

**STATEMENT OF COMMISSIONER AJIT PAI,
APPROVING IN PART AND CONCURRING IN PART**

Re: *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, MB Docket No. 14-127.

Parsons, Kansas is a world away from San Francisco. And yet, thanks to TuneIn, I was able to listen to my hometown radio station, KLKC 1540 AM, while driving around the Bay Area earlier this month. I happened to visit TuneIn during my trip, and I learned how its app allows you to stream over 100,000 radio stations from across the country and around the world. I've also used KLKC's own app to listen to the station's livestream.

This is just one example of a broader trend in media: the amount of content available online is exploding. Last year, the Commission took account of this change when we modified our contest rules to permit broadcasters to disclose the material terms of contests on a publicly accessible website. And today, we further recognize the digital revolution by requiring cable operators, DBS providers, and broadcast and satellite radio companies to post their public files online.

In the digital age, it doesn't make sense for hardcopies of these documents to gather dust in forlorn file cabinets. When I've visited radio stations, I've inspected some public files. And when I do, I'm usually told that I'm one of the few people who has ever done so.

By posting the public file online, we will make it much easier for the American people to access that information. No longer will you have to make a special trip to see a public file. You will now be able to access the file where you want, when you want, and on the Internet-connected device you want. Indeed, with today's decision, one could say that we are helping to put the "public" back in the public file.

Of course, posting documents online isn't costless. So throughout this proceeding, I have been particularly concerned about the impact of new requirements on small cable operators and radio stations. Although the FCC doesn't go as far as I would have preferred in this regard, it does cut them some slack. In particular, we exempt cable systems with fewer than 1,000 subscribers from all online public file requirements. And we make clear that the Commission will give serious consideration to waiver requests filed by very small radio stations (that is, those with less than five employees).

We also made progress in two areas where I otherwise had qualms about posting information online. First, I believe that including the specific location of cable headends in the online file would raise unnecessary security concerns without providing any benefit to the public. I am therefore pleased that my colleagues agreed with my request to remove such information from the online public file.

Second, I have serious reservations about requiring noncommercial educational (NCE) stations to include lists of donors supporting specific programs in their online public file. Numerous NCE stations told the Commission that posting those names online would discourage people from making donations. As the National Religious Broadcasters put it, "donors may choose to refrain from contributing either because they do not wish to have their privacy violated, or because they fear retaliation for supporting noncommercial radio stations that take unpopular or controversial positions (or who broadcast talk shows that do), or possibly both."

The point about retaliation is one that I take very seriously. Recently, it has become disturbingly common for people with unpopular or controversial positions to be harassed, shouted down, or intimidated. Some have even lost their jobs or seen their businesses boycotted. I do not believe that the FCC should do anything that could enable this kind of bullying. It principally serves to chill public debate and impoverish the marketplace of ideas, and it is unbecoming of a nation that cherishes its First Amendment freedoms.

Now, I have no doubt some will shrug off this concern because it rarely seems to harm people whose views they agree with. But when this deliberate indifference is reinforced by a government

mandate, it effectively leaves us with the Orwellian notion that “all viewpoints are equal, but some are more equal than others.” And it ignores our nation’s history. For example, in the landmark 1958 case of *NAACP v. Alabama*, the U.S. Supreme Court rebuffed the State of Alabama’s attempt to require the NAACP to disclose the names and addresses of its Alabama members, an effort that was clearly designed to discourage Alabamians from supporting the civil rights organization.

For these reasons, I do not believe that NCE stations should be required to post their donor lists online. Unfortunately, there wasn’t majority support for that position. But we were able to agree on a process that allows NCE stations to seek waivers of this requirement if they believe that posting donors’ names online would discourage financial support for particular programs. Critically, an NCE station filing such a waiver request would not have to post donor lists to its online file until after the Commission and the courts have finished reviewing that request. This ensures that any NCE station will get full and fair consideration of its position (if it so desires) before donor names are published online.

To be sure, this outcome isn’t ideal. But we stand in far better stead than we did three weeks ago. And since the online public file requirement will not take effect until 2018, it’s also my hope that the Commission will revisit this question before it is implemented.

In short, I agree with most of this *Order*. Where I do not, we’ve been able to improve it. I am therefore voting to approve in part and concur in part.