

**STATEMENT OF COMMISSIONER ROBERT M. MCDOWELL,
CONCURRING IN PART, DISSENTING IN PART**

Re: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations and Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398), Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 00-168 and 00-44

In this Order, we require TV stations that have websites to post their public inspection files on their websites and we adopt a standardized form to replace the current "issues/programs list" for quarterly reporting of programming aired in response to issues facing a station's community. We do not alter the substantive public interest obligations of broadcasters; rather, we amend the requirements for reporting on those obligations. Also, we do not require stations that do not have a website to create one.

The purpose of the public inspection file, of course, is to make information available so that the public will be encouraged to have a more active dialogue with their local broadcasters. I am pleased that we are taking action to make the information in a station's public inspection file more accessible and more useful, thus improving communications between broadcasters and their local communities.

I am concerned, however, about the burden that the website posting requirement, along with the 60-day implementation deadline, will have on smaller stations. These stations are already straining their resources to finalize their digital transition plans. Certain aspects of our Order allay some of my concerns, however. For instance, we permit stations to provide links directly to reports and other material available on the FCC's website and other websites to avoid postings of duplicative material. We do not require stations to post letters from the public on their website unless they are comments submitted by email. Lastly, we will entertain waiver requests from broadcasters with only rudimentary websites that they update irregularly, or who would find the requirement unduly burdensome.

However, requiring compliance with additional regulations immediately may overly burden the broadcasters without sufficient corresponding benefits to the local citizens served by the station. Accordingly, I dissent to the 60-day implementation deadline for the required postings. These additional regulations will impose a high initial burden and appreciable cost of converting extensive existing paper files so that they are accessible via the Internet. Such a quick implementation period adds to this burden for smaller stations that are struggling most with how to allocate their resources at this critical time before the digital transition.

I also have significant concerns about the new standardized form we adopt today. The form requires TV stations to file with the Commission disclosures regarding: efforts to ascertain the programming needs of various segments of the community; and a list reporting all programming aired in various categories such as local news, local civic and electoral affairs programming, religious programming, independently produced

programming and so forth. Yet, the Commission eliminated ascertainment requirements for television and radio stations in 1984 after a thorough examination of the broadcast market. While today's Order falls short of reinstating the ascertainment procedures discarded by the 1984 Commission, I am concerned that we are heading in the wrong direction. Today's highly competitive video market motivates broadcasters to respond to the interests of their local communities. I question the need for government to foist upon local stations its preferences regarding categories of programming. While we stop short of requiring certain content, we risk treading on the First Amendment rights of broadcasters. The First Amendment applies to them too. This form is government's not-so-subtle attempt to exert pressure on stations to air certain types of content. I cannot aid and abet even a small step toward such a goal. Accordingly, I also dissent to this part of the Order. But I concur in the remainder of the Order, and thank the Bureau again for their work.