



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MB Docket No. 16-161; FCC 17-3]

Expansion of Revisions to Public Inspection File Requirements –

Broadcaster Correspondence File and Cable Principal Headend Location

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) eliminates two public inspection file requirements: the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public; and the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. Our actions will reduce regulatory burdens on commercial broadcasters and cable operators, advance regulatory parity with respect to our public file requirements among various program distributors, and improve security at local stations and principal headend locations.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the amendments to §§ 73.3526, 76.5, 76.1700, and 76.1708, which contain information collection requirements that have not been approved by OMB. The Commission will publish a document in the Federal Register announcing the effective date of those amendments.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, 202-418-2154, or email at kim.matthews@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 17-3, adopted on January 31, 2017 and released on January 31, 2017. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY-A257, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

The Report and Order contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Summary

I. INTRODUCTION

1. In the Report and Order, we eliminate two public inspection file requirements: (i) the requirement that commercial broadcast stations retain in their public inspection file copies of

letters and emails from the public; and (ii) the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. Because of potential privacy concerns associated with putting the correspondence file online and because many cable operators prefer not to post online the location of their principal headend for security reasons, removing these requirements will enable commercial broadcasters and cable operators to make their entire public inspection file available online without these privacy and security concerns and eliminate the need to maintain a local public file.

2. Principal headend location information must be accessible to the Commission, however, to enable it to enforce its signal leakage rules and to respond to must-carry and signal leakage complaints. In addition, broadcast television stations must have access to this information in order to exercise their must-carry rights and franchisors may need it in connection with their oversight of local cable systems and operations. Accordingly, we will require cable systems to provide principal headend location information to these entities upon request. In lieu of responding to individual requests for such information, operators may alternatively elect voluntarily to provide this information to the Commission for inclusion in the Commission's online public inspection file ("OPIF") database and may elect to make the information publicly available there.

3. Eliminating the correspondence file and principal headend public file requirements will reduce regulatory burdens on commercial broadcasters and cable operators. By permitting these entities to cease maintaining a local public file, our actions will also advance regulatory parity with respect to our public file requirements among various program distributors and improve security at local stations and principal headend locations.

II. BACKGROUND

A. Correspondence File

4. Section 73.3526(e)(9) of the Commission's rules provides that commercial broadcast stations must retain in their public inspection file "[a]ll written comments and suggestions received from the public regarding operation of the station unless the letter writer has requested that the letter not be made public or the licensee believes the letter should be excluded from public inspection because of the nature of its content," such as a situation in which a letter contains content that is defamatory or obscene. The rule expressly includes email messages transmitted to station management or to an email address publicized by the station.

5. As discussed in the Notice of Proposed Rulemaking in this proceeding, Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location, Notice of Proposed Rulemaking, 81 FR 40617, June 22, 2016 (NPRM), the Commission first required commercial radio and television broadcasters to retain written comments and suggestions from the public and make them available for public inspection in 1973. The original correspondence file rule was adopted together with a requirement that commercial broadcast stations air regular announcements "informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation." The purpose of the correspondence file was "to permit a member of the public to better determine the nature of community feedback being received by the licensees and the extent to which his or her opinions regarding community problems and needs and/or the licensee's station operation might be shared by other members of the community." The Commission later removed the requirement that licensees air announcements regarding their obligations to the public, noting that section 73.3580 of the rules requires that both commercial and noncommercial stations make announcements in connection with the filing of their license

renewal applications and concluding that these renewal application announcements were sufficient to inform the public of the “Commission’s oversight functions and the availability of public recourse.” The Commission, however, retained the requirement that licensees keep all written comments and suggestions received from the public in their public inspection files.

6. The correspondence file requirement applies only to commercial broadcasters; there is no similar requirement for noncommercial broadcasters. There is also no correspondence file requirement for cable operators, DBS providers, or satellite radio licensees, all of which have other public inspection file obligations.

B. Principal Headend Location

7. Section 76.1708 of the Commission’s rules requires operators of all cable television systems to “maintain for public inspection the designation and location of [the system’s] principal headend. If an operator changes the designation of its principal headend, that new designation must also be included in its public file.” The Commission first adopted the principal headend public file requirement in a 1993 order implementing the must-carry and retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992. Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues, Report and Order, 58 FR 17350, April 2, 1993 (“Must-Carry Order”). Under the Cable Act, commercial television stations must deliver a good quality signal to a cable system’s “principal headend” in order to be eligible for must-carry rights on that system. The Cable Act’s provisions regarding eligibility for must-carry rights for noncommercial and low power television stations also refer to a cable system’s “principal headend.” In the Must-Carry Order, the Commission required cable systems to retain various

records relating to must-carry obligations in their public file, including, as noted above, the designation and location of the system's principal headend.

C. Online Public Inspection File

8. In 2012, the Commission adopted online public inspection file rules for television broadcasters that required them to post public file documents to a central, FCC-hosted online database rather than maintaining files locally at their main studios. See Television Online Public File Order, 77 FR 27631, May 11, 2012. However, in the Television Online Public File Order, the Commission determined that letters and emails from the public should not be uploaded to the online file, but should instead continue to be maintained at the station's main studio. The Commission concluded that including letters and emails from the public in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome.

9. In January 2016, the Commission adopted the Expanded Online Public File Order, 81 FR 10105, February 29, 2016, in which it added cable operators, DBS providers, broadcast radio licensees, and satellite radio licensees to the list of entities required to post their public inspection files to the FCC-hosted online database. With respect to commercial radio licensees, the Commission concluded, consistent with the decision reached in the Television Online Public File Order, that it would exempt letters and emails from the public from the requirement to file online and instead require stations to continue to retain such material in their local public file. The Commission also concluded that it would not require cable operators to include principal headend location information in the online public file and gave operators the option instead to continue to retain this information in their local public file.

10. The Commission determined in the Expanded Online Public File Order that entities that upload all public file material to the Commission's online database and that also provide online access to back-up political file documents via the entity's own website when the Commission's online database is temporarily unavailable will not be required to maintain a local public file. The Commission noted, however, that this option is not available to commercial broadcast licensees, which must continue to retain a correspondence file that cannot be made available online for privacy reasons. In the NPRM, the Commission tentatively concluded that it should eliminate the correspondence file requirement. As requested by NCTA, we also proposed in the NPRM to eliminate the requirement that cable operators retain information regarding the location of their principal headend in the public inspection file. We noted that the general public has no interest in this information and that eliminating this public file requirement would permit operators who feel the need to avoid posting this information online for security reasons to cease retaining this information locally and to transition to a fully online public inspection file.

III. DISCUSSION

A. Correspondence File

11. As we proposed in the NPRM, we eliminate the requirement that commercial broadcast stations retain letters and emails from the public in their public inspection files. We agree with those commenters who argue that retention of letters and emails is not necessary to ensure that broadcasters comply with their public interest obligation to air programming that is responsive to the needs and interests of their community of license. Viewers and listeners can continue to communicate directly with stations by letter, email, social media, telephone, or other means; the only change is that stations will no longer be required to retain letters and emails and make them publicly available in their local public file.

12. We agree with the Broadcaster Coalition that stations are likely to continue to respond to concerns raised by consumers even though they are no longer required to retain all written communications for public inspection. Stations have an economic incentive to be responsive to their consumers. The Broadcaster Coalition notes that, as they have with letters and emails from the public, stations now monitor their social media accounts to understand viewers' reactions to stories and obtain feedback about the operation of the station. We also agree with those commenters who note that the volume of commentary on social media sites about a station's performance is likely to far exceed the number of letters and emails a station receives. Unlike the correspondence file, these Internet postings are readily available online where they can be viewed by interested parties.

13. Our action today will have little, if any, impact on the Commission's role in reviewing licensee performance. As we stated in the NPRM, the Commission's scrutiny of most licensee conduct occurs in conjunction with consideration of a station's license renewal application. Interested listeners and viewers may file petitions or objections concerning licensee performance at the time the station files its renewal application. Licensees are required to air announcements notifying their viewers and listeners that they have the opportunity to provide feedback during the Commission's review of the license renewal application. Petitions and objections filed in connection with a license renewal application are accessible by the public in the Commission's Consolidated Database System (CDBS). Interested parties may also file formal and informal complaints at any time during a station's license period. The Commission maintains a public website that permits consumers to file informal complaints directly with the Commission.

14. While we recognize that some consumers may not have Internet access at home, lack access to broadband, or lack digital media skills, we disagree with those commenters who argue that these concerns warrant requiring commercial broadcasters to continue to maintain a correspondence file. The record suggests that few consumers seek access to the correspondence file. Consumers can continue to communicate directly with stations by letter or telephone and those without Internet access at home may also be able to access the online public file from locations, such as public libraries, that provide Internet access to the public. In addition, consumers who are unable to access or navigate the Commission's website can file an informal objection to a renewal application by mail. Consumers can also contact the Commission toll-free by telephone to file an informal complaint against a station.

15. Eliminating the correspondence file requirement will have the added benefit of permitting commercial broadcasters to transition to an entirely online public file and cease maintaining a local public file. This change will reduce regulatory burdens on commercial broadcasters and allow them to realize the cost savings and other efficiencies of an entirely online file. Eliminating the correspondence file will also advance regulatory parity by providing commercial broadcasters with the same opportunity as other entities with online file requirements to provide online access to all public file materials, and will permit commercial licensees concerned about security to limit public access to a station's facilities.

16. We note that the Telecommunications Act of 1996 requires television licensees to include in their license renewal application "a summary of written comments and suggestions" that are both "received from the public," and "maintained by the licensee (in accordance with Commission regulations)," and that "comment on the applicant's programming, if any, and that are characterized by the commenter as constituting violent programming." See 47 U.S.C.

308(d). The Commission determined in the 1999 Main Studio and Public File Order, 64 FR 35941, July 2, 1999, that noncommercial broadcasters are not subject to this requirement because section 308(d) requires licensees to summarize correspondence maintained by licensees “in accordance with Commission regulations” and “noncommercial educational licensees are not required to maintain these letters under our rules.” It follows from this determination that because commercial TV licensees will no longer be required to maintain correspondence under our rules, under the terms of section 308(d) they also will not be required to file a summary of correspondence received regarding violent programming with their renewal application. Our extension of our 1999 determination moots the Broadcaster Coalition request that the Commission clarify that such communications may be retained in a non-public file and that the retention period for such communications is three years, consistent with the correspondence file retention period requirement, rather than the eight-year license term. The Commission’s license renewal application, FCC Form 303-S, directs commercial TV and Class A TV applicants to submit a summary of written communications received from the public regarding violent programming. We delegate authority to the Media Bureau to revise this form and instructions consistent with our decision to eliminate the correspondence file requirement.

17. The rule changes we are adopting herein must be approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The Media Bureau will issue a Public Notice announcing such approval and the effective date of the rules. Commercial broadcasters must continue to retain a correspondence file locally and make it available for public inspection until the effective date of the new rules.

B. Principal Headend Location

18. As we proposed in the NPRM, we also eliminate the requirement that cable operators retain information about the designation and location of the system's principal headend in the public inspection file. No commenter opposed this proposal. All commenters who addressed the issue agreed with our conclusion in the NPRM that the general public has no need for or interest in this information.

19. While the general public has no need for information about the location of a cable system's principal headend, that information must be accessible to the Commission as needed to permit enforcement of cable carriage and signal leakage requirements and to avoid interference to and from cable headends. For example, the Commission must know the location of the principal headend to conduct tests to determine compliance with signal leakage requirements. In addition, the Commission must know the location of a principal headend in order to ensure that the facilities are not causing interference to, or receiving interference from, other communications facilities. The Commission currently does not maintain principal headend location information for most cable systems. Broadcast television stations also must have access to principal headend location information to determine cable carriage rights.

20. To ensure that the Commission has access to principal headend location information, we will require that all cable systems provide it to us promptly upon request made by phone, email, or other means. Systems must also provide this information upon request to broadcast television stations and franchisors. In lieu of responding to individual requests for principal headend location information, systems may alternatively elect voluntarily to input this information into OPIF or provide it to the Commission by mail or email to be included in that database. Systems that elect to provide this information in OPIF may choose to make it accessible only to the Commission or also make it publicly available. Inputting headend

information into OPIF will be a simple task and, for cable operators that choose this option, will obviate responding to inquiries about their headend location from Commission staff. In addition, systems that input the information directly into OPIF can elect to make it immediately available to the public and thereby also eliminate the necessity of providing information in response to other requests for principal headend location information.

21. Systems that elect not to provide principal headend information in OPIF, or that elect to protect this information from public view, will be required to make it available to broadcast television stations and local franchisors upon request. If a request is submitted to a cable system from a broadcaster or local franchisor in writing by certified mail, cable systems must respond in writing by certified mail within 15 calendar days. Cable systems may in addition elect to respond to requests from these entities submitted by telephone or email, but must respond in writing by certified mail if requested to do so by the station or franchisor. Systems that choose to provide principal headend information to the FCC by email or mail, and that state that it can be made public in OPIF, must provide it to stations upon request until their information appears in the OPIF database.

22. After the rules adopted in this order are approved by the Office of Management and Budget (OMB), the Media Bureau will issue a Public Notice (PN) announcing the effective date of the rules. The Media Bureau will provide in the PN instructions on how to access and use the OPIF database, addresses to be used to send the information directly to the Commission, and the telephone number for technical assistance with OPIF.

23. The actions we take today will reduce burdens for cable system operators, particularly those with security concerns about posting principal headend location information online. By eliminating the principal headend public file requirement, we enable these systems to

transition to a fully online public file and benefit from the long-term cost-savings and other efficiencies associated with an online file. While these systems must provide principal headend information to the Commission, broadcasters, and franchisors upon request, this requirement is minimal and should not be onerous. Commenters report that systems receive very few, if any, requests for this information. Any burden from these new requirements is more than offset by the benefit of no longer being required to maintain a local public file to retain principal headend location information. Moreover, cable systems that elect voluntarily to provide principal headend location information to the Commission to be maintained in OPIF, and that elect to make this information publicly available, can direct anyone requesting principal headend location information to that database in lieu of responding to individual requests.

24. We disagree with ACA that small cable systems should have the option to retain principal headend location locally and provide it to the Commission, television stations, and franchisors on request made in person at their facilities. Requiring entities to make an in-person visit to the system to obtain this information, should that be necessary, would be unduly burdensome, particularly as there are other simple, essentially costless means for the system to provide the information to entities that need it. Moreover, as the Commission currently does not have information regarding the address of the principal headend or local business office for many small systems, Commission staff often would not know where to go in person to request principal headend location information.

IV. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Act Analysis

25. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM in MB Docket 16-161. The

Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. We received no comments specifically directed toward the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, Report and Order

26. The Report and Order eliminates two public inspection file requirements - the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public (referred to as the “correspondence file”) and the requirement that cable operators maintain for public inspection the designation and location of the cable system’s principal headend. We conclude that these two components of our public inspection file rules involve documents or information that do not need to be made available to the general public and that eliminating these rules will reduce the burden of maintaining the public inspection file on commercial broadcasters and cable operators. Our action today will also permit commercial television and radio broadcasters and cable operators to cease maintaining a local public inspection file if they post all public file material to the online public file database and provide online access via their own website to back-up political file material. The Commission previously adopted this option for other entities subject to our online public inspection file requirements. Because the correspondence file cannot be made available online for privacy reasons and because many cable operators prefer not to post the location of their principal headend online for security reasons, removing these requirements will permit commercial broadcasters and cable operators to elect to make their entire public inspection file available online and cease maintaining a local public file, thereby further reducing overall regulatory burdens on these entities. The Report and Order also delegates to the Media Bureau the authority to revise FCC Form 303-S to reflect the fact that, consistent with the language of 47

U.S.C. 308(d), commercial TV and Class A TV licensees will no longer be required to submit with their renewal applications a summary of written communications received from the public regarding violent programming.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

27. No comments were filed in response to the IRFA.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

28. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

29. Television Broadcasting. This economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.” The SBA has created the following small business size standard for such businesses: those having \$38.5 million or less in annual receipts. The 2012 U.S. Census indicates that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less. Because the Census has no additional classifications that could serve as a basis for determining the

number of stations whose receipts exceeded \$38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

30. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial television stations to be 1,387 stations. Of this total, 1,221 stations (or about 88 percent) had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 2, 2014. In addition, the Commission has estimated the number of licensed Class A television stations to be 417. Given the nature of these services, we will presume that these licensees qualify as small entities under the SBA definition. Based on these data, we estimate that the majority of television broadcast stations are small entities.

31. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the revenue threshold noted above, our estimate of the number of small entities affected is likely overstated. In addition, we note that one element of the definition of “small business” is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, our estimate of small television stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

32. Radio Broadcasting. The SBA defines a radio broadcast station as a small business if such station has no more than \$38.5 million in annual receipts. Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to

the public.” According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of the then number of commercial radio stations (11,341) have revenues of \$35.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial radio stations to be 11,408. We note that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

33. As noted above, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

34. Cable Companies and Systems. The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there are currently 660 cable operators. Of this total, all but ten cable operators nationwide are small under this size standard. In addition, under the Commission’s rate

regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,421 cable systems nationwide. Of this total, 3,936 cable systems have less than 20,000 subscribers, and 485 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

35. Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” There are approximately 53 million cable video subscribers in the United States today. Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

36. The rule changes adopted in the Report and Order will reduce reporting, recordkeeping, and other compliance requirements for commercial broadcast stations which, prior to our action today, were required to retain letters and emails from the public in their local public inspection file. The Report and Order eliminates this requirement, thereby reducing recordkeeping burdens on these entities. In addition, eliminating the correspondence file requirement will permit commercial radio and television stations to fully transition to an online public file and cease maintaining a local public file, allowing them to realize the long-term cost savings associated with the online public file. The elimination of the requirement that commercial television and Class A licensees include in their license renewal applications a summary of communications received from the public regarding violent programming will also reduce regulatory burdens on these licensees.

37. The actions we take today will also reduce burdens for cable system operators, particularly those with security concerns about posting principal headend location information online. By eliminating the principal headend public file requirement, we enable these systems to transition to a fully online public file and benefit from the long-term cost-savings and other efficiencies associated with an online file. While these systems must provide principal headend information to the Commission, broadcasters, and franchisors upon request, this requirement is minimal and should not be onerous. Commenters report that systems receive very few, if any, requests for this information. Any burden from these new requirements is more than offset by the benefit of no longer being required to maintain a local public file to retain principal headend location information. Moreover, cable systems that elect voluntarily to provide principal headend location information to the Commission to be maintained in OPIF, and that elect to

make this information publicly available, can direct those requesting principal headend location information to that database in lieu of responding to individual requests.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

39. Alternative options discussed in the *NPRM* included requiring cable systems to file a form with the FCC to provide principal headend information. Requiring systems to instead provide this information upon request is less burdensome than a requirement to file a form. While ACA urged the FCC to simply permit small cable systems to retain principal headend information locally and provide it upon request to entities who ask for it in person, requiring entities to make an in-person visit to the system to obtain this information would be overly burdensome, particularly as there are other simple, essentially costless means for the system to provide the information to entities that need it. Moreover, as the FCC currently does not have information regarding the address of the principal headend or local business office for many of small systems, it would not know where to go to request principal headend location information. Overall, we believe that the Report and Order appropriately balances the interests of the public

against the interests of the entities who will be subject to the rules, including those that are smaller entities.

6. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

40. None.

B. Paperwork Reduction Act Analysis

41. This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Congressional Review Act

42. The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

V. ORDERING CLAUSES

43. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 303(r), 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 614, and 615, the Report and Order IS HEREBY ADOPTED.

44. IT IS FURTHER ORDERED that parts 73 and 76 of the Commission's rules, 47 CFR part 73, 76, are AMENDED as set forth in Appendix B of the Report and Order. Such rule amendments contain new or modified information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), and SHALL BECOME EFFECTIVE after publication in the Federal Register of a notice announcing such approval and the relevant effective date.

45. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the Report and Order including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

46. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of the Report and Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 73

Radio, Recording and recordkeeping requirements, Television.

47 CFR Part 76

Cable television, Reporting and recordkeeping requirements.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 as follows:

PART 73 – RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47.U.S.C. 154, 303, 307, and 554.

§ 73.1202 [Removed and Reserved].

2. Section 73.1202 is removed and reserved.
3. Section 73.3526 is amended by revising paragraphs (b)(1) and (b)(2)(i) and removing and reserving paragraph (e)(9),

The revisions read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) * * *

(1) For radio licensees temporarily exempt from the online public file hosted by the Commission, as discussed in paragraph (b)(2) of this section, a hard copy of the public inspection file shall be maintained at the main studio of the station, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2) of this section. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(2)(i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission,

with the exception of the political file as required by paragraph (e)(6) of this section, as discussed in paragraph (b)(3) of this section. Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section.

* * * * *

PART 76 – MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

4. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

5. Section 76.5 is amended by revising paragraph (pp)(2) to read as follows:

§ 76.5 Definitions.

* * * * *

(pp) * * *

(2) In the case of a cable system with more than one headend, the principal headend designated by the cable operator, except that such designation shall not undermine or evade the requirements of subpart D of this part. Each cable system must provide information regarding the designation and location of the principal headend to the Commission promptly upon request. Except for good cause, an operator may not change its choice of principal headend. Cable

systems may elect voluntarily to provide the location of the principal headend in the Commission's online public inspection file database and may choose whether to make this information accessible only by the Commission or to also make it publicly available. Systems that elect not to provide this information in the online file, or to protect this information in the online file from public view, must make it available to broadcast television stations and local franchisors upon request. If a request is submitted by a television station or franchisor in writing by certified mail, cable systems must respond in writing by certified mail within 15 calendar days. Cable systems may in addition elect to respond to requests from these entities submitted by telephone or email, but must respond in writing by certified mail if requested to do so by the station or franchisor.

* * * * *

6. Section 76.1700 is amended by revising paragraph (a) introductory text, removing paragraph (a)(6), and redesignating (a)(7) through (10) as (a)(6) through (9), respectively.

The revision reads as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a) Public inspection file. The following records must be placed in the online public file hosted by the Commission, except as indicated in paragraph (d) of this section and except that the records listed in paragraph (a)(1) of this section (political file) that are in existence 30 days after the effective date of this provision, if not placed in the online file, shall continue to be retained at the system and made available to the public in the manner discussed in paragraph (e) of this section until the end of the retention period. In addition, any cable system with fewer than 5,000 subscribers shall continue to retain the political file at the system in the manner discussed in paragraph (e) of this section until March 1, 2018. For these systems, effective March 1, 2018,

any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at the system in the manner discussed in paragraph (e) of this section until the end of its retention period. However, any system that is not required to place its political file in the Commission's online public file before March 1, 2018 may choose to do so, instead of retaining the political file at the system in the manner discussed in paragraph (e) of this section.

* * * * *

§ 76.1708 [Removed and Reserved].

7. Section 76.1708 is removed and reserved.

[FR Doc. 2017-03465 Filed: 2/22/2017 8:45 am; Publication Date: 2/23/2017]