. Public File annual burden is insignificant as a percentage of total broadcast operation.

The descriptor “estimated time per response”, mentioned within *Collection*—which was assumed to mean the time each licensee spends to assure compliance with the

¹ 76 FR 21739

public file regulations—was indicated to be from 2.5 to 109 hours (assumed annually, but unlabeled with *Collection*, as monthly or weekly it would not make sense). With information the FCC provided to OMB in 2009,² this translated to the following:

<u>Respondent Burdens</u>						
	A	B	C	D	E	F
Commercial Radio Stations	52	52			6.25	110.25
Noncommercial Edu Radio Stations	104				6.25	110.25
Commercial TV	57	52	26	50	6.25	191.25
Noncommercial TV	109			50	6.25	165.25

A: General Maintenance, B: Community Issue List, C: Commercial Limits, D: Must Carry/Retransmission Consent, E: Political Files, F: Total

A worst-case burden for a broadcast entity is 191.25 hours a year. In previous decades a professional/specialized staff person was hired to tend to station public files, but the job is often now relegated to a general office clerk as part of their regular work. Assuming \$10–20/hr wage, this could amount to \$2000 – 4000 for a single station. But it should be considered that many stations are owned in groups, or stations under common licensees with identical programming in different markets. Assembly-line production of these public files would appear to knock down these costs to \$500 - 1000 per station. Also consider that non-commercial licensees owning several studio-waived facilities only need one community issues list, dropping down the public file cost on a per station basis. The cost of a public file as a percentage of, say, a 2 million dollar station budget would then vary from approximately 0.025% to 0.2% of a station budget. The cost of a custom paint job for the station’s radio van could be as much as twice as expensive than tending to the public file for one year. The public file burden then appears to be classifiably insignificant.

3. The public file is an essential part of a broadcaster’s reciprocity for utilizing a public resource to obtain profit.

The airwaves belong to the public. Broadcasters utilize a FCC license to operate within the public interest. The public file is the only stipulation other than a local main studio that constitutes the broadcaster’s responsibility to serve in the local public interest. The concept of localism was so important to that in 2007 the FCC proposed rulemaking that explored ideas such as community review boards, 24-hour staffed studios, and studio/community of license requirements. Although these ideas may seem cost-prohibitive to broadcasters, the one idea that embraces localism without a significant cost is the public file.

In the case of studio-waived non-commercial, educational FM stations, the public file essentially takes the place of a local studio. People within the vicinity of a studio-waived facility can take advantage of the station’s obligation to serve them copies of the file via mail or internet.

The public file is the only instrument that the public, station operator, and FCC have to credibly scrutinize whether a station is operating within the public interest. Without

² *Supporting Statement OMB 3060-0214 DTV* from FCC to OMB (August 1, 2008).

this transparency, the FCC would have to arbitrate challenges to license renewals with even more ambiguous meter than it already does. The FCC has stated “[the public file] Issues/programs lists provide both the Commission and the listening public with important information regarding the extent to which a station has met the needs and interests of its community during the prior license term, and therefore, whether license renewal is warranted.”³ Additionally, the omission of single items from the public file “diminishes the public’s ability to determine and comment on whether the station is serving the community.”⁴

4. The broadcaster’s public file is chiefly a depository of documents that they already store at the station. The public file is a mere grouping of the files.

The following public file items are documents that the station already keeps on record:

Authorizations, Ownership Reports, Pending Applications, STAs, etc: All of these are already online through CDBS and could be linked to an online public file.

Contour Maps: Also available through the FCC’s website and radio-locator.com.

Political File: By law, even if the FCC repeals a public file, a political file will need to remain as a public inspection file.⁵

EEO documents: Required by the broadcasters with five or more employees regardless of public file.

Letters/emails from the public: These are not difficult to summon; these documents just need to be accumulated. Since few people write letters now, emails could be mainlined into the public file automatically.

Public Notices: These simply need to be filed within the file.

Time Brokerages/Sales Agreements: These simply need to be filed within the file.

Children’s Television Reports: Since they are filed with the FCC, they are already available.

Public and Broadcasting: Available on-line.

Citizens Agreements: These simply need to be filed within the file.

One of the only items that needs to be synthesized from scratch for the file is the issues/programs list. The public file is essentially a clerical duty that could be feasibly semi-automated.

5. Migration of the entire public file to internet will automate much of the process, reducing broadcaster burden.

Within the last decade the FCC has generally sided with more transparency. In the *Enhanced Disclosed NPRM*,⁶ *Digital Broadcasting Systems 2nd R&O*,⁷ and *Broadcast*

³ See *In the Matter of Faith Christian Music Broadcast Ministries, Inc.* DA 05-3088 (November 29, 2005).

⁴ See *Forfeiture Policy Statement* at 12 FCC Rcd 17104-05 para. 39. Also see *Broadcast Localism*, 19 FCC Rcd 12425, 12441 (2004).

⁵ The Political File is codified under the Communications Act, 47 U.S.C. §315.

⁶ *Enhanced Disclosure NPRM*, 15 FCC Rcd 19816 (2000).

⁷ See para. 117, *Second Report And Order First Order On Reconsideration And Second Further Notice Of Proposed Rulemaking of Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service*, MM Docket No. 99-325 (May 31, 2007), the Commission was continuing to the subject of enhancing the public’s access to station records.

*Localism Proposed Rulemaking*⁸ the FCC has already echoed the need for further disclosure from an easier-accessed public file. The Commission has stated:

Internet access to such information will only improve the ability of members of the public to become educated as to broadcasters' efforts to serve them, thus prompting more active dialogue between licensees and their audiences concerning issues of public importance to local communities and how broadcasters might go about addressing those issues on the air—which may quickly lead to the airing of more responsive programming.⁹

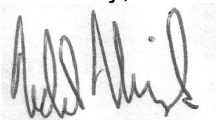
A recently released FCC Report, "The Information Needs Of Communities" echoed that public files should be gradually moved online.¹⁰ An online public file would reduce the number of total hours dedicated to station public files from insignificant to very insignificant. Since much of the paperwork within the public file is redundantly stored within the FCC's CDBS, simple automatic links would reduce time that would be used to print out and store documents in a filing cabinet. The FCC could even develop standardized FCC online software for easy export of information.

Conclusion

Public files are an insignificant burden to FCC licensees. The public file is chiefly composed of documents already on the FCC CDBS or on-hand at the station, but composed in one place for the public benefit. Because of this, these documents could be easily transported to automated online depositories. The FCC could even expedite the task by providing software. An online depository would be an added efficiency for reducing public file preparation time.

Without a public inspection file it would be difficult for the public, FCC, and licensee to analytically gauge whether the station has been serving the local public interest. For this reason, Common Frequency believes the public file is essential for operating in the public interest.

Sincerely,



Todd Urick
Technical Director
Common Frequency

CC: Paperwork Reduction Act Comments Depository, *via email* (PRA@fcc.gov)
Cathy Williams, *via email* (Cathy.Williams@fcc.gov)

⁸ See para. 22, *Report On Broadcast Localism And Notice Of Proposed Rulemaking*, MB Docket No. 04-233 (December 18, 2007).

⁹ *Ibid.*

¹⁰ See page 348, *FCC Report: The Information Needs Of Communities* (June 9, 2011): "the FCC should return to the original purpose of the 'public inspection' rules, which was to allow the 'public' to 'inspect' important information... Fortunately, the Internet allows for this concept to be far more meaningful than in the past. As a general principle, the information already required to be disclosed by broadcasters should be, over time, put online..."