

September 9, 2011

COMMENTS

Lauren A. Colby hereby submits the following Comments in the above matter.

This proceeding involves a proposed extension of the effectiveness of certain FCC rules requiring broadcasters to keep local public inspection files. The undersigned is a practicing communications attorney. I have been practicing for more than 55 years and have many clients. It has been my experience that, whenever a client is visited by someone seeking to review the client's public inspection file, the client invariably calls me and asks me a series of questions, *e.g.*, "Can the visitor be required to give identification?"; Can the visitor demand copies of the materials in the file?", etc. etc. Over the past 40 years in which the public inspection file rule has been in effect, I have received over 50 such calls from clients.

In each one of these instances, it turned out that the person desiring to inspect the file fell into one of three categories: 1) a competitor seeking to find a basis to file a complaint with the FCC; 2) someone with a private dispute seeking to find material to support litigation; or 3) an FCC inspector seeking to find violations of the rule for the purpose of assessing a monetary forfeiture. I have never encountered a single incident in which the person seeking to inspect the file was a mere "concerned listener".

In its Supporting Statement, the Commission acknowledges that requests to see the file are rare, but suggests this may be the case because the existence of the file has not been widely publicized. This argument, however, is simply not correct. The FCC has a plethora of rules requiring the existence of the file to be publicized. Whenever a broadcaster files an application for renewal of license he must broadcast a long string of announcements before and after the filing of the renewal application, publicizing the location of the file and inviting members of the public to inspect the file. Whenever a broadcast station is sold, the seller must broadcast a series of announcements calling attention to the location of the public file. Moreover, in most cases, these advertisements must also be published in a newspaper. The same is true whenever a broadcaster makes a major change in the facilities of a station.

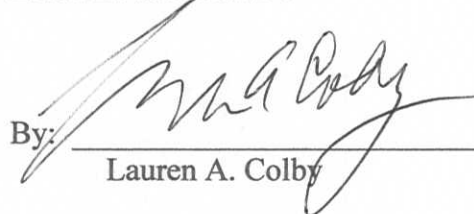
Thus, the FCC's rules provide for multiple notifications of the existence and location of the public file: some broadcast over the air, and others which are also broadcast over the air and published in newspapers. The existence and location of the files should, therefore, be widely known. Nevertheless, I have never encountered a situation in which anybody asked to see the file, who did not fall into one of the three categories mentioned above.

Some controversy appears to exist as to the number of hours required to keep the file. The pertinent rule requires that the file contain quarterly lists of community issues and the programs broadcast to discuss those issues (the Issues Programs List). Some 30 years ago, the

FCC rules were changed to no longer require the keeping of program logs. However, in order to prepare the quarterly Issues Programs List, the keeping of a program log is required. A majority of small radio stations in the U.S. now operate with a staff of three to four people. Keeping a daily program log requires that at least one person be hired to perform that task and to prepare the required lists each quarter. That person may be a minimum wage person, but will be working at least 40 hours per week, *i.e.*, 2080 hours per year. Therefore, I estimate that the number of hours per year required to comply with the public file rule is at least 2080 hours.

If the public file rule was ever relevant, it is no longer relevant today and should be abolished. Information concerning ownership of each broadcast station is published on the FCC's own website. Copies of each significant application are published on the FCC's own website. Nobody ever visits a station to see the public file unless that person already has an axe to grind. The rule is, therefore, obsolete and should be abolished.

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