

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations	)	MM Docket No. 00-168
	)	
Extension of the Filing Requirement For Children's Television Programming Report (FCC Form 398)	)	MM Docket No. 00-44
	)	

**COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS  
ON PROPOSED INFORMATION COLLECTION REQUIREMENTS**

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**COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS  
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The National Association of Broadcasters (“NAB”),<sup>1</sup> by its attorneys, hereby submits these comments concerning the Paperwork Reduction Act (“PRA”) aspects of the Commission’s proposal to replace the existing requirement that commercial and noncommercial television stations maintain a paper public file at their main studios<sup>2</sup> with a requirement to submit documents for inclusion in an online public file hosted on the Commission’s website, and a requirement to maintain a back-up electronic file.<sup>3</sup>

**I. INTRODUCTION AND SUMMARY**

The PRA requires the Commission, prior to modifying its public inspection file rules, to ensure that the new requirements minimize the burdens placed on television broadcast stations

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<sup>1</sup> NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Commission and other federal agencies, and the courts.

<sup>2</sup> 47 C.F.R. §§ 73.3526 and 73.3527.

<sup>3</sup> See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children’s Television Programming Report (FCC Form 398)*, 26 FCC Rcd 15788 (Oct. 27, 2011) (“*Online Public File FNPRM*”); see also Notice of Proposed Rule, 76 Fed. Reg. 72144 (Nov. 22, 2011).

and that such burdens are necessary and useful.<sup>4</sup> To that end, the PRA makes all such information collections subject to approval by the Office of Management and Budget (“OMB”), which will disapprove information collections that do not meet these basic PRA standards.<sup>5</sup> As OMB has counseled agencies, an information collection will not be approved unless it is clearly justified and “[t]he burden on the public [is] completely accounted for and minimized to the extent practicable. . . .”<sup>6</sup>

Prior to submitting an information collection for OMB approval, therefore, federal agencies are required to assess all proposed information collections carefully by evaluating the need for the information collection, providing a “specific, objectively supported estimate of burden,” and considering whether the burden can be reduced.<sup>7</sup> Notably, OMB encourages agencies to test an information collection through a “pilot program,” where appropriate.<sup>8</sup>

The Commission is beginning this evaluation process and estimates a total annual burden of 2,424,866 hours at an annual cost of \$834,978 associated with the new online public file requirements.<sup>9</sup> The Commission has invited “the general public and the [OMB] to comment on the information collection requirements contained” in the *Online Public File FNPRM*.<sup>10</sup> As discussed below, creating a centralized online public file, as the Commission is proposing to do,

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<sup>4</sup> See 44 U.S.C. § 3501.

<sup>5</sup> See Notice of Office of Management and Budget Action, ICR 200804-3060-012 (July 9, 2008) (disapproving FCC cable leased access rule amendments).

<sup>6</sup> See OMB, Office of Information and Regulatory Affairs, “Questions and Answers When Designing Surveys for Information Collections,” at 9 (Jan. 2006), available at [http://www.whitehouse.gov/omb/inforeg/pmc\\_survey\\_guidance\\_2006.pdf](http://www.whitehouse.gov/omb/inforeg/pmc_survey_guidance_2006.pdf).

<sup>7</sup> 5 C.F.R. § 1320.8(a)(1), (4), and (5).

<sup>8</sup> *Id.* § 1320.8(a)(6).

<sup>9</sup> 76 Fed. Reg. at 72145-46.

<sup>10</sup> *Online Public File FNPRM* ¶ 53.

presents serious implementation challenges that, unless carefully managed, can actually increase substantially the public inspection file burdens for television broadcast stations well beyond the Commission's estimates. To that end, and consistent with OMB's guidance regarding the use of pilot programs, NAB urges the Commission to establish with broadcasters a joint working group or similar program to make a full and realistic assessment of whether and how to develop an online public inspection file mechanism that will benefit the public while minimizing the burdens on broadcast stations.<sup>11</sup> In particular, the Commission should not proceed with the inclusion of political files in any online public file, at least until the Commission has fully evaluated, through a working group or similar process, all the associated burdens and costs (including unintended costs) and the degree to which the public would actually benefit from this proposal. The Commission should also reject the proposals to include sponsorship information and shared services agreements<sup>12</sup> in the online public files. Including sponsorship information in the online files will also impose significant burdens on local stations without providing realistic public benefits, and it is simply premature for the Commission to decide whether to include shared services agreements in the public file at all.

## **II. THE COMMISSION SHOULD USE A PILOT PROGRAM OR WORKING GROUP IN ORDER TO DEVELOP A "SPECIFIC, OBJECTIVELY SUPPORTED ESTIMATE OF BURDEN"**

As discussed in its comments on the merits of the *Online Public File NPRM*, NAB agrees that advances in digital and IP technologies make it more feasible to host a significant portion of

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<sup>11</sup> Comments of the National Association of Broadcasters at 29-37 (filed Dec. 22, 2011) ("NAB Comments").

<sup>12</sup> Shared services agreements describe a wide-range of contractual relationships between licensees designed to allow both licensees to realize efficiencies in areas such as administrative and sales support, and some programming arrangements. *Online Public File FNPRM* ¶ 35.

television stations' public inspection files online.<sup>13</sup> The current requirement that stations maintain a local public inspection file, generally as a paper file, is becoming increasingly outdated.<sup>14</sup> Further, the Commission's proposal to house online public inspection files in a central database hosted on the Commission's own website is conceptually a less burdensome approach to posting public files online than that previously proposed in this proceeding.<sup>15</sup>

Nevertheless, even a brief review of the *Online Public File FNPRM* demonstrates that there are significant implementation problems inherent in the Commission's proposal to shift to online public inspection files. These issues must be resolved in order for the Commission to develop a "specific, objectively supported estimate of burden" of the new requirements *before* submitting the information collection for OMB approval.<sup>16</sup>

There can be no doubt that adopting the proposed online public file requirements will impose significant new burdens on local stations. The Commission is proposing to require local stations to: (1) place public inspection files online;<sup>17</sup> (2) post their political files online and maintain the files in real time;<sup>18</sup> (3) maintain letters and emails from the public in a paper file;<sup>19</sup> (4) report all sponsorship identifications in the online public file;<sup>20</sup> (5) post all sharing

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<sup>13</sup> NAB Comments at 3-6.

<sup>14</sup> *Id.*

<sup>15</sup> *See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)*, 23 FCC Rcd 1274, 1277-86 (2007) ("*Enhanced Disclosure Order*").

<sup>16</sup> 5 C.F.R. § 1320.8(a)(4).

<sup>17</sup> *Online Public File FNPRM* ¶¶ 15-19.

<sup>18</sup> *Id.* ¶¶ 20-24.

<sup>19</sup> *Id.* ¶¶ 26-27.

<sup>20</sup> *Id.* ¶¶ 33-34.

agreements, such as local news sharing and shared services agreements, online;<sup>21</sup> and (6) maintain electronic back-up copies of public file items.<sup>22</sup> In short, the Commission would replace the existing paper-based public inspection file with three new, different types of files – an online public file hosted on the Commission’s website, a paper-based inspection file containing public letters and emails, and an electronic back-up file. In addition, the Commission would add entirely new elements to the public file, e.g., detailed sponsorship identification information and shared services agreements.<sup>23</sup>

Despite these self-evident increases in the burden on local stations, the Commission suggests that the proposed online public file requirement “will not be unduly burdensome,”<sup>24</sup> primarily because the Commission will (1) host the online files on its own website,<sup>25</sup> (2) not require broadcasters to post contour maps different from those already available on its website,<sup>26</sup> (3) eliminate the requirement to make “The Public and Broadcasting” manual available in the public files,<sup>27</sup> and (4) not require broadcasters to ensure that the portions of their websites that host the public file are accessible to people with disabilities.<sup>28</sup> While these mitigation efforts are all useful first steps, the fact remains that the Commission’s proposals are not sufficiently

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<sup>21</sup> *Id.* ¶¶ 35.

<sup>22</sup> *Id.* ¶ 18.

<sup>23</sup> *See also id.* ¶ 26 (seeking comment on requiring that the paper public inspection file include a quarterly report on how many letters received from members of the public and potentially a brief description of the letters).

<sup>24</sup> *Id.* ¶ 17.

<sup>25</sup> *Id.* ¶ 16.

<sup>26</sup> *Id.* ¶ 27.

<sup>27</sup> *Id.* ¶ 28.

<sup>28</sup> *Id.* ¶ 21.

detailed such that either the Commission or local stations can develop a “specific, objectively supported estimate of burden” as required by the PRA.<sup>29</sup>

While the Commission may be correct that *parts* of the public file can be uploaded to the Commission’s website with relatively few difficulties, there are significant reasons to believe that the Commission’s overall online public file proposal can be unduly burdensome unless it is carefully designed and managed. For instance, as NAB pointed out in its earlier comments, history suggests that, given the massive amount of data involved, delays and difficulties associated simply with uploading the data onto the Commission’s website should be expected.<sup>30</sup> Further, there are unresolved questions relating to what format will be used for uploading data and how metadata should be treated.<sup>31</sup> The ultimate resolution of these unresolved questions will affect the burdens local stations will bear in complying with any online public file requirement. The Commission, however, has done nothing to account for these potential problem areas.

Moreover, and as discussed below, the record before the Commission provides compelling evidence that the burden associated just with placing the political files online will be much higher than the Commission’s estimates for the new online public file requirements.<sup>32</sup> The

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<sup>29</sup> 5 C.F.R. § 1320.8(a)(4).

<sup>30</sup> NAB Comments at 5; *see also* Comments of Hubbard Broadcasting, Inc. at 2-3 (filed Dec. 21, 2011).

<sup>31</sup> *Online Public File FNPRM ¶¶ 37-38.*

<sup>32</sup> *See generally* NAB Comments at 6-22; Reply Comments of the National Association of Broadcasters at 7-14 (filed Jan. 17, 2012) (“NAB Reply Comments”); Comments of Four Commercial and NCE Television Licensees at 4 (filed Dec. 22, 2011); Joint Comments of Broadcasting Licenses, L.P., *et al.* at 3-7 (filed Dec. 22, 2011) (“Joint TV Broadcasters Comments”); Comments of the Joint Broadcasters at 6-15 (filed Dec. 22, 2011) (“Joint Broadcasters Comments”); Joint Comments of the North Carolina Association of Broadcasters, *et al.* at 8-10 (filed Dec. 22, 2011) (“NCAB, OAB, and VAB Joint Comments”); Joint Reply Comments of the North Carolina Association of Broadcasters, *et al.* at 4-8 (filed Jan. 17, 2012);



Commission's proposals to add sponsorship identification information and shared services agreements to the public inspection file will further exacerbate these burdens and will return little in the way of public benefit.

These facts, taken together, demonstrate that the Commission's conclusion that "requiring broadcasters to upload the required items to their online public files housed on the Commission website will not be unduly burdensome"<sup>33</sup> is not adequately supported, and the Commission underestimates the burden of complying with an online public file requirement significantly. NAB therefore urges the Commission to establish a working group and/or pilot program in order to evaluate carefully all of the many factors that will go into the online public file. It is only through this process that the Commission will be able to develop a "specific, objectively supported estimate of burden" as required by the PRA and OMB's regulations.<sup>34</sup> Indeed, the PRA encourages the use of such "pilot programs" as part of an agency's obligation to minimize the burden of any information collocation,<sup>35</sup> and the Commission has a history of successfully utilizing information-gathering, tests, and pilot programs as a way to improve its decision-making, balance the benefits and burdens of its actions, and avoid unintended consequences.<sup>36</sup>

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Reply Comments of CBS Corporation, ABC Television Stations, Fox Television Stations, Inc., NBC Owned Television Stations and Telemundo Stations, and Univision Television Group, Inc. at 6-12 (filed Jan. 17, 2012) ("Joint Network Station Owners Reply Comments"); Reply Comments of the Joint Television Parties at 3-16 (filed Jan. 17, 2012) ("Joint TV Parties Reply Comments").

<sup>33</sup> *Online Public File FNPRM* ¶ 17.

<sup>34</sup> 5 C.F.R. § 1320.8(a)(4).

<sup>35</sup> *Id.* § 1320.8(a)(6).

<sup>36</sup> NAB Comments at 31-33.

### **III. THE COMMISSION SHOULD TAKE ADDITIONAL STEPS TO MINIMIZE THE BURDENS ON LOCAL STATIONS**

The PRA requires the Commission to ensure that any new online public file requirements are designed to minimize the burdens placed on local stations.<sup>37</sup> The record before the Commission demonstrates that excluding political files from any online public file requirement would very significantly reduce compliance burdens on local stations. Another important means of minimizing the burdens on local stations would be for the Commission to refrain from requiring stations to include additional documents and information in the online public inspection file that are not currently required to be in the paper public inspection file.

#### **A. The Commission Should Not Proceed, At Least At This Time, With Its Proposal To Include Political Files In Any Online Public Inspection File Obligation**

Broadcasters are obligated by federal law to make certain information concerning political ad buys publicly available.<sup>38</sup> The Commission, in turn, requires local stations to place this material in the political file “immediately absent unusual circumstances” and to make that information publicly available for two years.<sup>39</sup> In 2007, the Commission exempted the political file from online posting requirements because it would be unduly burdensome for stations to have to upload political file documents continually into an online public file. As the Commission recognized:

Daily and even more frequent requests for access by political candidates and their campaign personnel, combined with a need for the station to update the file frequently, may make requiring the station to place this material on the Internet inappropriate. . . . Political candidates and campaigns make heavy use of the file and require quick access to material, and if the volume of material is

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<sup>37</sup> 44 U.S.C. § 3501.

<sup>38</sup> 47 U.S.C. § 315(e).

<sup>39</sup> 47 C.F.R. § 73.1943(c).

too great, the station may not be able to update the Internet file quickly enough. Our rules . . . may mean multiple updates each day during peak periods of the election season. . . . While Internet access would obviate the need for physical access to each station and free station personnel from having to assist candidates and their political committees, we conclude that the burden of placing this material on the Internet outweighs the benefits.<sup>40</sup>

The Commission now proposes to reverse this finding on the mere assumption that most political advertising transactions are performed electronically, and thus an online posting requirement would “impose far less of a burden than previously thought.”<sup>41</sup> The record demonstrates conclusively that the Commission’s assumption is wrong – there has been little change in the way political ad buys are conducted since 2007.<sup>42</sup>

As NAB discussed in its earlier comments, essentially any communication to a station about purchasing time for a political message must be reflected in the political files.<sup>43</sup> These communications take place via both email and telephone, and documents are exchanged by email, facsimile, mail, or hand delivery, and often there are multiple communications relating to political ad buys.<sup>44</sup> Thus, while it may be true that broadcasters handle much of their advertising sales electronically, including political ad sales, it is also true that all of the information required

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<sup>40</sup> *Enhanced Disclosure Order*, 23 FCC Rcd at 1282.

<sup>41</sup> *Online Public File FNPRM* ¶ 23 (“Since exempting the political file in 2007, we have learned that the vast majority of television stations handle political advertising transactions electronically, through e-mails and a variety of software applications.”).

<sup>42</sup> See NCAB, OAB, and VAB Joint Comments at 8-10; Joint TV Broadcasters Comments at 4; Joint Broadcasters Comments at 5; Joint Comments of the Named State Broadcasters Associations at 8 (filed Dec. 22, 2011) (“Named State Associations Comments”).

<sup>43</sup> See NAB Comments at 8-15.

<sup>44</sup> *Id.*; see also Joint Network Station Owners Reply Comments at 8; Joint TV Parties Reply Comments at 6-7.

to be included in the political file is *not* electronic and is not easily convertible to a digital format.<sup>45</sup>

Further, as the Joint Broadcasters demonstrated in their earlier comments:

[T]he increased use by stations of computerized traffic management systems to sell and schedule television advertising time will not in any way facilitate compliance with an online political file requirement. . . . The lack of standardization among systems and stations make development of a simple, standardized, and automated process for Commission hosting online political file material impossible today and very difficult to attain in the coming years.<sup>46</sup>

NAB and others have made efforts to test the Commission's assumption that placing the political file online will not be unduly burdensome. While these results are not comprehensive, they nonetheless demonstrate that the Commission has significantly underestimated the applicable reporting burdens.

- Using the 2008 and 2010 election cycles as a base line, Stations WJZY(TV), Belmont, NC and WMYT(TV), Rock Hill, SC estimate that maintaining an online political file would have approximately doubled the total staff time needed to handle political spots.<sup>47</sup> The stations also state that they would have to hire approximately eight more sales personnel on at least a seasonal basis to handle the increased workload associated with an online political file at a cost of nearly \$80,000 during the political window.<sup>48</sup>
- Station WOOD-TV, Grand Rapids, MI, reports that, during the 2010 election cycle, the station received 222 political orders and that the tasks associated just

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<sup>45</sup> NAB Comments at 14, 18-19; NCAB, OAB, and VAB Joint Comments at 9-10; Joint TV Parties Reply Comments at 9.

<sup>46</sup> Joint Broadcasters Comments at 7; *see also id.*, Appendix B, Declaration of Stephanie Helsley, Corporate Director of Traffic, Allbritton Communications Company (demonstrating how traffic management systems differ, how identical systems can be used differently by different stations, and the challenges of modifying electronic systems to be compatible with a Commission online political file).

<sup>47</sup> *See* NAB Comments, Attachment C, Declaration of Chris Wolf, Director of Programming and Creative Services (“Wolf Decl.”).

<sup>48</sup> *Id.* ¶ 15.

with placing the post-airing reports online, excluding orders and all other political file material, would have required an additional 37 hours of staff time.<sup>49</sup>

- Media General Broadcast Group estimates that scanning, saving, and uploading political sale orders alone, and in a non-Presidential election year, would require approximately 4,800 hours of staff time across the Group's 18 stations.<sup>50</sup>
- Hearst Television Inc. states that the Commission's proposals to require political files and sponsorship information to be posted online will result in average costs to stations ranging from \$30,000 to \$120,000-\$140,000 per station per year.<sup>51</sup> Hearst also states that it would need to hire an additional employee to handle political file compliance.<sup>52</sup>

In addition, one station has estimated that converting its *existing* paper political file to digital files and uploading those alone could take a minimum of 270 hours.<sup>53</sup> Assuming that the person responsible for scanning and uploading the files is paid \$25 per hour,<sup>54</sup> this represents a new cost of \$6,750 for one station to process and upload its existing political files alone. Multiplying this figure by 2,264 (the total number of commercial, non-commercial, and Class A television stations)<sup>55</sup> suggests that the total burden of uploading *existing* political files could be over \$15 million or more across the industry. This figure does not take into account the

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<sup>49</sup> See NAB Comments, Attachment B, Declaration of Fred Corbus, General Sales Manager.

<sup>50</sup> See Joint Broadcasters Comments, Appendix C, Declaration of Elizabeth Hicks, General Manager of Central Traffic Operations, Media General Broadcast Group.

<sup>51</sup> See Named State Associations Comments at 6 (quoting Letter from Mark Prak, Counsel for Hearst Television Inc. to Marlene H. Dortch, Secretary, FCC, MM Docket Nos. 00-168 (filed Dec. 13, 2011) ("Hearst Letter").

<sup>52</sup> *Id.*

<sup>53</sup> NAB Comments at 19 (citing Declaration of Jack N. Goodman, Esq. at ¶ 7). This 270-hour figure is conservative; it assumes no delays in the FCC's system and no additional time for ensuring that political file documents are placed in the correct subfolders. *Id.*

<sup>54</sup> See Wolf Decl. at ¶ 15.

<sup>55</sup> News Release, "Broadcast Station Totals as of December 31, 2011" (Jan. 6, 2012), available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Digest/2012/dd120106.html](http://transition.fcc.gov/Daily_Releases/Daily_Digest/2012/dd120106.html).

extensive personnel and other station resources that would be required to maintain the political files on an ongoing basis, particularly in a busy political year.

In short, the record before the Commission demonstrates that including the political files alone in the online public inspection file would be extraordinarily burdensome and would substantially exceed the Commission's current burden estimate. The Commission should not proceed with inclusion of political files in online public files, at least until it has fully and realistically assessed, preferably through a working group or pilot program, all associated costs and burdens, potential marketplace distortions, and the degree to which the public would actually benefit from this proposal.<sup>56</sup>

**B. The Commission Should Not Require Local Stations to Include Additional Documents and Information in any Online Public Inspection File**

The Commission proposes new rules that would require television stations to include a list of all sponsors contained within their programming, and a separate list of all shared services agreements, and other contracts with other stations.<sup>57</sup> The PRA's directive to minimize the burden of any information collection militates against the Commission adopting either proposal. The PRA instructs the Commission to weigh carefully the need for an information collection against the burdens of the collection.<sup>58</sup> The Commission's proposals, however, would necessarily increase the burden on local stations while providing little or no corresponding

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<sup>56</sup> See NAB Comments at 6-22; NAB Reply Comments at 7-21.

<sup>57</sup> *Online Public File FNPRM ¶¶ 33-35.*

<sup>58</sup> 44 U.S.C. § 3501(1) and (2) (“The purposes of this subchapter are to – (1) minimize the paperwork burden . . . resulting from the collection of information by or for the Federal Government; (2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government. . . .”); 5 C.F.R. § 1320.8(a)(1) (An agency’s PRA review “shall include: (1) [a]n evaluation of the need for the collection of information. . . .”).

benefit to the viewing public. The Commission should decline to require local stations to add these new materials and documents to any online public inspection file.

**1. There is no clear public benefit from including sponsorship information in an online public inspection file**

Under existing rules, broadcasters must identify the sponsors of any sponsored programming (exclusive of obvious commercials) *during* the program, by identifying the sponsors and stating that the program was “sponsored, paid for, or furnished, either in whole or in part” by the listed sponsors.<sup>59</sup> Consistent with the Communications Act of 1934, as amended,<sup>60</sup> this is a sensible and unobtrusive way to provide viewers with information about entities who are sponsoring the material they are watching. Now, at the apparent recommendation of “Commission staff, scholars and consultants,”<sup>61</sup> the Commission proposes to require local stations to include a list of all sponsors in their online public inspection file.

While the parameters of this new proposal are as yet undefined, it is beyond doubt that it would result in additional reporting burdens on local stations. It is a new requirement altogether and disclosing sponsorship information during a broadcast is an entirely different task from cataloging and maintaining a list of sponsors for inclusion in an online public inspection file.<sup>62</sup> The Commission’s proposal also appears to require local stations to list sponsors for programming provided by others, which would require stations not only to monitor sponsorship identification in its station-produced programming but to watch all syndicated and network

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<sup>59</sup> 47 C.F.R. § 73.1212(a).

<sup>60</sup> 47 U.S.C. § 317.

<sup>61</sup> *Online Public File FNPRM* ¶ 5.

<sup>62</sup> *See generally* Joint TV Broadcasters Comments at 10-11; Named State Associations Comments at 12; Joint Broadcasters Comments at 17; Joint Network Station Owners Reply Comments at 17-18.

programming they broadcast to collect a list of sponsors.<sup>63</sup> Indeed, as noted above, Hearst has estimated that compliance with this proposal and the political file proposal would require it “to hire at least one new full-time equivalent employee and perhaps as many as four new employees per station – in the worst case scenario, one employee to handle political file compliance and three others to ensure compliance with the sponsorship identification proposal.”<sup>64</sup>

In addition, there is no clear evidence that posting a list of sponsors online will provide significant public benefit. First, posting a sponsor list online would be duplicative on multiple levels – an online list would duplicate information local stations already broadcast when the programming aired, and hundreds of stations would be forced to report online the exact same sponsors for the very same nationally distributed programming. Second, viewers who are interested in who is sponsoring a program they are watching can easily find the answer while they are watching the program. In fact, it seems unlikely that viewers would find it convenient to go onto the FCC’s website later to find the public file of the particular stations they were earlier watching and hunt for sponsorship information relating to previously aired programs. The Commission should not be in the business of imposing regulatory burdens merely to assist “scholars and consultants.”<sup>65</sup>

Third, the concerns raised in the “The Information Needs of Communities” report (“*INC Report*”) about “pay-for-play” sponsorship in news do not justify imposing additional sponsorship disclosure obligations on local stations.<sup>66</sup> NAB does not dispute that stations should

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<sup>63</sup> See NAB Comments at 27-28; NCAB, OAB, and VAB Comments at 17-18; Joint Network Station Owners Reply Comments at 17; Joint TV Parties Reply Comments at 17.

<sup>64</sup> NAB Comments at n.36 (quoting Hearst Letter).

<sup>65</sup> *Online Public File FNPRM* ¶ 5.

<sup>66</sup> *Id.*



be required to identify sponsors of news programming.<sup>67</sup> The anecdotes cited in the *INC Report*, however, do not demonstrate a wholesale failure of the Commission's sponsorship identification rules. There is no substantial evidence to show that effective application and enforcement of the Commission's existing rules is insufficient to ensure that viewers are informed of "by whom they are being persuaded."<sup>68</sup> The Commission should decline to require local stations to post sponsorships lists in any online public inspection file.

**2. It is premature for the Commission to decide whether shared services agreements should be included in an online public inspection file**

Broadcasters are currently required to include copies of time brokerage and joint sales agreements in the public inspection files, but not copies of shared services agreements.<sup>69</sup> The Commission now proposes to change that by requiring stations to include shared services agreements in any online public inspection file.<sup>70</sup> As with the proposal to post sponsorship lists online, this proposal would increase local stations' reporting burdens by increasing the amount of information and material that must be included in the online public inspection file. Moreover, shared services agreements are private contracts which, in many instances, do not relate to broadcast content at all<sup>71</sup> and there is little evidence to suggest that making such private contracts open to public inspection will serve the public interest.<sup>72</sup> NAB therefore urges the Commission

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<sup>67</sup> See NAB Comments at 25.

<sup>68</sup> *Applicability of Sponsorship Identification Rules*, 40 FCC 141 (1963).

<sup>69</sup> 47 C.F.R. § 73.3526(e)(14) and (e)(16).

<sup>70</sup> *Online Public File FNPRM* ¶ 35.

<sup>71</sup> Joint TV Broadcast Comments at 11-12.

<sup>72</sup> NAB Comments at 28-29; Joint Broadcasters Comments at 20-21; Joint TV Broadcast Comments at 11-12.

to decide whether or to what extent shared services agreements should be publically disclosed in a separate proceeding.

#### **IV. CONCLUSION**

As detailed above, the Commission does not yet have the information necessary to conclude that its current proposals for an online public inspection file “minimize the burden” on local stations as required by the PRA. Certainly the Commission’s current burden estimate is very low, especially in light of the information presented by numerous commenters. The Commission should, therefore, consistent with OMB’s rules, establish a working group or other similar “pilot program” to test its online public file proposals in order to develop a “specific, objectively supported estimate of burden,” as required by OMB.<sup>73</sup> In particular, the extensive burdens and costs on local stations associated with an online political file requirement must be thoroughly and realistically assessed, through a working group or similar program, before the Commission can determine whether and how to proceed. The Commission also should take

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<sup>73</sup> 5 C.F.R. § 1320.8(a)(4) and (6).

steps to minimize the potential reporting burden on local stations by declining to require stations to include sponsorship lists and shared services agreements in any online public inspection file.

Respectfully submitted,

**NATIONAL ASSOCIATION OF BROADCASTERS**

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