

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Broadcast Localism) 04-233
)

COMMENTS OF
THE PUBLIC INTEREST PUBLIC AIRWAVES COALITION
(THE BENTON FOUNDATION, CAMPAIGN LEGAL CENTER, COMMON CAUSE,
MEDIA ACCESS PROJECT, NEW AMERICA FOUNDATION, OFFICE OF
COMMUNICATION OF THE UNITED CHURCH OF CHRIST, INC., & UNITED
STATES CONFERENCE OF CATHOLIC BISHOPS), CENTER FOR CREATIVE
VOICES IN MEDIA, FREE PRESS, AND THE NATIONAL HISPANIC MEDIA
COALITION

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SUMMARY

The Public Interest Public Airwaves Coalition, Center for Creative Voices in Media, Free Press, and National Hispanic Media Coalition (PIPA *et al.*) support the Commission's tentative conclusion to adopt processing guidelines for television license renewals. Because citizens in a democratic society need information about local civic affairs and elections, and because studies show that many television stations fail to provide adequate coverage of local and state elections, we propose that television licensees should receive expedited renewal only when they have aired at least three hours per week of qualifying local civic and local electoral affairs programming on their most-watched channel, and additional time on other channels if they engage in multicasting.

To qualify for expedited renewal, licensees should also devote 1 percent of their airtime to unpaid public service announcements, including a fair proportion for local nonprofit organizations that air when people are likely to be watching. Additionally, to meet the processing guidelines, stations should not devote more than 30 percent of total airtime to paid commercials, infomercials or home shopping. Network affiliates should also air a reasonable amount of independently produced programming.

For radio stations, the FCC should adopt standardized, enhanced disclosure requirements so that the public can better evaluate how stations are serving local needs. While the reporting of such information should help to increase dialogue between licensees and the public they are licensed to serve, the Commission should take additional steps in this regard.

First, the Commission should revise its website to provide a comprehensive, user-friendly resource for the public to obtain information about the license renewal process. Second, the Commission should consider requiring stations to have community advisory boards or other

ways to receive input from the community on their programming. Third, the FCC should require licensees to provide better notice to the public about upcoming license renewals by airing more frequent on-air announcements and putting notices on their websites.

Finally, the Commission should reduce broadcast license terms to three years. The current eight-year license term fails to provide appropriate incentives for licensees to provide adequate local service and also deters public participation in the license renewal process. Because this problem is exacerbated by the Commission's failure to act promptly when it does receive petitions to deny, it should commit to acting on petitions to deny within 180 days, and commit to acting on applications for review and petitions for reconsideration of those petitions within 120 days.

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**COMMENTS OF
PUBLIC INTEREST PUBLIC AIRWAVES COALITION, CENTER FOR CREATIVE
VOICES IN MEDIA, FREE PRESS, AND THE NATIONAL HISPANIC MEDIA
COALITION**

The Public Interest Public Airwaves (PIPA) Coalition which includes the Benton Foundation, Campaign Legal Center, Common Cause, Media Access Project, New America Foundation, Office of Communication of the United Church of Christ, Inc. and United States Conference of Catholic Bishops, is joined by the Center for Creative Voices in Media, Free Press and the National Hispanic Media (collectively, PIPA *et al.*) in submitting the following comments in response to the FCC's *Report on Broadcast Localism and Notice of Proposed Rulemaking* ("NPRM").¹

I. The Commission Should Adopt Renewal Application Processing Guidelines For Television Stations

We are pleased with the Commission's *NPRM* and support the Commission's tentative conclusion to "reintroduce renewal application processing guidelines that will ensure that all broadcasters . . . provide some locally-oriented programming."² In response to the *NPRM*'s request for comment on how such guidelines might work, we suggest that television broadcasters

¹ *Broadcast Localism*, MB Dkt. No. 04-233, Report on Broadcast Localism and Notice of Proposed Rulemaking (rel. Jan. 24, 2008) ("*NPRM*").

² *Id.*, ¶ 40.

meeting all of the guidelines set forth below should receive expedited license renewal by the Commission staff. Although we support the application of processing guidelines and other proposals to both commercial and non-commercial broadcasters, we recognize that some modifications may be needed to take into account the needs of non-commercial educational stations, and perhaps even smaller commercial stations. We recommend that broadcasters comply with the following:

- Air a minimum of three hours per week of qualifying local civic or electoral affairs programming on the most-watched channel they control or operate, and, where a licensee multicasts, an amount of qualifying local civic or electoral affairs programming on those multicast channels equal to three hours per week per channel or 3 percent of the aggregate number of hours broadcast between the hours of 6:00 a.m. and 11:35 p.m. per week, whichever is less. To be counted towards the three hour/3 percent minimum, local civic and electoral affairs programming must meet the following standards:

1. It must be aired between 6:00 a.m. and 11:35 p.m., with at least 50 percent of that programming being aired when most adults are watching, between 6:00 a.m. and 9:00 a.m. weekdays and 5:00 p.m. and 11:35 p.m. on all days.
2. At least 50 percent of the required minimum on the most-watched channel must be “first-run programming” by the licensee. For additional programming streams, this standard may be phased in over twelve months.
3. It must be produced locally, *i.e.*, either at the television station or within the viewing area of the station.
4. To the extent that a licensee utilizes such distribution and promotion mechanisms as personal video recorders (PVRs), video-on-demand (VOD), and electronic program guides (EPGs), local civic and electoral affairs programming must be made available and promoted using these and other utilized interactive technologies.
5. Programming aired during regularly scheduled newscasts on the primary channel that otherwise meets the definition of qualifying local

civic or electoral affairs programming may be counted towards the licensee's weekly minimum, up to thirty minutes per week.

Additionally, in the thirty days prior to a primary election for federal, state and/or local public office and sixty days prior to a general election for federal, state and/or local public office, at least two hours of the three hour minimum should be local electoral affairs programming, aired between the hours of 6:00 a.m. and 9:00 a.m. and 5:00 p.m. and 11:35 p.m. on the licensee's most-watched channel.

- Devote at least 1 percent of total air time to unpaid public service announcements on the most-watched channel; and if a licensee multicasts, 1 percent of total time multicast, regardless of the channel.
- Devote no more than 30 percent of their programming to material that consists of the transmission of sales presentations or program-length commercials.
- Air independently-produced programming for at least 25 percent of the primary channel's prime time schedule if the licensee is an affiliate of one of the four major national television networks.

This proposal is similar to the proposal the PIPA Coalition filed in 2004 in the PIO docket.³ It could be used in conjunction with the Standardized Television Disclosure Form (Form 355) adopted in the *Enhanced Disclosure R&O*.⁴ For example, it uses the same definitions of "local civic affairs programming," "local electoral affairs programming," "public service announcements" and "independently produced programming."⁵ While Form 355 reports

³ See, e.g., PIPA Coalition Notice of *Ex Parte* Communication, MB Dkt. No. 03-15, MM Dkt. Nos. 00-168 and 99-360 (June 24, 2004).

⁴ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MM Dkt. No. 00-168, Report and Order (rel. January 28, 2008), Appendix B ("*Enhanced Disclosure R&O*").

⁵ See *id.*

information about several other types of programming, the processing guideline would only apply to a limited number of program types where the record demonstrates that many licensees have not been providing adequate service to the public.

We believe that the record in this proceeding and other FCC proceedings demonstrates the need for such guidelines. We emphasize that the processing guidelines we propose in no way change television broadcasters' existing public interest obligations; they merely provide a clear means to fulfill those obligations.⁶ The processing guidelines do not mandate that broadcasters provide any specific quantities of particular types of programming. However, we expect the processing guidelines to encourage broadcasters to provide better service to local communities, and to facilitate the license renewal process for both licensees and the Commission by providing predictable and measurable standards, while offering broadcasters flexibility to serve local communities in other ways.

A. Television Licensees Should Receive Expedited Renewal Only When They Air Reasonable Amounts Of Local Civic And Electoral Affairs Programming

The *NPRM* asks for comment on whether new processing guidelines should cover particular types of programming, such as local news, political, public affairs and entertainment, or simply count locally-oriented programming.⁷ The Commission also asks what “the categories and amounts or percentages” should be, whether there should be an obligation to air this type of local programming at particular times of day, how local programming should be defined, and

⁶ *See id.* at 4 (“Although not a complete safe harbor, objective minimum public interest obligations can provide clarity to viewers and broadcasters.”).

⁷ *NPRM*, ¶ 124.

whether it must be locally produced.⁸ We believe that the guidelines for television should focus primarily on local civic and electoral affairs programming.

1. Broadcast Television Remains Crucially Important In Informing the Public On Critical Civic And Electoral Affairs Issues

Broadcast television remains the primary source of local civic and electoral news and information for most people in the United States.⁹ As the Commission found in 1968, the “presentation of political broadcasts” is a vital aspect of civic and electoral life in America, “deserving the licensee’s closest attention, because of the contribution broadcasting can thus make to an informed electorate – in turn so vital to the proper functioning of our Republic.”¹⁰ Indeed, in launching the proceeding to determine the public interest obligations of digital broadcasters in 1999, the FCC observed that the “Commission has long interpreted the statutory public interest standard as imposing an obligation on broadcast licensees to air programming regarding political campaigns.”¹¹ Broadcasters’ important role in the creation of an informed electorate has also been repeatedly recognized by the courts. In *Red Lion*, the Supreme Court held that “the ‘public interest’ in broadcasting clearly encompasses the presentation of vigorous debate of controversial issues of importance and concern to the public.”¹²

⁸ *Id.*

⁹ See NIELSEN MEDIA RESEARCH, INC., FEDERAL COMMUNICATIONS COMMISSION TELEPHONE STUDY 91 (June 2007) (demonstrating that broadcast television stations are the number one source for “local news and current affairs”), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A2.pdf.

¹⁰ *Licensee Responsibility as to Political Broadcasts*, 15 FCC.2d 94 (1968).

¹¹ *Public Interest Obligations of TV Broadcast Licensees*, MM Dkt. No. 99-360, Notice of Inquiry, 14 FCC Rcd. 21,633, 21,647 (1999) (citing *Licensee Responsibility as to Political Broadcasts*, 15 FCC 2d 94 (1968)).

¹² *Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 385 (1969); see also *FCC v. League of Women Voters*, 468 U.S. 364, 377 (“Congress may . . . seek to assure that the public receives through this medium a balanced presentation of information on issues of public importance that otherwise might not be addressed if control of the medium were left entirely in the hands of those who own

Recent studies provide further evidence that broadcasters can play an important role in creating an informed electorate and increasing civic engagement. For example, a 2006 study by Felix Oberholzer-Gee, the Andreas Andresen Associate Professor of Business Administration in the Strategy Unit at Harvard Business School, and Joel Waldfogel, the Joel S. Ehrenkranz Family Professor and Chair of the Department of Business and Public Policy at The Wharton School of the University of Pennsylvania, found that when television stations aired Spanish-language news programs, Hispanic voter turnout increased by 5 to 10 percentage points.¹³ This finding is consistent with many other studies showing that people who receive campaign messages are more likely to participate in elections.¹⁴

and operate broadcasting stations.”); *CBS v. FCC*, 453 U.S. 367, 396, (1981) (Regulations on broadcasters “[make] a significant contribution to freedom of expression by enhancing the ability of candidates to present, and the public to receive, information necessary for the effective operation of the democratic process.”); *Buckley v. Valeo*, 424 U.S. 1, 52-53 (1976) (“[I]t is of particular importance that candidates have the . . . opportunity to make their views known so that the electorate may intelligently evaluate the candidates’ personal qualities and their own positions on vital public issues before choosing among them on election day.”); *Garrison v. Louisiana*, 379 U.S. 64, 74-75 (1964) (“[S]peech concerning public affairs is . . . the essence of self-government.”).

¹³ *Id.* at 11.

¹⁴ Felix Oberholzer-Gee & Joel Waldfogel, *Media Markets and Localism: Does Local News en Español Boost Hispanic Voter Turnout?* 4 (Harvard Business School, 2006), available at <http://www.hbs.edu/research/pdf/07-062.pdf> (citing Alan S. Gerber & Donald P. Green, *The Effect of a Non-Partisan Get-out-the-Vote Drive: An Experimental Study of Leafletting*, *Journal of Politics* 62(3): 846-57 (2000b); Ron Shachar and Barry Nalebuff (1999), *Follow the Leader: Theory and Evidence on Political Participation*, *American Economic Review* 89(3): 525-47 (1999); Peter W. Wielhouwer & Bard Lockerbie, *Party Contacting and Political Participation, 1952-1990*, *American Journal of Political Science* 38(1):211-29 (1994); L.M. Bartels, *Messages received: The political impact of media exposure*, *The American Political Science Review* 87(2), 267-285 (1993); Gregory A. Caldeira, Aage R. Clausen, and Samuel C. Patterson, *Partisan Mobilization and Electoral Participation*, *Electoral Studies* 9(3):191-204 (1990); Gary W. Co & Michael C. Munger, *Closeness, Expenditures, and Turnout in the 1982 U.S. House Elections*, *American Political Science Review* 83(1):217-31 (1989).

2. Many Broadcast Television Stations Are Failing To Air Important Electoral And Civic Affairs Programming

To ensure that television stations contribute to the creation of an informed electorate, the FCC utilized a processing guideline from 1963 to 1984 under which television licensees would have their licenses renewed by the FCC staff if they aired at least 10 percent non-entertainment programming.¹⁵ The FCC also required licensees to keep logs of all programming and to compile a “composite week” to document the amount of news, public affairs and other non-entertainment programming.¹⁶ The logs also reported the number of public service announcements carried in that week.¹⁷ Nevertheless, the processing guideline for television stations was repealed in 1984 in the belief that market forces would ensure that broadcasters cover local issues.¹⁸

In 1997, the Public Interest Advisory Committee (“PIAC”) was convened to study and issue recommendations as to how television stations should serve the public interest once they transitioned from analog to digital. It recommended, among other things, that the NAB adopt voluntary standards of conduct, and that the FCC adopt a set of minimum public interest requirements for digital television.¹⁹ To improve the quality of political discourse, it also proposed that television stations voluntarily air a minimum of five minutes of “candidate-

¹⁵ *Amendment of Part O of the Commission's Rules - Commission Organization - With Respect to Delegations of Authority to the Chief, Broadcast Bureau*, 43 F.C.C.2d 638, Appendix (1973).

¹⁶ Erika Franklin Fowler, Kenneth M. Goldstein, Matthew Hale, & Martin Kaplan (Fowler, et. al), *Does Local News Measure Up*, 18 STAN L. & POL'Y REV. 410, 415 (2007).

¹⁷ *Id.*

¹⁸ *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 98 FCC.2d 1075, 1098-99 (1984).

¹⁹ ADVISORY COMMITTEE ON PUBLIC INTEREST OBLIGATIONS OF DIGITAL TELEVISION BROADCASTERS (PIAC), CHARTING THE DIGITAL BROADCASTING FUTURE: FINAL REPORT 46-47 (1998), available at <http://www.ntia.doc.gov/pubintadvcom/piacreport.pdf>.

centered discourse” each evening between 5:00 p.m. and 11:30 p.m. during the thirty days prior to an election.²⁰

Some broadcasters committed themselves to these voluntary standards for the 2000 primaries and general election campaigns.²¹ However, these broadcasters offered no means for the public to determine whether they had followed through on their promises.²² To fill this void, the Norman Lear Center at the USC Annenberg School began monitoring the extent to which local stations fulfilled their pledges to meet standards established by the PIAC.²³ The Lear Center studied local broadcast television coverage on seventy-four stations in fifty-eight markets during the final thirty days before the 2000 election.²⁴ It found that broadcasters fell far short of their pledges. In the general election, stations ran, on average, only seventy-four seconds of candidate-centered discourse per night, well below the five minutes they had pledged.²⁵

The Lear Center also conducted similar studies during the last month of the 2002 and 2004 election campaigns.²⁶ Once again, they found that stations fell short of fulfilling their communities’ local awareness needs. In 2004, 36 percent of the 4,333 broadcasts did not contain a single election story.²⁷ A typical half-hour of news contained three minutes and eleven

²⁰ *Id.* at 56.

²¹ THE NORMAN LEAR CENTER, LOCAL COVERAGE OF THE 2000 GENERAL ELECTION 3 (2001), available at <http://localnewsarchive.org/pdf/2000campaign.pdf>.

²² *Id.*

²³ *Id.* at 427.

²⁴ See THE NORMAN LEAR CENTER (2001), *supra* note 21; THE NORMAN LEAR CENTER, LOCAL TV NEWS COVERAGE OF THE 2000 PRIMARY CAMPAIGNS (2001), available at <http://www.learcenter.org/pdf/tvnews/pdf>.

²⁵ THE NORMAN LEAR CENTER (2001), *supra* note 21 at 3.

²⁶ THE NORMAN LEAR CENTER, LOCAL NEWS COVERAGE OF THE 2002 GENERAL ELECTION (2003), available at <http://learcenter.org/pdf/LCLNARReport.pdf>; THE NORMAN LEAR CENTER, LOCAL NEWS COVERAGE OF THE 2004 CAMPAIGNS (2005), available at <http://www.localnewsarchive.org/pdf/LCLNAFinal2004.pdf>

²⁷ THE NORMAN LEAR CENTER (2005), *supra* note 26 at 3.

seconds of campaign coverage.²⁸ An average campaign story lasted eighty-six seconds, and an average candidate soundbite (which appeared in a mere 28 percent of the stories) was twelve seconds long.²⁹

Even though 64 percent of broadcasts contained at least one election story, the Lear Center found that the vast majority of this coverage (61 percent) went to the presidential race.³⁰ Only 8 percent of broadcasts contained a story about a local candidate race, which was defined to include campaigns for the U.S. House, state senate or assembly, mayor or city council seat, judgeship, law enforcement posts, education-related offices, and regional and county offices.³¹ Moreover, eight times more coverage went to stories about accidental injuries than to coverage of all local races combined.³² In Los Angeles, not a single story about the race for the House appeared on local television news during the entire study period.³³ And, despite the fact that all eleven markets studied in the Lear Center Report had state senate and/or state assembly races to cover, a total of just seventy stories focused on these races, or 1 percent of all campaign stories captured.³⁴

Some television broadcasters have provided good coverage of local elections. In testifying before the FCC in 2004, one of the authors of the Lear Center studies cited the Hearst-Argyle stations for their exemplary performance, noting that, in 2002, 40 percent of Hearst-

²⁸ *Id.* at 3.

²⁹ *Id.*

³⁰ *Id.* at 9. This percentage marked a twenty percent improvement over the 2002 figure. *See* THE NORMAN LEAR CENTER (2003), *supra* note 26 at 1.

³¹ *Id.* at 9.

³² *Id.* at 3.

³³ *Id.* at 9.

³⁴ *Id.* at 10.

Argyle campaign stories were about local races.³⁵ Unfortunately for most of America, this was not the norm; Hearst-Argyle stations performed two-and-a-half times better than the national average.³⁶

3. Processing Guidelines Should Require Some Local Civic And Electoral Affairs Programming On The Most-Watched Channel And On Other Multicast Channels

Because civic and electoral affairs programming are essential for a democracy's ability to have an informed citizenry, and because many licensees are failing to provide sufficient amounts of local and civic affairs programming, we believe that the processing guideline should single out those categories among the many types of programming that broadcasters provide to serve the public interest. We propose that to receive staff level approval, a licensee should air a minimum of three hours per week of qualifying local civic or electoral affairs programming on its most-watched channel.

The "most-watched channel" is the FCC-required free over-the-air digital channel (sometimes referred to as the "dot one channel") which, like its analog predecessor, provides entertainment, sports, local and national news, election results, weather advisories, access for candidates and public interest programming such as educational programming for children. Licensees should provide this programming on their most-watched channel so that this important information is viewed by large numbers of voters and potential voters, including those who might not necessarily seek out this information on their own.

It is also important that broadcasters utilize the additional capabilities provided by digital technology to serve the public interest. As of March 2008, the NAB estimated that 1,629

³⁵ *Id.*

³⁶ *Id.*

stations in 212 markets had completed the digital transition,³⁷ and by next February, virtually all stations will have completed the transition. Once a station is broadcasting digitally, it can split the digital television signal into multiple streams, enabling viewers to receive up to six channels from each local station.³⁸ NAB reports that close to six hundred television stations are already multicasting.³⁹

Thus, we propose that if a licensee multicasts additional free over-the-air programming streams, to meet the processing guidelines it must air an amount of qualifying local civic or electoral affairs programming on those channels equal to three hours per week per channel or 3 percent of the aggregate number of hours broadcast between the hours of 6:00 a.m. and 11:35 p.m. per week, whichever is less. Licensees should have the flexibility to decide how to allocate their local civic and electoral affairs programming among their additional programming streams other than the most-watched channel. Licensees who choose to dedicate an entire channel to civic or electoral affairs should be deemed to have met the guideline with regard to its multicasting, as these licensees will have convincingly demonstrated that they are serious about informing the electorate.

4. The Commission Should Adopt Clear Definitions Of Qualifying Local Civic Affairs And Electoral Affairs Programming

The Commission should adopt the same definitions of “local civic affairs programming” and “local electoral affairs programming” that it adopted for Form 355 in the *Enhanced*

³⁷ NAB, DTV Stations in Operation, <http://www.nab.org/AM/ASPCode/DTVStations/DTVStations.asp>.

³⁸ NAB, About Multicasting, <http://www.multicasting.com> (last visited Mar. 12, 2008).

³⁹ NAB, About Multicasting, <http://www.multicasting.com/aboutmulticasting15.html> (last visited Mar. 12, 2008).

*Disclosure R&O.*⁴⁰ It should clarify that to qualify under the guidelines, such programming must be locally-produced, *i.e.*, produced within the service area of the station. In addition, public service announcements (PSAs) and paid advertisements may not be counted as qualifying local civic affairs programming. Although PSAs can provide important information and should be taken into account in another part of the processing guidelines,⁴¹ they are not a substitute for more thorough coverage of local civic and electoral issues.

5. The Guidelines Should Include Special Requirements For Periods Prior To Elections

As discussed above, one of the primary goals of the processing guidelines is to inform segments of the population that would otherwise be unaware of local civic or electoral affairs. During election periods the public has a heightened interest in political programming. Congress has recognized this interest by, among other things, mandating that television broadcasters provide reasonable access to federal candidates,⁴² afford equal opportunities for candidates, and limit their rates to political candidates to the lowest unit charge during the forty-five days before a primary or sixty days preceding a general election.⁴³

⁴⁰ *Enhanced Disclosure R&O, supra* note 4, Appendix B (Form 355 defines local civic affairs as “programming designed to provide the public with information about local issues. Local civic affairs programming includes, but is not limited to, broadcasts of interviews with or statements by elected or appointed officials and relevant policy experts on issues of importance to the community, government meetings, legislative sessions, conferences featuring elected officials, and substantive discussions of civic issues of interest to local communities or groups.” Form 355 defines local electoral affairs programming as “candidate-centered discourse focusing on the local, state and United States Congressional races for offices to be elected by a constituency within the licensee’s broadcast area. Local electoral affairs programming includes broadcasts of candidate debates, interviews, or statements, as well as substantive discussions of ballot measures that will be put before the voters in a forthcoming election.”).

⁴¹ *See infra* Part I(B).

⁴² 47 U.S.C. § 312(a)(7).

⁴³ 47 U.S.C. § 315(a) and (b)(1).

Thus, we propose that during the thirty days prior to a primary election for federal, state and/or local public office, and sixty days prior to a general election, at least two hours of the three hour minimum on the licensee's most-watched channel should consist of local electoral affairs programming, aired between the hours of 6:00 a.m. and 9:00 a.m. and 5:00 p.m. and 11:35 p.m. We believe that this provision will make it easier for candidates to obtain airtime, offer the public more information about the candidates and issues, and provide broadcasters ample flexibility to tailor programming that meets the needs of their communities.

6. The Guidelines Should Include Additional Requirements For Qualifying Local Civic And Electoral Affairs Programming

For the public to have meaningful access to civic and electoral programming, at least some of this programming must be broadcast at times when large numbers of people are likely to be watching. Thus, for otherwise qualified local civic and electoral affairs programming to count under the guidelines it must be aired between 6:00 a.m. and 11:35 p.m., with at least 50 percent of that programming being aired when most adults are watching, between 6:00 a.m. and 9:00 a.m. weekdays and 5:00 p.m. and 11:35 p.m. on all days.

Also, although some repetition of local programming can help to inform the public, it is also important that the public get exposure to a variety of issues and candidates. Thus, to count toward the guidelines, at least 50 percent of the required minimum of local civic and electoral affairs programming on the most-watched channel must be "first-run programming." For additional programming streams, this standard may be phased in over twelve months.

To the extent that a licensee utilizes such distribution and promotion mechanisms as personal video recorders (PVRs), video-on-demand (VOD), and electronic program guides (EPGs), local civic and electoral affairs programming must be made available and promoted

using these and other interactive technologies. Because local civic and electoral affairs is critically important to informing members of the public, it must not be left behind as technology advances. Thus, for example, if a station were to offer an electronic program guide, it should list civic and electoral affairs programming. If it were to offer viewers the ability to watch a sitcom on demand, it should also allow them to watch a candidates' debate on demand.

Finally, we recognize that some, but not all, local news programming may fall within the definition of local civic or electoral affairs programming. Because one purpose of the guidelines is to increase the amount of such programming available to the public, programming aired during regularly scheduled newscasts on the primary channel that otherwise meets the definition of qualifying local civic or electoral affairs programming may be counted towards the licensee's weekly minimum, up to thirty minutes per week.

B. Television Licensees Should Receive Expedited Renewal Only When They Air Reasonable Amounts Of Public Service Announcements

Public service announcements (PSAs) can provide valuable information and address social issues in local communities. The Kaiser Family Foundation recently concluded that “the research indicates that PSAs *can* inform and even change behaviors – *if* the spots themselves are well-crafted and *if* they get sufficient airtime in front of their target audience.”⁴⁴ It analyzed a full composite week of television content of ten major broadcast and cable networks – including the four major broadcast networks in such markets in the fall of 2005. It found that, even using a broad definition of PSAs, PSAs represented only 0.5 percent of all TV airtime.⁴⁵ In contrast,

⁴⁴ THE HENRY J. KAISER FAMILY FOUNDATION, SHOUTING TO BE HEARD: PUBLIC SERVICE ADVERTISING IN A CHANGING TELEVISION WORLD 2 (2008), *available at* <http://www.kff.org/entmedia/upload/7715.pdf>.

⁴⁵ *Id.* at 5.

advertising and promotions consumed approximately 25 percent.⁴⁶ Moreover, 60 percent of PSAs on broadcast stations were aired between the hours of midnight and 6 a.m., when few people are watching.⁴⁷ On major broadcast networks, 61 percent of PSAs were aired on donated time.⁴⁸

We therefore propose that to qualify for expedited staff renewal, broadcast television stations should be required to devote 1 percent of total air time to free PSAs on the most-watched channel; and if a licensee multicasts, 1 percent of total time multicast, regardless of the channel. For a single channel that broadcasts twenty-four hours per day, this works out to about two hundred thirty-second spots per week.

PSAs should be defined in the same manner as on Form 355:

A public service announcement is any announcement for which no consideration of any sort (including, but not limited to, cash, goods or services, in-kind contributions, endorsements, favorable treatment) is made to the licensee or any organization or entity associated with the licensee and which promotes programs, activities or services of federal, state or local governments or the programs, activities or services of nonprofit organizations.⁴⁹

Where consideration of any sort is made to the licensee or any associated entity for a PSA's airing, that PSA should not count towards the processing guidelines. To ensure that PSAs are viewed by substantial numbers of people, 50 percent should run between the hours of 6:00 a.m. and 9:00 a.m. weekdays and 5:00 p.m. and 11:35 p.m. on all days. At least half should be produced locally and directed toward local issues.

⁴⁶ *Id.*

⁴⁷ *Id.* at 6.

⁴⁸ *Id.* at 23.

⁴⁹ *Enhanced Disclosure R&O, supra* note 4, Appendix B.

C. Television Licensees Should Receive Expedited Renewal Only When They Limit The Amount Of Paid Commercial Programming They Air

Although commercial television stations need advertising to support quality programming, some stations air excessive amounts of infomercials, home shopping and other types of advertising. We believe that where a broadcast station devotes more than 30 percent of its daily programming to paid commercial advertising, its commitment to serving the public interest rather than its own private interest must be called into serious question. As a consequence, we recommend that only licensees with less than 30 percent of programming consisting of sales presentations or program-length commercials should receive expedited renewal.

D. Television Licensees Should Receive Expedited Renewal Only When They Air Reasonable Amounts Of Independently-Produced Programming

In 2007, the FCC commissioned Austan Goolsbee, the Robert P. Gwinn Professor of Economics at the University of Chicago, Graduate School of Business, to study vertical integration in broadcast and cable programming.⁵⁰ The study found that a mere 18 percent of total broadcast programming is not produced by a company that also owns a broadcast network.⁵¹ This marks a staggering decline from the over 66 percent of content on primetime broadcast television that was independently-produced during the 1992-93 season.⁵² Goolsbee observed that, presently, “the difficulty of getting independent shows on the air is great.”⁵³ He

⁵⁰ AUSTAN GOOLSBEE, VERTICAL INTEGRATION AND THE MARKET FOR BROADCAST AND CABLE TELEVISION PROGRAMMING (2007), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A10.pdf.

⁵¹ *Id.* at 9.

⁵² Comments of the Screen Actors Guild, et al., Appendix C, MB Dkt. No. 06-121 (rec. October 23, 2006).

⁵³ *Id.* at 16.

hypothesized that the weak bargaining power of independent producers may limit their ability to convince television broadcasters to air their programming, and that “if a broadcaster can’t get part of the syndication profits from the show’s producer, they may require that show to generate higher advertising revenue to put it on the air.”⁵⁴ As a consequence, the current market is distorted; independently-produced programming may be scrapped in favor of vertically-produced programming that would perform worse and garner less revenue for a station simply due to the inherent cost savings to broadcasters’ use of programming produced by their parent networks.⁵⁵ Independent producers have suffered as a result of this discrimination; the number of independent suppliers of scripted programming has decreased from twenty-three in the early 1990s to just two today.⁵⁶

Most importantly, increasing access for independent programmers would have the beneficial effect of increasing diversity. When independent producers flourished, the creative community had a multitude of places to present their ideas.⁵⁷ Because the current system fails to encourage network affiliates to air independently-produced programming, we propose that affiliates of the four major national television networks should receive expedited renewal only when they air independently-produced programming for at least 25 percent of the primary channel’s prime time schedule. To be considered truly independent, the programming must not come from any source where a major network controls more than a 33.33% financial interest in, is the distributor of, or owns the copyright for the programming. This independent production

⁵⁴ *Id.*

⁵⁵ Comments of the Screen Actors Guild, et al. at 23-24, MB Dkt. No. 06-121 (rec. October 22, 2007).

⁵⁶ Statement of Taylor Hackford, Third Vice President, Directors Guild of America, before the FCC Hearing on Media Ownership, Los Angeles, at 40 (October 3, 2006), *available at* http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518538857.

⁵⁷ *See id.* at 41-42.

guideline will create financial incentives to create innovative and diverse programming outside the network structure.

II. The Commission Should Adopt Meaningful Reporting Requirements For Radio Stations

We agree with the *NPRM*'s finding that "members of the public are not fully aware of the local issue-responsive programming that their local stations have aired."⁵⁸ We are pleased that the Commission has adopted enhanced disclosure requirements for television. However, we oppose the proposal to defer consideration of enhanced disclosure for radio stations to the *Digital Audio FNPRM*.⁵⁹

Many PIPA Coalition members have advocated for more meaningful radio disclosure requirements in comments filed in the digital audio broadcasting docket.⁶⁰ However, the Commission must require enhanced disclosure for analog stations as well. Given radio's unique role as a local medium, this data collection is especially crucial. Moreover, unlike television, there is no time frame for radio to complete the transition from analog to digital.

Although it has been difficult to obtain accurate and complete data about how radio stations are serving local communities, a recent Radio-Television News Directors Association (RTNDA) research study confirms that radio stations have decreased "both the average amount of news and average staff size."⁶¹ That study also found that "nearly three-quarters (70.5

⁵⁸ *NPRM*, ¶ 1.

⁵⁹ *NPRM*, ¶ 22.

⁶⁰ See Comments of the Public Interest Coalition at 16, MM Dkt. No. 99-325 (Oct. 15, 2007).

⁶¹ Bob Papper, *News, Staff & Profit*, Annual RTNDA /Hofstra University Survey of Television and Radio News, available at http://people.hofstra.edu/Bob_Papper/PapperHP/staff%2006%20vF.htm.

percent) of radio station news directors said there was a centralized newsroom for all or most of their stations that air local news.”⁶²

To give the public and the FCC a clear picture of how radio stations are serving local communities, we urge the Commission to require that licensees submit quarterly reports to the Commission and to post them on the station’s website if it has one.⁶³ The Commission should require on-air announcements on how listeners may access these reports. The quarterly reports should have a standardized form that asks how the station is serving the public. Specifically, it should inquire:

1. Whether, and how much, the station is providing local civic affairs programming, which is programming designed to provide listeners with information about local issues;
2. Whether, and how much, the station is providing local electoral affairs programming, which is programming geared toward discourse on local, state, and federal candidates;
3. Whether, and how much, the station is providing independently produced programming, which is programming produced by an entity not owned or controlled by a radio station owner. The station must identify the independent programmer;
4. Whether the station has entered into time-brokerage agreements with unaffiliated programmers, and if so, to identify the unaffiliated programmers and provide copies of all such agreements;
5. Whether, and how much, of the station’s programming is serving unserved or underserved communities;
6. Whether the station is airing unpaid public service announcements, and how many;
7. Whether the station is airing paid public service announcements, and how many;
8. Whether the station broadcasting religious services or other locally produced religious programming aired at no charge, and, if so, how much;
9. What other types of programming the station is providing;
10. How the programming the station airs serves the local community;
11. A thorough description of the efforts the station has made to determine the programming needs of the community;

⁶² *Id.* at 6.

⁶³ Radio stations without their own websites could receive exemptions or the Commission could post those stations’ filings on its own website.

12. Whether the station broadcasts information about a current emergency that was intended to further the protection of life, health, safety, and property as defined by 47 CFR §79.2 and whether that information was accessible to persons with disabilities as required by §79.2;
13. What steps the station has taken to inform listeners that this disclosed information is available; and
14. Whether news is out-sourced or shared with another company, and if so, with how many stations and how many local stations.⁶⁴

The reports will allow both the Commission and the public to evaluate whether licensees are in fact serving the public interest in their local communities. Moreover, providing this information to the public will facilitate dialogue between radio licensees and their listeners.

III. The Commission Should Take Action To Increase Dialogue Between Broadcasters And The Public

The *NPRM* makes a number of good proposals intended to increase dialogue between broadcasters and the public they are licensed to serve. We support proposals to provide more information to the public, create community advisory boards, and provide increased notice about the public's opportunity to be heard when licenses are up for renewal.

A. The Commission Should Continue To Update And Revise *The Public & Broadcasting* To Ensure It Is Easy For The Public To Find And To Use

The Commission's publication, *The Public & Broadcasting*, is designed to help members of the public exercise their rights regarding local broadcasters. We agree with the *NPRM* that this document needed updating⁶⁵ and are pleased that the Media Bureau has already released a revised edition.⁶⁶

⁶⁴ Comments of the Public Interest Coalition, *supra* note 60 at 17-18.

⁶⁵ *NPRM*, ¶ 18.

⁶⁶ Press Release, FCC, Media Bureau Releases Updated Version of "The Public and Broadcasting" and Announces that Broadcast Information Specialists Are Available for Public Inquiries (Apr. 24, 2008), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-08-940A1.pdf.

The new version has many qualities that will greatly benefit the public, including direct links to other documents and tools relevant in license renewal proceedings. Although it is a good start, we urge the FCC to regularly revise it, keep it up-to-date, and make it more useful for the public. We note that other sections of the FCC website, such as the “Parents Place” site,⁶⁷ and the Commission’s website on the digital television transition,⁶⁸ have features that make them easier for the general public to use.

We are also concerned that members of the public may have difficulty locating *The Public & Broadcasting*. While there is a link to *The Public & Broadcasting* on the Media Bureau’s homepage,⁶⁹ there is no similar link on the Commission’s main page, even though that is where members of the public are most likely to seek out information. At a bare minimum, a link to *The Public & Broadcasting* should be clearly and prominently displayed in the “Consumer Center” section on the main page of the Commission’s website, in addition to the one currently displayed on the Media Bureau page.

In addition, some of the database systems linked to *The Public & Broadcasting* are difficult to navigate. For instance, currently, a person using the CDBS system⁷⁰ to search for applications pertaining to WJHL, the CBS affiliate in Johnson City, TN, has to type “WJHL-TV” into the “call sign” text box—typing only “WJHL” without the “-TV” extension returns no results. However, a person searching for WUSA, the CBS affiliate in Washington, DC, has the opposite experience—typing “WUSA-TV” returns no results, while typing “WUSA” properly locates the station application information.

⁶⁷ <http://www.fcc.gov/parents>.

⁶⁸ See, e.g., “Parents Place,” <http://www.fcc.gov/parents>; “DTV,” <http://www.dtv.gov>.

⁶⁹ <http://www.fcc.gov/mb/>.

⁷⁰ http://fjallfoss.fcc.gov/prod/cdbs/pubacc/prod/app_sear.htm.

Even if the person happens upon the correct call sign, the results list does not identify the relevant renewal application. In fact, nothing in the results list indicates the application type.⁷¹ For instance, WJHL-TV's application results list contains thirty separate entries, many of them posted around the same time. A person would have no idea which application is the relevant one for license renewal.

Thus, while we commend the Commission for its quick update of *The Public & Broadcasting*, the Commission can and should revise it to make it easier for the public to find and to obtain access to all the relevant information, thereby facilitating public comments that the FCC needs to determine whether a television station is serving the public interest.

B. The FCC's Proposal Regarding Community Advisory Boards Warrants Serious Consideration

We appreciate the Commission's exploration of means to facilitate dialogue between broadcasters and their local communities. In particular, we believe that the Commission's proposal to require community advisory boards ("CABs") merits further consideration. As the *NPRM* notes, some broadcasters report that they benefit from CAB-type initiatives which foster outreach and feedback from community leaders and the public.⁷² Their positive experiences suggest that other licensees would similarly benefit from utilizing a CAB, and that such initiatives are feasible for many broadcasters to employ.

⁷¹ The results list contains only the file number, notation of whether the application was filed on paper or electronically, the station call-sign, the facility ID number, the type of service the station provides, the status of the application, and a link to the application.

⁷² *NPRM*, ¶ 13 (For example, many Fox stations engage in formal and informal meetings with area leaders to ascertain the needs of the community, and some even designate station employees as community liaisons. Univision reports that some of its affiliates conduct extensive ascertainment-type interviews with members of their communities to identify issues important to their local audience. A CBS affiliate holds monthly meetings with community members to help inform station programming decisions).

At the same time, we are mindful that because the needs of individual communities differ and broadcaster resources vary from station to station, it may not be feasible or desirable for the Commission to mandate a “one size fits all” CAB requirement for all broadcasters. However, the FCC can adopt flexible CAB requirements which account for these differences so long as they comply with some key principles.

For a CAB policy to be effective, the Commission must require licensees to actively engage and solicit feedback from community members and leaders. Both community leaders and the public should have a forum to meet and discuss local programming needs with individuals who are in positions to make decisions about a station’s programming, including station managers, news editors, and reporters. We agree with the Commission that licensees would benefit from quarterly meetings of CABs, and further suggest that at least one of those meetings, or an additional meeting, be open to the public to ensure that both the CAB and station decision-makers are responsive to input from the community.

It is also important that broadcasters give the public adequate notice of how to participate in such meetings, or in any other mechanism the Commission decides to adopt. Thus, at a minimum, the Commission should require stations to provide information on meetings or other opportunities for public input via on-air announcements, community liaisons, toll-free numbers, and station websites.

C. The FCC Should Require Licensees To Provide Better Notice To The Public About Upcoming License Renewals

Providing better notice of upcoming license renewals is another important way that the Commission can increase public participation. We agree that “the relatively few on-air announcements currently required” do not effectively inform the public about license renewal

proceedings.⁷³ The record shows that “many in the public do not understand the Commission’s license renewal process, or more particularly, that the procedure affords listeners and viewers a meaningful opportunity to provide their input.”⁷⁴ One of the best ways to gauge whether broadcasters serve local needs is through public comments from local citizens and community leaders. Without adequate notice, the public will not know that renewal proceedings are occurring and will not have the opportunity to present their views.

For members to become involved in license renewal proceedings, they must know that they can participate, how to participate, and when to participate. Therefore, we urge the Commission to increase the frequency of currently required on-air announcements and to also require licensees to post information about their license renewals on their websites.

1. The Frequency Of Broadcast Announcements Should Be Increased

The current regulations require licensees to broadcast announcements only twice per month beginning six months prior to a license’s expiration.⁷⁵ Only two pre-filing announcements and three post-filing announcements must be broadcast during primetime (for TV) or “drive time” (for radio).⁷⁶ This small number of announcements is insufficient to inform the public that the license renewal is approaching and of the opportunity to file comments or objections.⁷⁷

Accordingly, we propose that the Commission also require short, but more frequent, on-air announcements that direct listeners and viewers to the station’s or the Commission’s website.

⁷³ *NPRM*, ¶ 24.

⁷⁴ *NPRM*, ¶ 23.

⁷⁵ 47 C.F.R. § 73.3580(d)(4). The existing required broadcast announcement should be retained and improved upon by including the Commission’s website address.

⁷⁶ 47 C.F.R. § 73.3580(d)(4).

⁷⁷ *NPRM*, ¶ 24.

For example, the announcement could inform viewers and listeners: “This station’s broadcast license is due to expire and we have filed a renewal application. To learn more or file comments, please visit [station’s or FCC’s website] before [date that comment period ends].” The announcement could also include the phone numbers, fax numbers, and email addresses of the two individuals the station has assigned to facilitating this process.

The announcement should air four times each day from the filing of the application for renewal until the deadline for public comments. At least twice per day, the announcement should occur during primetime (for TV) and drive time (for radio). Increasing the frequency raises the likelihood that all interested members of the local community will learn about the proposed renewal in time to file comments or objections. Moreover, because the announcements are shorter and would only run for a few months during the license term, the burden on broadcasters would be minimal in comparison to the public benefit.

2. The Commission Should Require Broadcasters To Post Notice Of Upcoming License Renewals On Their Websites

As the Commission recognized in its *Enhanced Disclosure Report & Order*, “broadcasters have confirmed that the Internet is an effective and cost-efficient method of maintaining contact with, and distributing information to, their viewership.”⁷⁸ Accordingly, the Commission should require that broadcasters post all information currently required in the on-air announcement on the station’s website, if it has one. While the announcement may be placed on a separate page on the station’s site, a clear and prominent link to the announcement page should be placed on the home page for the entire period that the licensee is required to broadcast the announcement on the air.

⁷⁸ *Enhanced Disclosure R&O*, *supra* note 4, ¶ 7.

IV. The Commission Should Reduce Broadcast License Terms And Act Promptly On Any Petitions to Deny

Although we support the FCC's proposals to implement processing guidelines and increase public participation in license renewals, we are concerned that these changes will have little practical effect so long as license terms remain eight years. Moreover, without some assurance of prompt response to complaints about a licensee's performance, members of the public will have little incentive to participate.

A. License Terms Should Be Returned To Three Years

The *NPRM* states that the Commission was “not persuaded by some commenters’ suggestions that the Commission should shorten broadcast license terms to some period less than the eight years that Congress authorized in the Telecommunications Act of 1996.”⁷⁹ The Commission based this decision on its belief that the “behavioral rules” proposed in the *NPRM* or adopted or under consideration in other related dockets will be sufficiently effective in addressing localism concerns.⁸⁰ Unfortunately, the eight-year license terms may permit violations of the FCC's behavioral rules to go unaddressed for years. To give licensees greater incentives to meet public interest obligations, the Commission “needs to reinvigorate the license-renewal process” by “look[ing] at a station's record every three or four years.”⁸¹

1. Eight-Year License Terms Provide Insufficient Incentives For Licensees To Serve Local Communities

The 1934 Communications Act originally limited the broadcast license term for television and radio stations to three years. In 1981, Congress increased maximum license terms to five years for television licensees and to seven years for radio licensees. The 1996

⁷⁹ *NPRM*, ¶ 121.

⁸⁰ *Id.*

⁸¹ *NPRM*, Statement of Commissioner Michael J. Copps.

Telecommunications Act extended the maximum license terms for both television and radio stations to eight years.⁸² The Commission responded by amending its rules to extend broadcast license terms to eight years based on its belief that “the 8-year license term, on balance, would serve the public interest.”⁸³

We are concerned that eight-year license terms reduce broadcasters’ incentives to meet the processing guidelines or serve local communities in other ways. Because stations are frequently bought and sold,⁸⁴ a licensee may fail to serve its community of license, yet avoid any meaningful sanction by selling the station before the license comes up for renewal. Or, a licensee may feel free to ignore a rule in the expectation that the rule may be changed before its license comes up for review. This has already occurred in the *2006 Quadrennial Review* and could occur again in light of the requirement that the FCC review its broadcast ownership rules every four years. And, even if the station is not sold and the rules are not changed, the Commission may be reluctant to impose a sanction on a station for inadequate service that occurred many years earlier.

A hypothetical illustrates this problem. Assume that a station had its license renewed in early 2008. During the 2008 elections, it failed to provide any coverage of local political races. Although the public would be harmed by this lack of information in 2008, the FCC would not address the issue until the license came up for renewal in 2016. It is unreasonable to expect the

⁸² 47 U.S.C. § 307(c)(1).

⁸³ *Implementation of Section 203 of the Telecommunications Act of 1996 (Broadcast License Terms)*, 12 FCC Rcd 1720, 1725 (1997).

⁸⁴ *See, e.g.*, PROJECT FOR EXCELLENCE IN JOURNALISM, *THE STATE OF THE NEWS MEDIA 2007: AN ANNUAL REPORT ON AMERICAN JOURNALISM* (2007), http://www.stateofthenewsmedia.org/2007/narrative_localtv_ownership.asp?cat=4&media=7.

public to wait eight years before filing a petition to deny.⁸⁵ And even if the FCC ultimately imposed some sanction in 2016, it would be too late to remedy the harm to the public.

Thus, maintaining an eight-year license term both discourages the public from participating in the license renewal proceeding and compromises the effectiveness of those who do participate.

2. The Commission Has Statutory Authority To Modify License Terms

The Commission has legal authority to modify broadcast license terms. Section 307(c)(1) of the Communications Act, as amended by the Telecommunications Act of 1996, states: “Each license granted for the operation of a broadcasting station shall be for a term not to exceed 8 years . . . from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby.”⁸⁶ The statute does not set a minimum term. On the contrary, it allows the Commission to prescribe rules setting out renewal terms for particular classes of licenses.⁸⁷ Thus, we urge the Commission to limit license terms for broadcast stations to three years.

B. The Commission Should Impose A Time Limit On Its Consideration Of These Petitions, Applications For Review, And Petitions For Reconsideration

The problems caused by long license terms are exacerbated by the length of time the Commission takes to respond to petitions to deny license renewals. Some members of PIPA *et al.* have experienced these problems first hand with regard to the children’s television guideline. The children’s programming guideline adopted by the Commission in 1996 is similar to the

⁸⁵ It would also be difficult because stations are only required to keep their political files, which provide a record of broadcasts concerning candidates for public office, for two years. 47 C.F.R. § 73.1943(c) (2008). Similarly, stations are only required to keep public complaints on file for three years. 47 C.F.R. § 73.3526(e)(9)(i) (2008).

⁸⁶ 47 U.S.C. § 307(c)(1).

⁸⁷ *Id.*

proposed localism processing guidelines in that it permits television stations to receive staff-level approval of a portion of their renewal applications by airing at least three hours per week of core educational programming.⁸⁸

In September 2004, the United Church of Christ (UCC) filed a petition to deny against two Washington, DC television stations that had failed to provide three hours of programming specifically designed to serve the educational needs of children.⁸⁹ In the fall of 2005, UCC filed similar petitions against two stations in Cleveland, Ohio.⁹⁰ Yet, as of today, the FCC has failed to act on either of the Washington, DC stations and one of the Cleveland stations.⁹¹

It is unreasonable for the Commission to expect public participation in the license renewal process if the Commission fails to act on petitions to deny in a timely manner. After facing similar complaints with regard to its tardiness in reviewing transfer applications,⁹² the Commission imposed upon itself a time limit for final actions on these applications of 180 days from public notice that the application has been accepted for filing, except in extraordinary circumstances.⁹³ The Commission should adopt a similar 180-day limit for the Media Bureau to act on petitions to deny license renewals. Failure to act within the limit should be deemed a

⁸⁸ *Children's Television Obligations of Digital Television Broadcasters*, 19 FCC Rcd. 22943, 22947-48 (2004).

⁸⁹ United Church of Christ, *Petition to Deny License Renewal to WPXW Paxson Communications and WDCA Fox Television, Washington, DC* (2004).

⁹⁰ United Church of Christ, *Petition to Deny License Renewal to WUAB-TV Raycom, Cleveland, OH* (2005); United Church of Christ, *Petition to Deny License Renewal to WQHS-TV, Cleveland, OH* (2005).

⁹¹ The FCC entered into a consent decree with the licensee of the other Cleveland station under which Univision agreed to pay a \$24 million dollar fine for its misclassification of a telenovela as a children's educational program. *Shareholders of Univision Communications Inc. and Broadcasting Media Partners*, 22 FCC Rcd. 5842, 5859 (2007).

⁹² Television Digest with Consumer Electronics, "FCC Merger Reviews Targeted – Brief Article," March 20, 2000, *available at* http://findarticles.com/p/articles/mi_m3169/is_12_40/ai_60477726

⁹³ 47 C.F.R. § 63.03(c)(2) (2005).

denial of the petition to deny, which would allow the petitioner to file an application for review with the full Commission. In addition, the Commission should commit to act on applications for review or petitions for reconsideration of a decision denying or dismissing a petition to deny a license renewal, within 120 days. Its failure to do so should be deemed a denial, thus permitting the petitioner to seek judicial review within a reasonable period of time.

CONCLUSION

For the foregoing reasons, we urge the FCC to adopt processing guidelines for television station license renewals, enhanced disclosure requirements for analog as well as digital radio, increase opportunities for public participation and dialogue, and to provide incentives for public participation by reducing the length of license terms and acting promptly on petitions to deny.

Respectfully Submitted,

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