

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

In the Matter of	)	
	)	
Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications	)	MB Docket No. 17-264
	)	
Modernization of Media Regulation Initiative	)	MB Docket No. 17-105
	)	
Revision of the Public Notice Requirements of Section 73.3580	)	MB Docket No. 05-6
	)	

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

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**COMMENTS OF THE  
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**I. INTRODUCTION AND SUMMARY**

The National Association of Broadcasters (NAB)<sup>1</sup> hereby files comments in response to the Further Notice of Proposed Rulemaking in the above-referenced proceedings.<sup>2</sup> NAB generally supports the Commission's proposed modernization of its rules governing public notice of the filing of applications. With a minor modification to the online notice requirement, the proposed new rules will better effectuate the statutory requirement for applicants to notify the public of pending applications and will reduce costs to both the public and applicants. NAB urges the Commission to avoid expanding the proposed online or on-air notice texts to provide additional information that is readily available upon review of the application or the applicant's public file. Finally, the Commission should not mandate text crawls or social media/mobile app activity concerning pending applications. Such

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

<sup>2</sup> Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications, FCC No. 19-97, MB Docket Nos. 17-264, 17-105, and 05-6 (rel. Sept. 26, 2019) (Notice).

requirements would interfere with broadcasters' editorial discretion, impede innovation on new platforms and raise First Amendment issues.

## II. THE COMMISSION SHOULD REPLACE NEWSPAPER NOTICE OF APPLICATION FILINGS WITH A COMPARABLE FORM OF ONLINE NOTICE

### A. Transitioning from Newspaper to Online Notice Reduces Burdens and Provides More Effective Notice to the Public

NAB agrees with the Commission that placing written notice of application filings in the newspaper is costly to applicants, offers only intermittent notice to the public, and provides limited information about the application.<sup>3</sup> By contrast, the Commission's proposal would reduce costs to applicants, would appear continuously for a longer period of time, and would connect the public directly to the application itself.<sup>4</sup> Because of these factors, the proposed rule will better effectuate the statutory requirement that applicants provide notice to the public.<sup>5</sup> Moreover, transitioning the application notice requirement online is consistent with a well-established trend of modernizing and transitioning various forms of print notice and/or disclosure to electronic means.<sup>6</sup>

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<sup>3</sup> Notice at ¶ 5.

<sup>4</sup> Notice at ¶ 5, 10-13.

<sup>5</sup> 47 U.S.C. § 311(a)(1)(applicants "shall give notice [of the filing of certain applications] in the principal area which is served or is to be served by the station"); Notice at ¶ 7 (seeking comment on whether the proposed rules satisfy the statutory notice requirement).

<sup>6</sup> For example, licensees in the broadcast and other services are now required to maintain their public files online; disclosures associated with broadcast contests are now placed online; stations elect mandatory carriage or retransmission consent by placing notices in their online public files. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535 (2012) (updating FCC rules to require television stations to place their public files online); *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526 (2016) (adopting online public file requirements for cable, satellite and radio); *Amendment of Section 73.1216 of the Commission's Rules Related to Broadcast Licensee-Conducted*

As discussed in the Notice and by multiple commenters, placing notices in print newspapers is costly to applicants and the public.<sup>7</sup> The Commission has estimated that total annual burden of placing notices in the newspaper just for the filing of assignments and transfers of control is more than \$1.8 million.<sup>8</sup> Online notice completely eliminates costs to consumers, and would generally eliminate costs to stations except in the limited circumstance that the station must pay to post its notices on a third-party site.

As the Commission and several commenters have observed, one of the reasons online notice will be more effective than newspaper notice is the rise of Internet usage and concomitant decline of newspapers. Approximately 90 percent of American adults use the Internet, up from 76 percent ten years ago.<sup>9</sup> More than one-fourth of all American adults and 48 percent of young adults (ages 18-29) report they are “almost constantly” online.<sup>10</sup> With the rise of the internet and digital media, the newspaper industry has faced and continues to face tremendous difficulty attracting readers and advertisers, with many print newspapers shifting to online publication only and others ceasing operations entirely. For example, from 1975 to 2018, estimated newspaper circulation declined by 40 percent on

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*Contests*, Report and Order, 30 FCC Rcd 10468 (2015); *Electronic Delivery of MVPD Communications*, 34 FCC Rcd 592 (2019)(modernizing carriage election process).

<sup>7</sup> Notice at ¶¶ 11-12 (citing MMTC Comments at 1-2; Meredith Comments at 2; NAB Reply Comments at 5).

<sup>8</sup> *Id.* at ¶ 12 (citing information collection burden estimates).

<sup>9</sup> Pew Research Center, Internet and Technology, *Internet/Broadband Fact Sheet*, available at: <https://www.pewinternet.org/fact-sheet/internet-broadband/> (Jun. 12, 2019). See also Notice at ¶ 13 (Pew data show that Internet usage has increased or remained constant every year since 2000).

<sup>10</sup> Andrew Perrin and Madhu Kumar, Pew Research Center, *About three-in-ten U.S. adults say they are ‘almost constantly’ online* (Jul. 25, 2019).

Sundays and 53 percent on weekdays.<sup>11</sup> During that same time period, the United States population increased by more than fifty percent from 216 million to 327 million.<sup>12</sup> Not only are there fewer newspaper readers, there also are fewer papers. The United States has lost almost 1,800 papers since 2004, including more than 60 dailies and 1,700 weeklies.<sup>13</sup> Advertising revenues have dropped precipitously, from a high of \$48.7 billion in 2000 to just \$14.3 million (estimated) in 2018.<sup>14</sup> Yet another indicator of the challenges faced by the newspaper industry are dramatic reductions in the numbers of newspaper newsroom employees and other staff.<sup>15</sup> Continuing to require newspaper notices of application filings at a time when there are year-over-year declines in both the number of newspaper readers

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<sup>11</sup> Pew Research Center, Journalism and Media, *Newspapers Fact Sheet*, available at: <https://www.journalism.org/fact-sheet/newspapers/> (Jul. 9, 2019)(weekday circulation dropped from 60,655,000 in 1975 to 28,554,137 in 2018 and Sunday circulation dropped from 51,096,000 to 30,817,351 in 2018). The chart includes published circulation data from 1975-2014 and estimated data from 2015-2018. Even examining only the more recent data, newspapers lost one-fourth of their circulation just since 2015.

<sup>12</sup> United States Census Bureau, Historical National Population Estimates: July 1, 1900 to July 1, 1999 <https://www.census.gov/population/estimates/nation/popclockest.txt>; United States Census Bureau, U.S. and World Population Clock, available at: <https://www.census.gov/popclock/> (U.S. population as of July 1, 2018 was 327,167,434).

<sup>13</sup> Penelope Muse Abernathy, UNC School of Media and Journalism, Center for Innovation and Sustainability in Local Media, *The Expanding News Desert*, available at: [https://www.cislm.org/wp-content/uploads/2018/10/The-Expanding-News-Desert-10\\_14-Web.pdf](https://www.cislm.org/wp-content/uploads/2018/10/The-Expanding-News-Desert-10_14-Web.pdf) (2018) at 12. Roughly half of the remaining 7,112 in the country – 1,283 dailies and 5,829 weeklies – are located in small and rural communities. The vast majority – around 5,500 – have a circulation of less than 15,000. *Id.* at 10.

<sup>14</sup> Pew Research Center, Journalism and Media, *Newspapers Fact Sheet*, available at: <https://www.journalism.org/fact-sheet/newspapers/> (Jul. 9, 2019).

<sup>15</sup> Elizabeth Grieco, Pew Research Center, *About a quarter of large U.S. newspapers laid off staff in 2018* (Aug. 1, 2019)(27 percent of newspapers with a circulation over 50,000 laid off staff in 2018; nearly a third of those experienced more than one round of layoffs); Elizabeth Grieco, Pew Research Center, *U.S. newsroom employment has dropped by a quarter since 2008, with greatest decline at newspapers* (July 9, 2019)(the number of newspaper newsroom employees plummeted 47 percent from 71,000 in 2008 to just 38,000 in 2018; during that period, broadcast television newsroom employment grew slightly and digital native newsroom employment increased 82 percent).

and the number of newspapers available to the public would reduce opportunities for the public to learn of pending applications. Given the downward trends in newspaper readership and availability, an applicant's statutory obligation to provide notice of application filings will be better satisfied by online notice than newspaper notice.<sup>16</sup>

NAB also agrees that the Commission's public notice requirements should be focused on directing viewers and listeners to actual applications, rather than ensuring that the public has information sufficient to determine "whether to expend the (sometimes considerable) effort required to review an actual application."<sup>17</sup> As the Commission observes, the current application notice rules were written at a time when audiences would have had to visit a station's public file at its main studio during business hours and obtain copies of application documents.<sup>18</sup> Today, however, because of the transition to mandatory electronic filing of applications and online public inspection file requirements, a station's viewers or listeners are virtually always seconds away from accessing actual filed applications at any time, day or night.

#### **B. NAB Supports the Commission's Online Notice Proposal, With a Minor Modification**

Below, NAB discusses specific aspects of the Commission's online notice proposal and proposes with a few modifications to make the requirement more consistent with consumer expectations and general website design.

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<sup>16</sup> 47 U.S.C. § 311(a)(1)(applicants "shall give notice [of the filing of certain applications] in the principal area which is served or is to be served by the station"); Notice at ¶ 7 (seeking comment on whether the proposed rules satisfy the statutory notice requirement).

<sup>17</sup> Notice at ¶¶ 14-16.

<sup>18</sup> Notice at ¶¶ 15-16.

**Online Notice Text and Timing.** The content of the proposed online notice text is consistent with the Commission’s goal of directing viewers and listeners to pending applications.<sup>19</sup> It is not necessary or appropriate for the notice to include additional material in the notice that will be apparent from reviewing the application and/or the station’s online public file.<sup>20</sup> A level of detail intended to allow consumers to determine whether to devote time and resources to physically visiting a station’s main studios to obtain copies of pending applications is not necessary or appropriate in today’s environment, where a member of the public is merely deciding whether or not to click a link to review an application.

NAB does not oppose the Commission’s proposal that online notices appear for 30 days, commencing within five days of (but no earlier than) the release date of the FCC’s public notice of the application’s acceptance for filing.<sup>21</sup> We note the proposed timing for posting of the online notice—which in most instances would be posted 24 hours per day, seven days per week, for thirty days—offers the public substantially more access to the notice than the current rule and, again, better effectuates the statutory notice requirement. NAB also supports the Commission’s proposal to allow a reduced online posting schedule for applicants that must rely on a third-party website to publish their online notices.<sup>22</sup>

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<sup>19</sup> Notice at ¶ 20. To make the notice text slightly shorter without detracting from its meaning, the Commission could consider allowing applicants to use “FCC” rather than “Federal Communications Commission.”

<sup>20</sup> Accordingly, the Commission should not modify its proposed online notice text to require applicants to include a statement of the purpose of the application, name the controlling shareholder of a licensee, or state whether an applicant is seeking a waiver of the Commission’s rules. Notice at ¶ 20. The “purpose” of the application also will be apparent to from the requirement to reference the “type of application” in the online notice.

<sup>21</sup> Notice at ¶ 21.

<sup>22</sup> Notice at ¶ 21 (proposing that applicants relying on third party sites post their notices for 24 hours, once per week, for four consecutive weeks, commencing within five days of the release of the relevant public notice).



**Sites for Posting Online Notice.** NAB agrees with the proposal that an applicant place online notice on its own website or one as closely affiliated with the station as possible, since this would be the most likely place for their viewers and listeners to access more information about the station.<sup>23</sup> NAB does not object to the proposals that the website where an online notice is placed be publicly accessible<sup>24</sup> or that text of the notice be apparent to the average user (with a reasonably large font in a contrasting color from the background).<sup>25</sup> However, NAB is concerned about the proposal that the full text of the online notice be conspicuously posted on a station website's home page.<sup>26</sup> As discussed further below, this proposal would be inconsistent with well-established standards for website design and user expectations and would detract from important editorial content on station home pages and the user experience. Accordingly, the Commission should permit applicants to create a link labeled "Pending FCC Applications" that takes users to the online notice text.

The proposed text of the online notice is approximately 40 words long (and potentially longer depending on the length of the licensee name, community of license, and type of application). Website home pages are generally designed to have a variety of briefly worded menus, tabs, headlines, and attractive visual elements, but web designers eschew lengthy text blocks on home pages. Copy on any home page is typically less than 15 words, because of the nature of web surfing. Multiple studies have shown that a significant

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<sup>23</sup> Notice at ¶¶ 18-19 (proposing that online notice be posted on the station's website, if it has one; the licensee's website, if the station does not have a website; the licensee's parent entity if the licensee does not have a website; or a locally targeted third-party site if none of these options are available).

<sup>24</sup> Notice at ¶¶ 18, 19 (proposing to apply this standard to both applicant-affiliated and third-party sites).

<sup>25</sup> Notice at ¶ 18.

<sup>26</sup> Notice at ¶ 18.

percentage of web users are “scanners” and not “readers,” in that they typically scan web pages for words, topics and themes that interest them, rather than reading all of the text on a page.<sup>27</sup> As a result, websites and social media platforms are designed in a way to facilitate scanning, rather than reading. Adding a lengthy block of text to a station’s homepage is likely to yield minimal engagement.

Reviewing the FCC’s website home page, for example, there are six or seven tab options at the top (each 1-2 words long), five headlines on the left (each 5-8 words long), and right of center, a featured topic with a visual element and four words. Further down the page are blog headlines with a few words of “teaser” text (approximately 10-12 words).<sup>28</sup> As with virtually all websites, the FCC’s home page displays various disclosures and notices at the bottom of its home page using link labels—not the full text of each notice—which is the

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<sup>27</sup> See, e.g., Kara Pernice, Nielsen Norman Group, *Text Scanning Patterns: Eyetracking Evidence*, available at: <https://www.nngroup.com/articles/text-scanning-patterns-eyetracking/> (Aug. 25, 2019) (“On the web, people don’t read every word on a page; instead, they scan. They naturally attempt to be efficient and put in the least possible work for achieving their goal. They have learned that scanning can deliver almost the same amount of information as reading, but with significant less time and effort”); *8 Powerful Takeaways from Eyetracking Studies*, Quicksprout, available at: <https://www.quicksprout.com/eye-tracking-studies/> (April 1, 2014) (eyetracking study confirms that websites should break content “into short paragraphs, provide headings, use bullets, and create numbered lists” because web users “can’t easily absorb massive blocks of text.”); Dan Farber, *Eyetracking Web Usability*, ZDNet, available at: <https://www.zdnet.com/article/eye-tracking-web-usability/> (March 27, 2006) (quoting Jakob Nielsen, author of multiple eyetracking studies, explaining that: “. . . peoples' eyes flitter fast across pages. Very little time is allocated to each page element, so you have to be brief and concise in communicating online.”). See also Jakob Nielsen, Nielsen Norman Group, *How Users Read on the Web*, available at: <https://www.nngroup.com/articles/how-users-read-on-the-web/> (Sept. 30, 1997); Jakob Nielsen, Nielsen Norman Group, *Why Web Users Scan Instead of Reading*, available at: <https://www.nngroup.com/articles/why-web-users-scan-instead-reading/> (Sept. 30, 1997).

<sup>28</sup> See Exhibit A, Screengrab of FCC Website on October 29, 2019.

location and format most website users have come to expect for this sort of information.<sup>29</sup>

On multiple visits to the FCC's home page, NAB could not identify any block of text as long as the proposed online notice for application filings.<sup>30</sup>

Just as the FCC's home page is designed to highlight important recent decisions and upcoming events, station home pages are designed to draw audiences' attention to news and/or public affairs coverage. The content typically consists of large photographs, embedded video (for television stations), live-streamed audio (for radio stations) and headlines with very brief introductory copy (usually no more than 10-15 words), intended to drive the user to click on a link to learn more. Station website users are accustomed to finding notices such as station privacy policies, required FCC notices and copyright notices at the bottom of the website's home page—where the station provides links to the full text of the relevant notices (not the full notice).

A station's home page is the "beachfront property" of its website, filled with editorial content the station deems relevant to the needs and interests of its local community. Occupying home page "real estate" with lengthy notices would reduce the amount of space stations have to highlight stories and events of interest to their viewers and listeners, present notices in a manner that users will find unfamiliar and unexpected, and inexplicably elevate application notices from the "legal notice" sections of newspapers (where they currently reside) to the digital equivalent of "front page above the fold" status. Placement on the home page also would consume valuable space that stations need to offer advertising

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<sup>29</sup> See Exhibit A, Screenshot of FCC Website on October 29, 2019. On the FCC's site, these include disclosures such as: "Website Policies & Notices," "Privacy Policy," "FOIA," "No Fear Act Data," and "Plain Writing Act."

<sup>30</sup> See Exhibit A, Screenshot of FCC Website on October 29, 2019.

content to help support their continued investment in news and entertainment programming. Finally, many stations would incur costs associated with modifying their websites to accommodate these large blocks of text.<sup>31</sup> Rather than requiring lengthy online notices that are likely to confuse station website users and detract from their user experiences on station sites, NAB urges the Commission to allow stations to provide online notices using a link labeled “Pending FCC Applications” (or other appropriate label) that may appear together with other links to notices and disclosures commonly found on website home pages.<sup>32</sup>

### **III. STREAMLINING ON-AIR ANNOUNCEMENTS CONCERNING APPLICATIONS WILL BETTER INFORM THE PUBLIC**

The Commission proposes to continue requiring on-air announcements for those applicants currently required to make such announcements, but to standardize and simplify the requirements.<sup>33</sup> NAB supports the proposed rule revisions. The proposed modernization would eliminate the current patchwork of different on-air notifications depending upon the applicant, broadcast service or application type, simplifying compliance. At the same time, it will point viewers and listeners directly to pending applications, thereby offering more complete information to the public about the applications than the current rules. By

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<sup>31</sup> Most station websites are built using a content management system (CMS) which is comprised of content “containers” for the station to use to keep their audiences informed of the latest news, programming and information. Many stations do not have in-house technical resources to adjust the CMS to add a custom block of text that does not fit into their existing editorial categories and content hierarchy. Those stations would need to hire a developer to create a space on the homepage that accommodates the requisite notice.

<sup>32</sup> This approach will be particularly helpful for situations where a station, licensee or parent company must provide notice concerning more than one pending application at the same time.

<sup>33</sup> Notice at ¶¶ 25-30.

connecting viewers and listeners more directly to pending applications, this approach will better inform the public and better effectuate the statutory notice requirement.<sup>34</sup>

**Number and Timing of On-Air Announcements.** NAB supports the Commission's proposal that applicants air announcements once per week for four consecutive weeks, commencing within five days of (but no earlier than) the release of the public notice announcing that the application has been accepted for filing.<sup>35</sup> Although this eliminates the pre-filing announcement requirement associated with license renewal applications, NAB agrees that the longer lead times under the current notice requirements are no longer necessary. Such timing may have been appropriate in an era where access to public notices of application filings and applications required visiting a station's main studio and pleadings responding to applications had to be typed and mailed or hand-delivered to the Commission's headquarters.<sup>36</sup> In an era of instantaneous 24/7 access to applications and public notices and the ability to electronically draft, edit and file responsive pleadings, however, such long lead times are no longer necessary to enable members of the public to participate in the license renewal process.<sup>37</sup> NAB also supports the proposal that the announcements air on any weekday between the hours of 7:00 AM and 11:00 PM, which will significantly simplify the rule and provide broadcasters with greater flexibility on the

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<sup>34</sup> 47 U.S.C. § 311(a)(1)(applicants "shall give notice [of the filing of certain applications] in the principal area which is served or is to be served by the station"); Notice at ¶ 7 (seeking comment on whether the proposed rules satisfy the statutory notice requirement).

<sup>35</sup> Notice at ¶ 27.

<sup>36</sup> Notice at ¶ 27 (observing that the pre-filing renewal announcement requirement was adopted in 1969).

<sup>37</sup> Notice at ¶ 27.

timing of the announcements, while still ensuring that the announcements will be seen and heard by audiences.<sup>38</sup>

**On-Air Announcement Scripts, Visual Display and Social Media/Apps.** NAB believes the proposed on-air announcement script appropriately balances the Commission's interest in streamlining the announcement and informing the public of pending applications and how to access them.<sup>39</sup> As with the online notice text, NAB urges the Commission to resist any calls to add more information to the on-air announcement, particularly where such information that will be readily apparent to anyone accessing the application.<sup>40</sup> This would unduly lengthen the announcement, which is not only burdensome to applicants but likely to detract from the informational value of the announcement and confuse viewers and listeners.<sup>41</sup>

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<sup>38</sup> Notice at ¶ 28.

<sup>39</sup> Notice at ¶ 29.

<sup>40</sup> Notice at ¶ 29 (seeking comment on whether to add information to the on-air announcement, such as whether an applicant is seeking a rule waiver).

<sup>41</sup> Research on advertising and communication recognizes the limits of a consumer's ability to process information. See, e.g. Murray N.M. et al., *Public Policy Relating to Consumer Comprehension of Television Commercials: A Review and Some Empirical Results*, 16 J. Consumer Pol'y 145, 155, 160-161, 164-165 (1993) (demonstrating that the number of words in a disclosure is negatively correlated with comprehension and that lack of viewer opportunity to process information disclosed in television advertising can contribute to reduction in comprehension); Murphy, J. & Richards, J., *Investigation of the Effects of Disclosure Statements in Rental Car Advertisements*, 26 J. Consumer Aff. 351, 355-356 (1992) (finding that if the amount of information presented exceeds consumers' ability to process it, the quality of consumer decision-making may be negatively affected). Murphy and Richards further state that "[a]lthough any efforts by regulators to facilitate informed decision-making may be laudable, failure to ensure that the chosen method of presentation is appropriate for consumer use can make those regulations worthless or even detrimental to consumer interests. If consumers are unable to understand or recall the information in the legally mandated form another disclosure technique...may be more efficacious." *Id.* at 373.

NAB also does not object to the requirement that television stations display the full text of the on-air announcement along with the spoken text of the announcement.<sup>42</sup> However, NAB opposes any additional requirement to display text crawls concerning pending applications over television programming.<sup>43</sup> The display of text crawls has been mandated in very few situations, all of which relate to educating consumers about critical issues such as potential loss of their television service (e.g., the DTV transition; an incentive auction-related relinquishment of license or repack) or access to emergency information.<sup>44</sup> Stations use crawls and other visual overlays to convey critical news, weather and emergency information, other information stations deem particularly relevant to viewers, and information required by certain FCC rules. Stations apply their editorial discretion and use crawls selectively because excessive use of crawls can frustrate viewers and overload them with information. A requirement that stations use crawls in addition to the on-air announcement also would place undue burdens on broadcasters' speech.<sup>45</sup> For these

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<sup>42</sup> Notice at ¶ 30.

<sup>43</sup> Notice at ¶ 30.

<sup>44</sup> See, e.g., *DTV Consumer Education Initiative*, 23 FCC Rcd 4134 (2008) (mandating a combination of crawls and other educational efforts to ensure that consumers continue to have access to over-the-air television); 47 C.F.R. § 11.51(d), (g)(3) (h)(3), (j)(2) (rules governing accessibility of EAS alerts); 47 C.F.R. § 73.3700(c) (requiring certain viewer notifications via announcements or crawls).

<sup>45</sup> It is well settled that “[j]ust as the First Amendment may prevent the government from prohibiting speech, the Amendment may prevent the government from compelling individuals to express certain views.” *United States v. United Foods, Inc.*, 533 U.S. 405, 410 (2001); *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 797 (1988) (noting that the First Amendment protects “the decision of both what to say and what not to say”). These protections extend both to compelled statements of opinion and compelled statements of fact: “either form of compulsion burdens protected speech.” *Riley*, 487 U.S. at 798-99. Although the Commission has previously imposed crawl requirements in the context of potential loss of broadcast service and access to emergency information, its crawl requirements remain untested, and access to information on pending applications does not rise to the same level of public importance as the other crawl requirements. Accordingly,

reasons, NAB urges the Commission to limit the visual component of the on-air announcement to a textual display of the announcement while the announcement is spoken on air.

Similarly, NAB believes that it is not necessary or appropriate to require stations to share information about application filings via social media or apps.<sup>46</sup> These platforms are quickly evolving, and broadcasters are constantly experimenting with the best ways to engage with their audiences in what is still a relatively new way. The popularity of the platforms changes rapidly, as do user expectations and styles of communication. The extent of broadcasters' experience with social media and apps varies greatly, with some having a longstanding presence on multiple platforms and others having more recently launched a social media presence or mobile app.<sup>47</sup> In this fast-changing environment, rules requiring

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NAB urges the Commission to avoid the potential constitutional issues associated with mandating crawls in this context.

<sup>46</sup> Notice at ¶ 7 (seeking comment on whether to “allow or require other means of public outreach, for example, social media accounts or mobile apps, as means of providing local public notice”).

<sup>47</sup> Many—but not all—radio stations now engage with listeners via social media (93.5 percent have a Facebook page; 69.5% use Twitter). Bob Papper, 2019 RTDNA/Hofstra University Newsroom Study, *What's Going On with Radio and Social Media*, available at: <https://www.rtdna.org/uploads/files/2019%20RTDNA-Hofstra%20Survey%20Radio%20social%20media.pdf>. The percentage of radio stations with at least one mobile app now stands at 63 percent, up 7 percentage points from 2018, and the average number of apps is 1.2. Bob Papper, 2019 RTDNA/Hofstra University Newsroom Study, *What's Going On with Radio and Mobile*, available at: <https://www.rtdna.org/uploads/files/2019%20RTDNA-Hofstra%20Survey%20radio%20mobile.pdf>. Television stations are more likely to have a presence on social and mobile platforms. Today, 93.4 percent of television stations have at least one app, and the average number of apps is 2. Bob Papper, 2019 RTDNA/Hofstra University Newsroom Study, *Lots Going On with TV and Mobile*, available at: <https://www.rtdna.org/uploads/files/2019%20RTDNA-Hofstra%20Survey%20TV%20and%20mobile.pdf>. For the past five years, all television stations surveyed have had at least one Facebook page, and today, 98.4 percent also use Twitter, and 98.6 percent use Instagram. Bob Papper, 2019 RTDNA/Hofstra University Newsroom Study, *Serious Consolidation in Social Media in TV ... and Maybe a New Trend*



the sharing of notices concerning pending FCC applications will impede broadcasters' innovative use of these platforms. As with crawl requirements, the Commission should carefully consider the First Amendment implications of compelling broadcaster speech on these additional platforms.

#### IV. CONCLUSION

NAB supports the Commission's proposals to update its application notice requirements. With a minor modification to allow applicants to place online notice text at an appropriately labeled link, the proposed new rules will better effectuate applicants' statutory obligation to make the public aware of pending applications and will be simpler and less costly for both audiences and applicants. The Commission should avoid expanding the proposed online or on-air notice texts to provide information that is readily available upon review of the application or the applicant's public file. Finally, the Commission should avoid mandating text crawls or social media posts concerning pending applications because such requirements would interfere with broadcasters' editorial discretion, impede innovation on new platforms and raise First Amendment issues.

Respectfully submitted,

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with Twitter, available at: <https://www.rtdna.org/uploads/files/2019%20RTDNA-Hofstra%20Survey%20TV%20and%20Social%20Media.pdf>.

# Exhibit A

## Headlines

Daily Digest

October 28, 2019 - Statement  
Comm. O’Rielly Stmt on Congressman Greg Walden’s Announced Retirement

October 28, 2019 - Report  
CA Power Shutoff Communications Status Report for Oct. 28, 2019

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## Events

October 30, 2019

**Advisory Committee on Diversity and Digital Empowerment - October 2019**

Commission Meeting Room TW-C305, 445  
12th St. SW, Washington, DC 20554

NOV  
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2019

**Tribal Communications Workshop - Blue Lake, CA**

Blue Lake Casino and Hotel,  
777 Casino Way, Blue Lake, CA  
95525

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**19**  
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**November 2019 Open Commission Meeting**

Room TW-C305, 445 12th  
Street S.W., Washington, DC

[All Events](#)

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# Leadership



Ajit Pai  
FCC Chairman



Michael O'Rielly  
Commissioner



Brendan Carr  
Commissioner



Jessica Rosenworcel  
Commissioner



Geoffrey Starks  
Commissioner

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# Blog

October 28, 2019 - 2:00 pm

## Protecting National Security and Public Safety

*Ajit Pai | FCC Chairman*

This week, I'm in Egypt for the World Radiocommunication Conference, where I'm working with...

October 3, 2019 - 11:40 am

## Setting the Standard for Rural Connectivity

*Ajit Pai | FCC Chairman*

Two weeks ago, I ventured to North Dakota to kick off a road trip that wound through South...

September 12, 2019 - 2:20 pm

## Wildfires and Wireless Service: We Must be Prepared

*Lisa M. Fowlkes | Chief, Public Safety and Homeland Security Bureau*

Recently I traveled to Northern California to meet with public safety officials about a range of...

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Tweets by @FCC



The FCC  
@FCC



Did you miss the October 25 Open Meeting that included agenda items on rural broadband quality, 911 fees, broadcast antenna siting, and the 800 MHz spectrum band? Watch the video here: [go.usa.gov/xVHPy](https://go.usa.gov/xVHPy) #OpenMtgFCC #broadband #spectrum



October 2019 Open Commission Meeting  
fcc.gov



45m



The FCC  
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Want more information on Chairman @AjitPaiFCC's

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