

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL
APPROVING IN PART, CONCURRING 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), MB Docket Nos. 00-168 and 00-44

Today, I enthusiastically vote in support of vacating the 2007 Order that required television broadcasters to post their public inspection files on the Internet and adopted the so-called "Enhanced Disclosure Form" to replace the quarterly issues/programs list. In 2007, I cast the sole dissent against the imposition of this form. At the time, I cautioned that our action was treading towards reinstating an ascertainment regime discarded by the Commission in 1984. Such action risked infringing upon the First Amendment rights of broadcasters.

Moreover, this form was burdensome, excessively regulatory and – to quote the FCC's *Information Needs of Communities* report – "overly complex." It is not surprising that the form was challenged before the Commission, the courts, and even the Office of Management and Budget where the information collection was questioned under the Paperwork Reduction Act. Although our action today concludes this regulatory chapter, it appears to be only temporary as this order contains a further notice of proposed rule making that could result in additional burdens on television broadcasters. Furthermore, recently placed on circulation here at the Commission is a notice of inquiry that initiates a separate proceeding to create a replacement standardized form and reporting requirements – but more about that another day.

In the further notice, the Commission asks additional questions about placing the public file online. As was the case in 2007, I remain supportive of making "the public inspection file more accessible and more useful, thus improving communications between broadcasters and their local communities." Here, the Commission tentatively concludes that public inspection files should be centrally located on the FCC website. Hopefully, this proposal would reduce costs and burdens on broadcasters – a concern that was voiced by many – by placing the onus of creating and hosting the website on the Commission. But I will be attentive to a record that indicates otherwise.

We also ask for comment about the proposal that the political file should be posted online and that updates should be made "immediately absent unusual circumstances." Previously, the Commission decided to exempt the political file from the online requirement concluding that "the burden of placing this material on the Internet outweighs the benefits." Now, the Commission asserts that most political advertising transactions are electronic, so online availability may be less burdensome than previously thought. I look forward to hearing from stakeholders regarding the possible ramifications of an online political file.

Although the majority of the questions in the further notice are meant to elicit comment on moving the public file online, others serve as a means to expand the required disclosures made by broadcasters. I have significant concerns about the substance of some of these questions and the possible direction in which the Commission could be headed. We propose that broadcasters upload a list of all on-air sponsorship identification announcements and seek comment regarding whether "sharing agreements" – including those not currently required to be reported under our rules – should be included in the online public file. Such sweeping requirements may overly burden the broadcaster without sufficient corresponding benefits to the local citizens served by the station. Further, I wonder whether history is doomed to repeat itself. Are we once again heading down a path towards needlessly burdensome rules, regulatory overreach, Paperwork Reduction Act challenges and unconstitutional intrusions? Stay tuned.

Despite the serious reservations I may have, it is important to develop a full record and allow public comment prior to forming conclusions and implementing any regulations. In this vein, I would like to thank the Chairman for seeking specific comment on the costs and benefits of the proposals contained in the further notice. I hope that participants will provide us with the information and data needed to balance the public interest in ready access to information with the costs and legalities of such disclosure. As always, I will keep an open mind and look forward to learning from all interested parties. For these reasons, I support this order and further notice, but concur on the questions expanding the scope of the materials required to be contained in the public inspection file. Many thanks to the Media Bureau for its work on this order and further notice.