

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Elimination of Main Studio Rule) MB Docket No. 17-106
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COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

1771 N Street, NW
Washington, DC 20036
(202) 429-5430
Rick Kaplan
Erin Dozier
Jerianne Timmerman

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**COMMENTS OF THE
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I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ hereby files these comments in support of the Commission’s proposal to eliminate the main studio rule, including the related staffing and equipment requirements.² As the Notice observes, the rule was designed to facilitate input from the community and station participation in community activities through physical access to the local studio, and was conceived nearly eighty years ago.³ Today, however, widespread use of electronic communications enables efficient interaction between stations and their communities of license without the need for the physical presence of a studio.⁴ As discussed further below, the elimination of the main studio rule and related staffing and equipment requirements will reduce regulatory burdens on broadcasters, resulting in cost savings and other efficiencies that will allow stations to

¹ NAB is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² Elimination of the Main Studio Rule, *Notice of Proposed Rulemaking*, MB Docket No. 17-106, FCC No. 17-59 (May 18, 2017) (Notice).

³ Notice at ¶ 1.

⁴ *Id.*

better serve their audiences. For these reasons, NAB supports the Commission's proposed elimination of the rule.

II. THE CURRENT RULE IS INCONSISTENT WITH THE EXPECTATIONS OF TODAY'S LISTENERS AND VIEWERS, WHO REGULARLY INTERACT WITH BROADCAST LICENSEES THROUGH ELECTRONIC MEANS

As the Notice observes, the main studio rule was conceived at a time when physical access to a studio was likely the principal means for viewers and listeners to interact with station personnel.⁵ Audiences certainly had the ability to mail letters to stations, but in 1940, only 39% of U.S. households had telephones.⁶ Even when the main studio rule was most recently revised in 1998, many of the revolutionary ways in which stations and their audiences interact today had yet to be developed. Today's audiences are in frequent communication with their local stations through multiple means. Stations have deployed their own mobile applications,⁷ are active on multiple social media platforms (often with multiple accounts specific to their news and weather operations)⁸ and have websites with both live and archived content.⁹ Audiences can and do share information with their local

⁵ Notice at ¶ 1.

⁶ FCC, *Trends in Telephone Service*, July 1998, https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend100.pdf Table 17.3. Even by 1950, only 61.8 percent of U.S. households had telephones. *Id.*

⁷ See, e.g., Bob Papper, *RTDNA Research: What's new in social and mobile*, RTDNA, https://www.rtdna.org/article/rtdna_research_what_s_new_in_social_and_mobile_2017 (Apr. 10, 2017) (survey shows that 95.8 percent of television stations and 53.9 percent of radio stations have mobile apps; the average television station has two apps).

⁸ See, e.g., *id.* (every television station responding to survey has a Facebook presence, and 33.3 percent of stations have separate pages for the station and its news operation; 95.4 percent of radio respondents have a Facebook presence, and 18.5 percent have a separate local news page; stations also reported use of Twitter, Instagram, and Snapchat).

⁹ Bob Papper, *RTDNA Research: What stations are doing online*, RTDNA, https://rtdna.org/article/rtdna_research_what_stations_are_doing_online_2017 (Mar. 27, 2017) (100 percent of TV and 96.5 percent of radio stations that offer local news on air also have websites that provide local news).

stations using social media, website comments, letters, emails and calls. One general manager reports that in 39 years at the main studio for certain stations licensed to the Chickasaw Nation, only one person has come to see the public file.¹⁰ Members of the public come into the studio for interviews, for example, but the vast majority of interaction with the public is by phone, social media, email or mail.¹¹ Another licensee reports that although community members once frequented the studio to submit entries for its community calendar, all submissions and inquiries about the calendar are now made electronically.¹² With radio and television audiences regularly engaging with stations in so many ways that they perceive as convenient and efficient, access to a local studio becomes increasingly less relevant to the Commission's goal of facilitating communication between licensees and the public and the ability of licensees to meet the needs and interests of their communities.

Dynamic changes in how community members interact with stations also is evident from recent Commission decisions. Five years ago, the Commission required local television stations to begin transitioning their public files online, "harness[ing] current technology to make information concerning broadcast service more accessible to the public."¹³ Similarly, the Commission in 2015 "modernize[d] [its] rules to reflect how Americans access and consume information in the 21st century" by allowing broadcasters to make contest

¹⁰ NAB staff email exchange with Mr. Roger Harris, General Manager, Chickasaw Nation Enterprises, June 2017.

¹¹ *Id.*

¹² NAB staff email exchange with Mr. Tim Robisch of Great Plains Media, June 2017.

¹³ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, ¶ 1 (2012).

disclosures online, rather than over the air.¹⁴ Last year, the Commission expanded the online public file requirements to other platforms, including broadcast radio stations.¹⁵

The Commission also recently held that stations no longer need to maintain a paper correspondence file at their main studios, observing that the requirement was “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” particularly given that community members “can continue to communicate directly with stations by letter, email, social media, telephone, or other means.”¹⁶ In eliminating the requirement, the Commission relied on evidence that few members of the community visit stations to inspect the public file,¹⁷ and the fact that the volume of feedback stations receive via social media accounts, which can be viewed instantaneously by any interested party, is likely to far surpass the volume of letters and emails stations receive from the

¹⁴ *Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted Contests*, Report and Order, 30 FCC Rcd 10468 ¶ 1 (2015). *Id.* at 10472, ¶ 8 (observing that the rule changes are “consistent with consumer expectations about how to obtain contest information” because the public today accesses information in ways that are dramatically different from how they did when the Contest Rule was adopted” and the Internet “has become a fundamental part of consumers’ daily lives and now represents the medium used most by the public to obtain information instantaneously.”).

¹⁵ *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526 (2016).

¹⁶ *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, Order, 32 FCC Rcd 1565, 1569 ¶ 11 (2017) (Correspondence File Order).

¹⁷ Correspondence File Order at ¶ 12, *citing* Comments of Saga Communications, Inc. (Saga) in MB Docket No. 16-161 (Jul. 22, 2016) at 2 (reporting that no member of the public has visited a Saga station in the last five years to view the correspondence file); Comments of The Broadcaster Coalition in MB Docket No. 16-161 (Jul. 22, 2016) at 2 (noting that, in the collective experience of the Coalition, few, if any, members of the public ever review a station’s correspondence file); Comments of NAB in MB Docket No. 16-161 (Jul. 22, 2016) at 3 (very few members of the public make the effort to examine stations’ local public inspection files).

public.¹⁸ The Commission also acknowledged that stations have “an economic incentive to be responsive to their consumers”¹⁹ and agreed with commenters who maintained that the connection between stations and their communities would not be lost by eliminating the rule.²⁰

For the same reasons, elimination of the main studio rule will have no impact on stations’ connection to their local communities. Stations will continue to have strong incentives to know and understand the needs and interests of their communities of license, and the public will continue to interact with their local stations in ways that are not dependent upon the existence of a studio—using social media, telephone, email, letters and websites maintained by both stations and the FCC.

III. ELIMINATING THE CURRENT RULE WILL ALLOW BROADCASTERS TO USE THEIR RESOURCES MORE EFFICIENTLY AND DELIVER BETTER SERVICE TO THEIR LOCAL COMMUNITIES

A. Updating the Rule Will Result in Cost Savings and Better Deployment of Staff Resources

As commenters have explained in other proceedings, eliminating the main studio rule will allow broadcasters to determine the most efficient way to operate their stations, whether that is maintaining their current studio or making changes such as co-locating, relocating or deploying staff differently. Univision has observed that “[p]ermitting stations to co-locate would yield administrative and operational cost savings, encourage collaboration among staff, and result in the redirection of resources toward additional programming and

¹⁸ Correspondence File Order at ¶ 12, *citing* Comments of The Broadcaster Coalition in MB Docket No. 16-161 (Jul. 22, 2016) at 3; Comments of Named State Broadcasters Associations in MB Docket No. 16-161 (Jul. 22, 2016) at 3; Comments of NAB in MB Docket No. 16-161 (Jul. 22, 2016) at 3; Comments of Meredith Corporation in MB Docket No. 16-161 (Jul. 22, 2016) at 1; Comments of Saga in MB Docket No. 16-161 (Jul. 22, 2016) at 2-3.

¹⁹ Correspondence File Order at ¶ 12.

²⁰ Comments of The Broadcaster Coalition in MB Docket No. 16-161 (Jul. 22, 2016) at 3.

public service opportunities.”²¹ Bemjidi Radio, Inc. explained that AM stations’ cost of operations would be “greatly reduced” by allowing studio co-location and changing staffing requirements.²² While the exact dollar savings may vary widely, one AM station operator estimates that eliminating main studios “could easily save upwards of \$100,000 per year in rent, utilities, insurance, payroll, etc.”²³ Commenters also observed that the main studio staffing requirements are unduly burdensome and impeding the best possible deployment of staff.²⁴

Cost savings associated with eliminating the rule can result in meaningful public interest benefits. For example, during NAB staff outreach to learn more about the impact of the main studio rule, we learned that one station was able to implement an HD upgrade

²¹ Reply Comments of Univision Local Media, Inc. (Univision) in MB Docket No. 13-249 (Apr. 18, 2016) at 12.

²² Comments of Bemidji Radio, Inc. in MB Docket No. 13-249 (Mar. 21, 2016) at 2.

²³ Comments of Robert Bittner in MB Docket No. 13-249 (Mar. 21, 2016) at 5. See also Comments of Blount Masscom, Inc. in MB Docket No. 13-249 (Mar. 15, 2016) at 3 (“the cost savings of even one main studio waiver would be in the neighborhood of \$90,000 annually” which “could mean the difference between being able to keep a station on the air and serving the public and the station going dark because it is too much of a financial drain”); Comments of the Multicultural Media, Telecom and Internet Council in MB Docket No. 13-249 (Mar. 21, 2016) at 3 (compliance with the current rule costs “thousands of dollars a year in rent, mortgage payments and related expenditures”); Comments of The Crawford Broadcasting Company in MB Docket No. 17-106 (May 30, 2017) at 2 (costs include: rent or mortgage/property taxes; utilities; repair and maintenance and other routine costs; construction and equipment of studio; link from studio to transmitter site, all of which can “easily run \$60,000 or more per year with a small space and minimal staffing, a significant amount by any measure”).

²⁴ See, e.g., Comments of Butte Broadcasting Company in MB Docket No. 13-249 (Mar. 21, 2016) at 3 (the transition to online public files reduces the need for staffing stations’ studios; eliminating the staffing rule will allow employees to “be more useful in the community participating in local events”); Comments of WLOH Radio Company in MB Docket No. 17-106 (Jun. 16, 2017) at 1 (Station WLOH would continue to maintain and staff its studio and would “serve the community as it has for nearly seventy years,” but supports elimination of the rule because the licensee would no longer have to fear an enforcement action if a staff member happens to be at a sales appointment while another runs an errand, or if personnel must leave the office to care for a sick child).

because of savings realized from a main studio rule waiver. Another station reported that having the flexibility to co-locate studios would save approximately \$50,000-\$75,000 per year, which it could use to hire an additional person to staff its news team. Another broadcaster reports that he has owned and operated two stations in the past that ultimately went “dark” because of the financial challenges of staffing the stations’ main studios.²⁵ He observed that had there been regulatory relief at that time, the communities might still enjoy local radio service.²⁶ Chickasaw Nation Enterprises reports that being able to co-locate studios creates efficiencies not only by giving stations greater flexibility, but by allowing stations to offer better, higher-paying jobs, which in turn translates to better service to the community.²⁷ Broadcasters report that elimination of the main studio rule would have no negative impact on their ability to deliver local programming and services. Rather, it would allow them to allocate funds and staff to *improve* community engagement and coverage of local news and events.²⁸

NAB also understands that the main studio rule can impose unique burdens on rural stations and new entrants. For example, one NAB member station licensed to a city with a

²⁵ NAB staff email exchange with Mr. Randal J. Miller, President, Miller Media Group, June 2017.

²⁶ *Id.* Neither of these communities currently has a licensed full power commercial radio station.

²⁷ NAB staff email exchange with Mr. Roger Harris, General Manager, Chickasaw Nation Enterprises, June 2017.

²⁸ A station that currently offers approximately 40 hours per week of programming focused on local economic, social, political and community issues, states that changes to the rule would free resources and enable it to provide even greater community service. NAB staff email exchange with Mr. Tim Robisch of Great Plains Media, June 2017. Another station owner states that current rules require stations to devote tight resources to following the rules, rather than serving listeners, and urges the FCC to allow broadcasters to take funds currently spent on compliance and redirect them to improved news and programming. NAB staff email exchange with Mr. Randal J. Miller, President, Miller Media Group, June 2017.

very small population struggled to find an existing studio or tower site where it could install its antenna.²⁹ The nearest city with a stable economic center was beyond the limits permitted by the main studio rule. The licensee mounted its antenna at a site in that city, but established its main studio at a site closer to its city of license to comply with the rule. As a new entrant that had just secured its first license through an FCC auction, the expense of leasing studio space and meeting the equipment and staffing requirements was particularly burdensome.³⁰ The licensee reports that in areas that have a strong agricultural base like the areas it serves, there aren't many large population areas, which makes it harder to comply with the rule. Removing the rule would make it easier for radio stations to thrive in rural America.³¹

Eliminating the main studio rule and related staffing and equipment requirements will allow stations to deploy their resources in ways that better serve local audiences, particularly for new entrants, smaller stations and stations serving rural communities.

B. Ensuring Continued Access to the Public File

The Commission seeks comment on how it should ensure that community members continue to have access to a station's public inspection file if the file, or a portion of the file, is not online.³² NAB agrees with the Commission's proposal that stations make their paper public inspection files available at another accessible place within the community of license.

²⁹ NAB staff email exchange with Mr. Bradford Caldwell, Owner, Caldwell Media, LLC, June 2017. The city was populated by only 649 people as of the 2010 census, and the population has declined since that time. *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Notice at ¶ 11 (observing that stations can seek waivers of the online public file requirement; that not all radio stations have transitioned their files online; and that portions of television stations' political files may remain in the paper file until the end of the two-year retention period).

such as another station's main studio, an attorney's office or a local public library.³³ NAB strongly opposes limiting the public interest benefits of the proposed rule change to situations where a station has fully transitioned all public file material to the online file.³⁴ As the Commission observes, existing rules require applicants for new stations to locate their public inspection files in an accessible place in the proposed community of license or at the proposed main studio.³⁵ NAB believes that the proposed elimination of the rule should apply to stations of all types and sizes across all markets, and should not be limited to a subset of stations.³⁶ There is no reason that the public interest benefits of eliminating this rule should be restricted only to stations with online public files, smaller stations or smaller markets.

C. Telephone Access to Station Personnel

The Commission proposes to retain the requirement that a station maintain a local telephone number in its community of license or a toll-free number and seeks comment on this proposal and several related issues.³⁷ NAB agrees that the existing requirements to maintain a local or toll-free number and to post that number in the station's public inspection file keep the community well-informed and are not unduly burdensome.³⁸ NAB

³³ *Id.*

³⁴ *Id.*

³⁵ Notice at ¶ 11, *citing* 47 C.F.R. § 73.3526(b)(1). Additionally, for many years before the main studio and public file rules were modified in 1998, stations without a main studio in their communities of license were required to maintain their public files at other accessible locations in the community. *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*; 47 C.F.R. §§ 73.1125, 73.3526 and 73.3527, Report and Order, 13 FCC Rcd 15691, 15700 ¶ 18 (1998).

³⁶ Notice at ¶ 14.

³⁷ *Id.* at ¶ 10.

³⁸ *Id.* The Commission also seeks comment on whether to require stations to publicize their phone numbers on their websites. *Id.* NAB believes that stations that have websites already have the incentive to publicize their phone numbers on their sites, and that adding a requirement to post the number is not necessary. For the minority of stations that do not have websites, posting the phone number in the station's public file is the best way to

believes that a telephone staffing requirement, however, is not necessary or appropriate, and would be unduly burdensome, particularly for smaller stations. Even under existing staffing requirements, staff are not expected to be “chained to their desks”³⁹ and multiple calls can come in at once, requiring callers to leave messages at times. Station personnel regularly retrieve and respond to voice messages from the public in a timely manner, and a change in the rules will not change their incentives to do so. A telephone staffing requirement⁴⁰ will only impede stations’ ability to most efficiently deploy their human resources.

D. Conforming Changes to Other FCC Rules and Policies

NAB supports the Commission’s proposal to update sections of its rules that cross-reference the main studio rule, including Sections 73.3538(b)(2) of the rules, 73.1690(c)(8)(ii) of the rules, and 73.1690(d)(1) of the rules.⁴¹ Elimination of the rule also should be reflected in other Commission analyses and decisions. For example, the Notice states that the Commission also has considered compliance with the main studio staffing requirement in analyzing whether one station is exercising de facto control over another station.⁴² NAB urges the Commission to hold that once the staffing requirement is

ensure that community members are aware of the number. Station phone numbers also are readily accessible in both print and online telephone directories.

³⁹ *Jones Eastern of the Outer Banks, Inc.*, 6 FCC Rcd 3615, 3616 (1991), *clarified*, 7 FCC Rcd 6800, 6802 ¶ 11 (1992).

⁴⁰ It also would be unnecessary and unduly burdensome to require stations to “designate a point of contact to respond to communications from the public.” Notice at ¶ 10. Station personnel are in frequent contact with local law enforcement and other “first responders” so that they can cover emergencies and effectively serve as the community’s “first informers.” A point of contact that can be reached 24/7 by any member of the public for any reason could generate a wide range of calls that do not involve any useful information about emergencies or developments of concern to the community (e.g., a 2 A.M. prank call; a midnight call with commentary about programming that is not time-sensitive, etc.).

⁴¹ Notice at ¶ 12.

⁴² Notice at Note 41.

eliminated, there is no continuing obligation to comply with the main studio staffing requirement merely because a station is involved in a sharing arrangement, and that compliance or non-compliance with the previous staffing requirement will no longer be considered indicia of control. NAB also urges the Commission to clarify that any licensees that currently hold waivers of the main studio rule no longer need to maintain documentation associated with those waivers at the station or in the station's public file.

IV. CONCLUSION

NAB urges the Commission to adopt its proposal to eliminate the Main Studio Rule and the related staffing and equipment requirements. The existing rules are inconsistent with the expectations of listeners and viewers, who frequently interact with their local stations using various electronic means, including phone, email, station websites, station mobile apps, and social media. The rules also do not foster licensee involvement in or coverage of community activities. Rather, marketplace conditions require stations to engage regularly with their local communities to deliver content relevant to local audiences and compete effectively with an ever-increasing array of other media outlets.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**
1771 N Street, NW
Washington, DC 20036
(202) 429-5430



Rick Kaplan
Erin L. Dozier
Jerianne Timmerman

July 3, 2017

Proof of Delivery

I hereby certify that on Tuesday, September 08, 2020, I provided a true and correct copy of the NAB Comments to FCC re Elimination of Main Studio Rule to the following:

Sony Music Entertainment, represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

Educational Media Foundation, represented by David Oxenford, served via ESERVICE at doxenford@wbklaw.com

Sirius XM Radio Inc., represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

SAG-AFTRA, represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

Warner Music Group Corp., represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

UMG Recordings, Inc., represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

National Association of Broadcasters, represented by Sarang V Damle, served via ESERVICE at sy.damle@lw.com

American Association of Independent Music ("A2IM"), The, represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

National Religious Broadcasters Noncommercial Music License Committee, represented by Karyn K Ablin, served via ESERVICE at ablin@fhhlaw.com

American Federation of Musicians of the United States and Canada, The, represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

Google Inc., represented by Kenneth L Steinthal, served via ESERVICE at ksteinthal@kslaw.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Jagjaguwar Inc., represented by David A. Handzo, served via ESERVICE at dhandzo@jenner.com

Signed: /s/ David A. Handzo