

# FCC Proposes Online Public Files for Television Stations with Standardized Reporting Form

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The Federal Communications Commission (FCC or Commission) is seeking comment on two proposals that it says will make information in a television station's public file more accessible to the public. First, the Commission has adopted a Order on Reconsideration and Further Notice of Proposed Rulemaking (FNPRM) that would have television stations make most, but not all, of the information currently in their public files, plus certain additional information, available through an online public file to be hosted by the FCC. Second, the Commission issued a Notice of Inquiry on a proposed standardized reporting form for television stations that will replace the current issues/programs list.

## Implementing Commission-Hosted Online Public Files

The central focus of the FNPRM is the Commission's proposal to host all public files on the FCC's website. At the open meeting introducing the proposal, both Chairman Julius Genachowski and Commissioner Mignon Clyburn invoked the image of an old file cabinet hidden away at a station's main studio to suggest that the existing system is outdated. In contrast, the FNPRM accentuates how making public file information available 24 hours a day, from any location, will encourage a dialogue between consumers and broadcasters, thus adding meaning to the licensing process.

Of course the devil will be in the details of what specific online public file obligations ultimately are adopted. The FNPRM states that the online public file will be less burdensome for broadcasters because the FCC will automatically import documents filed with the agency,

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which it estimates constitute about one-third of each public file. Commissioner Robert McDowell, however, expressed concerns about the additional demands the proposal will place on broadcasters, particularly with regard to the new requirements to disclose sponsorship identification information and SSAs.

**Logistics.** The FCC's proposal to place public file information online seeks to implement a recommendation from Steve Waldman's Information Needs of Communities Report (INC Report) to move toward online public disclosures. The concept, however, is not new. Under the 2007 Enhanced Disclosure Report & Order, which was never implemented, broadcasters would have been required to host their public files on their own station websites or participating state broadcasters association websites. Some of the strongest objections to that proposal centered on the costs and burdens involved. By shifting hosting responsibilities to the FCC, the Commission contends that the costs of compliance will be greatly reduced.

Logistically, the FCC's proposal will require that broadcasters upload most of the information that they currently maintain in their public files. The FNPRM does not propose a temporal restriction on this information, meaning that stations whose license renewals remain pending could have to upload more than a decade's worth of public file information before the effective date of the rules. In justifying this requirement, the FNPRM states that the one-time scanning and uploading of such material would not be unduly burdensome. The trade-off for broadcasters is that they would no longer be required to maintain a physical public file at the station. Broadcasters would, however, be responsible for maintaining an electronic backup of any information that they upload, which would be available to the Commission in the event of data loss.

Ultimately, the FCC plans to standardize the format for public file information so that materials can be accessed through a searchable database.

**Items Not Required in the Online Public File.** Although the FCC has proposed including most of the items in existing public files online, the Commission proposed excluding letters from the public, contour maps and the manual "The Public and Broadcasting." The exclusion of letters and email comes in response to privacy concerns raised by broadcasters after the issuance of the 2007 Report & Order.

**Online Political Files.** The Commission proposes requiring that television stations maintain their political files online as a component of the online public file. The FCC considered the practicality of requiring broadcasters to comply with the current requirement to include files "immediately," tentatively concluding that the same standard should apply to online public files. The FNPRM, however, seeks comment on how to make such a requirement "as non-burdensome as possible."

**Expanded Public File Components.** Notably, the FNPRM proposes adding three additional disclosure requirements to online public files: main studio information, sponsorship identification and SSAs.

Under the proposed main studio requirement, a station would be required to list the address and telephone number of its main studio in its online public file. Stations with a main studio waiver would be required to list the location of the local file and the required toll free number. The Commission also asks whether the agency should require the posting of an email address that will serve as a station contact for the public file.

In addition, the proposed rules would require television broadcasters to include information contained in on-air sponsorship identification announcements in the online public file. This follows and expands upon a recommendation in the INC Report to disclose online sponsorship of news programs.

As to SSAs, the FNPRM proposes requiring that stations include copies of “every agreement or contract involving sharing agreements for the station, including local news sharing agreements and shared services agreements” in their online public files.

### **Adopting a Standardized Disclosure Form**

The FNPRM proposes requiring that television stations place their issues/program lists in the online public file while the FCC develops a new standardized reporting form. The Commission continues to believe that a standardized form will facilitate access to information on how licensees serve the public interest and improve broadcaster accountability to the public, though it concedes that the Form 355 as adopted in the 2007 Enhanced Disclosure Report & Order was “overly burdensome” for broadcasters. Thus, shortly after releasing the FNPRM, the Commission issued a notice of inquiry (NOI) that proposed changes to the form to “substantially reduce” the burden it will impose on broadcasters.

Specifically, the FCC indicates that a sample approach to reporting (rather than reporting all programming aired for each category included in the form) would provide sufficient information to the public while lessening the burden on broadcasters, and it seeks comment on this approach. In addition, the Commission seeks comment on the specific reporting categories that should be included on the standardized form, including further clarification on reporting requirements for news, local civic/government affairs, local electoral affairs, closed captioning and video description and emergency accessibility complaints.

Comments on the FNPRM were due on December 22, 2011, with reply comments due on January 6, 2012. Comments on the NOI are due on January 17, 2012, with reply comments due on January 30, 2012.