Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, March 10, 2026 2:37 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: 25-302/303
Attachments: Ex Parte CAR Comment DISH-WIA.pdf

FYI, just submitted an ex parte in the two pending Echostar transactions. Thanks - DANIEL

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C.

Applications of Spectrum Business Trust 2025-1, Space Exploration Technologies Corp., and EchoStar Corporation for Consent to Assign Spectrum and Earth Station Licenses	GN Docket No. 25-302
Assignment Applications Filed By AT&T Mobility II LLC and EchoStar Corp.	WT Docket No. 25-303

EX PARTE FILING FROM THE CENTER FOR AMERICAN RIGHTS

The first year of the Carr FCC has been defined by the phrase "Build America." *Remarks by FCC Commissioner Olivia Trusty: "Building in the New Golden Age,"* 2025 FCC LEXIS 1622, *2 (Aug. 6, 2025) ("Under FCC Chairman Carr's leadership, the Commission has launched what we call the Build America Agenda, a bold plan to expand broadband access, secure our communications networks, and restore America's leadership in next-generation technologies."). That building is done by hardworking, blue-collar men and women who lay fiber, launch satellites, and climb towers. *See Wearing a 'Make Towers Great Again' hat, FCC chairman unveils 'Build America Agenda' in South Dakota,* S. Dak. Searchlight (July 2, 2025).[1]

We do not build America when a company occupies an incredibly valuable limited public resource without using it to its full and intended purpose. *See Letter*

[1] https://southdakotasearchlight.com/2025/07/02/wearing-a-make-towers-great-again-hat-fcc-chairman-unveils-build-america-agenda-in-south-dakota/.

from Chairman Carr to Mr. Charles W. Ergen (May 9, 2025). Nor do we do so when companies walk away from their contractual obligations.

In this case, as Chairman Carr has emphasized, the public interest is served when valuable spectrum is repurposed to its highest and best use. This is a critical outcome that facilitates American leadership in spectrum policy and puts the Commission on the cusp of an "everybody wins" scenario that we can all celebrate. The one last, important piece is to ensure that the "Build America" companies and their employees that negotiated in good faith with DISH are not left holding the bag because DISH cleverly organizes itself in such a way as to avoid its financial obligations to others. The FCC should ensure that DISH cannot leverage this transaction to evade its lawful responsibilities to its business partners.

Before this transaction completely closes, the Commission should ensure that any transaction-specific harms stemming from this spectrum transition are mitigated. Litigation on these matters is ongoing, and it's not the Commission's job to decide the legal questions presented in those cases. However, the Commission can ensure that its processes are not misused to rearrange assets in a way that makes the litigation ultimately meaningless.

In such circumstances, the Commission has the power and precedent to impose financial safeguards such as a bond, personal guarantee, or escrow requirements as a "protective measure" for the public interest. *In the Matter of Implementation of the Telecommunications Act of 1996 Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers*, 12 FCC Rcd 22497, 22586 (1997). *See Dickson, Tennessee*, 4 FCC Rcd 8707, 8707 (MMB 1989). The Commission has given a number of reasons in the past to justify including a financial safeguard as a condition of approving a transaction or license proceeding:

- To address risk in litigation. *See, e.g., In the Matter of Global Crossing Telecommunications, Inc.*, 15 FCC Rcd 21527, 21528 (EB 2000); *In the Matter of Annual 1985 Access Tariff Filings*, 1989 FCC LEXIS 1585, *5 (CCB 1989). *See also In the Matter of: Time Warner Cable*, 21 FCC Rcd 9016, 9024 (MB 2006).

- To address risk and disputes in FCC adjudicatory proceedings. *Western Union Telegraph Co. v. TRT Telecommunications Corp*., 11 FCC Rcd 13689 (1996).
- To "protect[] against a defendant's future inability to satisfy an enforceable judgment." *Implementation of the Telecomm Act*, 12 FCC Rcd at 22586. *Accord In re FCC Denies AFR filed by Prescott Valley Broad*., 37 FCC Rcd 1343, 1349 (2022) (escrow based on "evidence calling into question the financial ability of a benefitting party to reimburse an accommodating party");[2] *In the Matter of Bela TV, LLC*, 25 FCC Rcd 400, n.3 (EB 2010) (licensee escrows for potential liability for apparent FCC violation as condition of license termination proceeding).
- To "remove[] the benefit a defendant receives from delaying payment in a case," *Implementation of the Telecomm Act*, 12 FCC Rcd at 22586. *Accord In the Matter of Investigation of Special Access Tariffs of Local Exchange Carriers*, 5 FCC Rcd 4861, 4863 (1990) (when the Commission is concerned that a licensee may have an "incentives to delay the refund process," such that "the escrow account will maintain [the escrowing company's] incentive to resolve outstanding refund obligations promptly.").
- Based on "evidence calling into question a benefitting party's willingness to fulfill its obligation to reimburse an accommodating party." *AFR filed by Prescott Valley Broad*., 37 FCC at 1349 n.55 (citing *Canovanas, Culebra, Las Piedras, Mayaguez, Quebradillas, San Juan, and Vieques, Puerto Rico, and Christiansted and Frederiksted, Virgin Islands*, 10 FCC Rcd 6673, 6677 (MMB 1995)).
- To protect a large number of potential payees. *In the Matter of Century Cable of Northern Calif*., 13 FCC Rcd 22817, 22818 (CSB 1998).

[2] Although an escrow order can still be appropriate even where there is "no real risk of later default." *In the Matter of Comcast Cablevision of Mount Clemens, Inc*., 9 FCC Rcd 4396, 4396 (CSB 1994).

- To protect the public when a licensee makes a multiyear commitment and the Commission is concerned that the financial facts in future years may not resemble the facts at the time of an order. *See In the matter of Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, 8 FCC Rcd 3950, 3960 (1993).[3]

Virtually all of these concerns are present in this instance.

The Wireless Infrastructure Association (WIA) has raised a real question whether the various corporate entities involved in the spectrum sale will end this transaction with the holder of their contracts an empty shell devoid of assets to sufficiently cover the potential lawsuit liability. *See* ECFS Doc. 1215191725977 (Dec. 15, 2025); ECFS Doc. 10108037916087 (Jan. 8, 2026). Those filings also call into question DISH's commitment to fulfilling its contractual obligations through its transaction-specific asset arrangements. DISH has stopped paying multiple contractors, leading to litigation with (at minimum) American Towers Corporation, SBA Communications, Crown Castle Comcast Business, Diamond Towers, Harmoni Towers and Zayo Group.[4] This litigation is directly deal-related: DISH's own SEC

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[3] Indeed, in that specific proceeding, the Commission looked on escrow as a tool to ensure efficient use of licensed spectrum: "The requirement that EMSP licensees post a bond or place funds in escrow could serve as an incentive to the licensee to make productive use of the spectrum resource, and, in the event that the licensee fails to fulfill the minimum construction requirements within five years, the funds would serve as a mechanism to compensate the public for the spectrum being encumbered and not used in a productive manner." 8 FCC Rcd at 3960.

In another proceeding, Echostar recognized the Commission's interest in "the establishment of an escrow account to secure performance," saying "the escrow option would have the same deterrent effect [as a bond] on warehousing and speculative applications," but with less in the way of administrative costs. ECFS Doc. 5510934932 (Feb. 11, 2004).

[4] Jeff Baumgartner, *Ergen 'disappointed' by lawsuits lobbed at Dish*, Light Reading (March 2, 2026), https://www.lightreading.com/5g/ergen-disappointed-by-lawsuits-lobbed-at-dish (citing DISH SEC filing).

filings identify the FCC's regulatory engagement in this matter as the reason for its need to break its contracts.

DISH has told the SEC that it is acting "in light of the FCC forcing us and certain of our affiliates to sell the spectrum on which our 5G Network was based,"[5] and this constituted a force majeure allowing it to vitiate its contracts. The Center is skeptical that regulatory pressure or even regulatory compulsion can count as a force majeure, a term generally limited to virtually unforeseeable "acts of God" like Hurricane Katrina or the terrorist attacks of September 11, 2001. *In the Matter of Waiver of Digital Testing Pursuant To the Satellite Home Viewer Extension And Reauthorization Act of 2004*, 21 FCC Rcd 12894, 12897 (MB 2006). The election of President Trump, the designation of Chairman Carr, or the implementation of their spectrum policies look nothing like typical circumstances constituting force majeure. Moreover, rarely does a force majeure event lead to a voluntarily negotiated series of deals that pays such a handsome profit for "the victim."

But the Commission does not need to take sides in that litigation or decide that legal question, or at least not in this proceeding. It can simply recognize the fact of serious ongoing litigation tied directly to this proceeding and require a financial guarantee arrangement to manage risk from different possible outcomes of those lawsuits. Doing so is not interference in the private business affairs of companies or disputes over their contractual relations, which should remain the province of the courts. This Commission need not—should not—adjudicate the meaning of terms in contracts like that.

However, when a Commission proceeding relates directly to litigation, and the proceeding may have the direct effect of rendering the litigation meaningless by permitting the shuffling of funds among entities such that there are no assets left to pay a legal judgment, then in such circumstances "[h]aving the necessary funds available and placed in escrow would be a reasonable request by an affected [party]."

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[5] Form 10-K, https://ir.echostar.com/static-files/70f243b5-dad7-4be4-96fa-235981243db3.

In the Matter of Amendment of Section 73.202(b) Table of Allotments, 1986 FCC LEXIS 4027, *6 (Feb. 4, 1986). If DISH wins its lawsuits, it can get back its funds with interest if escrowed. *See In re Communications Satellite Corp. Investigation*, 67 F.C.C.2d 564, 567 (1978). A guarantee or bond can provide similar security with differing cost structures. And if DISH does not win the lawsuits, then the companies that build America are making a reasonable request as the affected parties to ensure their interests are protected in this transaction.

The Bureau can engage DISH and the companies to determine the precise contours of the financial guarantee, such as identifying an independent escrow agent. And DISH and the companies may well reach voluntary settlements that draw from the escrow to resolve their disputes in lieu of further litigation. But as a protective measure to ensure that assets are available if that litigation succeeds and to discourage DISH or future transaction applicants from creative asset arrangements, the Commission should consider a financial safeguard as an option to protect the integrity of its processes. The record may show approval with this condition is justified in these circumstances.

CONCLUSION

Chairman Carr has laudably reinvigorated the public interest standard in media policy. There is a public interest in other facets of spectrum policy as well: "In our review of transactions, we consider the potential public interest harms, including potential competitive harms, and any potential public interest benefits that may result from the transaction. Our public interest analysis evaluates whether the transaction, on balance, would be in the public interest, and necessarily includes, in this case, an evaluation of the transfer of both spectrum and customers . . ." *In re Applications of Verizon Wireless and E.N.M.R. Tel. Coop.*, 27 FCC Rcd 12154, 12156 (2013). In this case, the public interest is served by letting the transaction go through, but not before making sure that the deal is not misused to the detriment of the companies that build and maintain America's wireless infrastructure.

Sincerely yours,

/s/ Daniel R. Suhr, president

Center for American Rights

1341 W. Fullerton Ave., Suite 170

Chicago, IL 60614

dsuhr@americanrights.org

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, February 9, 2026 10:57 AM
To: Erin Boone; Katie McAuliffe
Subject: [EXTERNAL]: ABC - The View
Attachments: Talarico Investigation Memo vF.pdf

Dear Erin and Katie - The Center appreciates the news that the FCC intends to launch an investigation into ABC's compliance with its equal time obligations. Attached is a memorandum that the Center prepared over the weekend explaining our support for this important review. We applaud the Commission's prompt and positive action to ensure compliance with the public notice. Thanks - DANIEL

TO: Interested Parties
FROM: Daniel Suhr, Center for American Rights
DATE: Monday, February 9, 2026
RE: ABC Investigation by the FCC

On Friday, FoxNews.com reported that the Federal Communications Commission launched an investigation into whether ABC violated its rules by hosting Democratic U.S. Senate candidate James Talarico on *The View* on Monday, February 2. This memo overviews the precedent and policy supporting the FCC's praiseworthy decision to open the probe into ABC's compliance with the equal time rule.

Last month, the FCC Media Bureau issued a Public Notice reminding television stations of their equal-time obligations, especially in regards to daytime and late-night talk show programs.[1] On Monday, February 2, ABC stations aired a softball interview with Democratic darling and Texas U.S. Senate candidate James Talarico on *The View*. Mr. Talarico is locked in a tight primary battle with U.S. Rep. Jasmine Crockett, who was a guest on *The View* on January 6, 2026 (and who enjoyed a strong endorsement from Sunny Hostin when she launched her campaign in December). He was introduced for his ten-minute appearance, which comes just weeks before the March 9 primary, by cohost Whoopi Goldberg describing him as a "rising star in the [Democratic] party for calling out Christian nationalism . . ."

ABC-owned KTRK (ABC 13 in Houston) failed to promptly record Mr. Talarico's appearance in its political file as required by law.[2] KTRK also failed to record Rep. Crockett's January 6 appearance in its political file. If Mr. Talarico's appearance was in response to an equal-time request from his campaign following Rep. Crockett's appearance, then KTRK also failed to include his request in its political file. An investigation is important because "[m]aintenance of an accurate political file is an essential element of Section 315 of the Communications Act."[3]

The Commission's political file rule mandates that KTRK disclose these matters.[4] The "political recordkeeping requirements are integral to ensuring compliance with the statutory protections for political programming."[5] Stations are obligated to

[1] *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142 (Jan. 21, 2026).
[2] 47 CFR 73.1943(c)-(d). The FCC should focus on KTRK because it is directly owned and operated by ABC.
[3] *Metropolitan Broadcasting Corp.*, 6 FCC Rcd 7524, 7524 (1991).
[4] 47 CFR 73.1943(c). *See Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *2.
[5] *In re FCC Adopts Updated Pol. Programming & Record-Keeping Rules*, 37 FCC Rcd 1359, 1362 (2022).

"upload such information to their online political files 'as soon as possible,' meaning 'immediately absent unusual circumstances.'"[6] "[C]ontents of the political file are time-sensitive. Therefore, it is essential that there be no delay in posting political file materials to the online file."[7]

The political file requirement protects not only opposing candidates but also the general public, which has an interest to learn about candidates and their relationships to the hosts and corporations behind broadcasting. "[D]isclosures included in the political file further the First Amendment's goal of an informed electorate that is able to evaluate the validity of messages and hold accountable the interests that disseminate political advocacy."[8] The public also has an interest to learn whether station owners like ABC "have complied with their obligations relating to use of their facilities by candidates for political office."[9]

The View is subject to the rule because it is a "daytime talk show" rather than a "bona fide news interview" program.[10] *The View* is not *Meet the Press* or *Face the Nation,* the type of show the congressional authors envisioned when they wrote the law.[11] It is much closer to variety programs like *The Tonight Show* that feature a mix of actors, celebrities, comedians, and politicians, which the FCC has held do not qualify.[12]

One way you know *The View* is not "bona fide news" is because of its blatant, consistent partisan slant. Both Republican and Democratic candidates are of newsworthy topics of interest to viewers. Yet Democrats are featured on *The View* at an insanely high ratio compared to Republicans.[13] In 2025, *The View* hosted a total

[6] *In the Matter of Online Political Files of Sea-Mar Cmty. Health Ctr. Licensee of Commercial Radio Station(s)*, 37 FCC Rcd 10774, 10774 (M.B. 2022) (quoting 47 CFR 73.1943(d)). *Accord Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *2.

[7] *Id*. (quoting *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, 31 FCC Rcd 526, para. 27 (2016)).

[8] *In re Disclosure Requirements for TV Broad. Licensee Obligations*, 27 FCC Rcd 4535, 4543-4544 (2012).

[9] *In re FCC Adopts Updated Pol. Programming & Record-Keeping Rules*, 37 FCC Rcd 1359, 1362 (2022).

[10] *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *1. *See Notice of Apparently Liability to WERC*, 7 FCC Rcd 6537, 6537 (MBB 1992), *aff'd* 9 FCC Rcd 228, 229 (MBB 1994).

[11] *See Political Primer 1984*, 100 F.C.C.2d 1476, 1496 (1984).

[12] *See In re Request for "Equal Time" Under Section 315 of the Commc'ns Act of 1934,* 40 F.C.C. 313 (1960). *The View's* January 2026 guests included actors Jason Biggs, Katherine LaNasa, Sarah Shahi, Pam Grier, Jessica Williams, Anthony Ramos, Luke Thompson and Yerin Ha; television personalities Star Jones and Anthony Anderson; authors Dr. Tara Narula, Marc Shaiman, and Spencer Pratt; and comedian Matt Friend. Three partisan officials were guests in January: U.S. Rep. Jim Clyburn (D-S.C.), Mayor Zohran Mamdani (D-N.Y.); and Gov. Josh Shapiro (D-PA).

[13] *In re Greater Wash. Educ. Telecomms. Ass'n*, 26 FCC Rcd 16509, 16511 (MB 2011).

of 348 guests. Of those, Media Research Center reports that the hosts talked politics with 128 liberal guests and just two conservatives.

25 of the liberal guests were Democrat politicos, including Senators John Fetterman (twice), Elizabeth Warren, Bernie Sanders, Amy Klobuchar, Elissa Slotkin, Chuck Schumer, Tammy Duckworth, Cory Booker, Joe Manchin, and Raphael Warnock; Governors Gretchen Whitmer, JB Pritzker, and Wes Moore; Representatives Hakeem Jeffries and Jasmine Crockett (twice); former President Joe Biden; former Vice President Kamala Harris; and New York mayoral candidates Anthony Weiner and Zohan Mamdani. The other 100 or so liberals were journalists, academics, and activists. The two "conservatives" were actress Cheryl Hines, wife of HHS Secretary Robert F. Kennedy, Jr., and Congresswoman Marjorie Taylor Greene.[14]

Such a deep and consistent lack of balance suggests the airtime is used "in service of a political agenda" rather than as news.[15] In the language of the FCC's recent Public Notice, the persistent bias in favor of Democratic candidates and their allies indicates *The View* is "unfairly putting their thumbs on the scale for one political candidate or set of candidates over another."[16] Though that has broader implications under the public-interest standard, at a minimum it indicates the show does not qualify as a bona fide news interview program.

CONCLUSION

The Commission just reminded broadcasters "to ensure that they are making all appropriate equal opportunity filings in accordance with section 73.1943 of the FCC's rules and as required by agency precedent."[17] If the FCC investigation determines that ABC failed in KTRK's political file disclosure obligations, it can impose an appropriate civil penalty.[18]

The Center for American Rights is a nonprofit, nonpartisan, public-interest law firm based in Chicago. It frequently practices before the FCC on media policy issues.

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[14] And Hines was until recently a "lifelong Democrat" herself, while MTG was invited on at a time when she was having a very public dispute with House GOP Leadership.
[15] *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *3.
[16] *Id*. at *4.
[17] *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *7.
[18] *See, e.g., Metropolitan Broadcasting Corp.*, 6 FCC Rcd at 7524 (fining station for political file failures).

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, February 10, 2026 1:16 PM
To: Adam Candeub; Erin Boone; Katie McAuliffe
Subject: [EXTERNAL]: Bad Bunny Backgrounder
Attachments: Bad Bunny 1-pager.pdf

Dear Adam, Erin, and Katie - I'm sure the Commission staff is looking at the Super Bowl show given the congressional and media attention. We've put together a quick one-page backgrounder that recaps the relevant legal issues and FCC precedents as a resource for you all, the media, and the public. Thanks - DANIEL

TO: Interested Parties
FROM: Daniel Suhr, Center for American Rights
DATE: Tuesday, February 10, 2026
RE: Potential FCC Investigation of NBC Super Bowl Program

Congressman Randy Fine of Florida has said on X that he intends to send a letter to the FCC "calling for dramatic action, including fines and broadcast license reviews" for the Super Bowl halftime show. "You can't say the f-word on live TV. 'Bad Bunny''s disgusting halftime show was illegal. Had he said these lyrics -- and all of the other disgusting and pornographic filth in English on live TV, the broadcast would have been pulled down and the fines would have been enormous."

The FCC has a longstanding policy against indecent broadcasts between 6 a.m. and 10 p.m., reflecting a congressional determination to criminalize such content. The FCC's policy explains, "The FCC defines indecent speech as material that, in context, depicts or describes sexual or excretory organs or activities in terms patently offensive as measured by contemporary community standards for the broadcast medium." The FCC has precedents interpreting and applying that rule.

First, the rule clearly applies to Spanish-language broadcasts as much as to English-language broadcasts. In reviewing a broadcast by a Spanish-language station, the FCC imposed a $220,000 fine in 2006 in part based on a Spanish-to-English translation that showed the Spanish words were sexual and indecent in nature. *In the Matter of Complaints Regarding Various Television Broadcasts* (2006). *Accord In re Edmund Dinis*, (E.B. 2002); *In the Matter of Telemundo of Puerto Rico* (E.B. 2001); *In re Communicast Consultants*, 15 FCC Rcd 19697, 19697 (E.B. 2000).

Second, the rules apply to fleeting expletives and images. *See In re WDBJ TV, Inc.* (2015) (fleeting image); *Golden Globe Awards* (2004). We all remember Janet Jackson's wardrobe malfunction during the Super Bowl in 2004. The FCC issued a $550,000 fine to CBS for the "fleeting image." The Third Circuit overruled that fine because it represented a change in FCC policy to cover fleeting references. That was a once-and-done excuse, however—now everyone is on notice. As Chief Justice Roberts wrote in the CBS case, "It is now clear that the brevity of an indecent broadcast--be it word or image--cannot immunize it from FCC censure."

Specifically, in *Golden Globes* the FCC held that fleeting use of the F-word is indecent. The 2006 *Matter of Complaints* decision made clear that verbal discussion of sex and sex acts, especially if combined with sexualized imagery (whether or not nudity is shown), violates the indecency policy.

NBC has not made a translated transcript of the show, but an informal translation suggests the show included multiple expletives and referenced multiple sex acts. When the FCC receives Congressman Fine's complaint, it should commission a certified translation from Spanish-to-English so it can accurately investigate the complaint and determine whether NBC's affiliates broadcast lyrics and images that were so sexualized as to constitute indecency, especially in the context of the Super Bowl broadcast with its large audience of children.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, April 20, 2026 10:01 AM
To: Katie McAuliffe
Subject: [EXTERNAL]: Daniel in DC: May 6 & 8

Dear Katie,

I will be in Washington for an event on Thursday, May 7, and would welcome the opportunity to stop by the office and see the Chairman and/or any members of the team.

I land on Wednesday, May 6, at 12pm at DCA, so I could be at the FCC anytime from 1:30 - 5pm.

I am available on Friday, May 8, from 9am to 1:30pm (I fly out from DCA at 3:30pm).

Please let me know if either of those dates work. No particular agenda or ask. Thanks - DANIEL

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, December 8, 2025 6:55 PM
Subject: [EXTERNAL]: Defending Chairman Carr in the Yale Journal of Regulation

Today the Yale Journal of Regulation's Notice & Comment blog posted a commentary from me on an important aspect of the FCC's public-interest standard. Critics of Chairman Carr argue that he's engaged in illegal viewpoint discrimination and jawboning when he criticizes national networks for running a "narrow partisan circus," including during the Kimmel kerfluffle. I've explained elsewhere that they're wrong on jawboning — this Yale JREG commentary explains why they're wrong about viewpoint discrimination.

The short version is that viewpoint discrimination is bad, but that's not at all what he's doing. He's promoting viewpoint diversity, which is a legitimate and longstanding component of the public-interest standard. It's not viewpoint discrimination to point out that the national networks aren't operating in a viewpoint-diverse way — that's actually his job as the regulatory steward of the public interest.

Thanks, as always, for reading. - DANIEL

Kristi Thompson

Subject:	The Center for American Rights/Erin Boone, FCC - to discuss the Center for American Rights' views on media ownership
Location:	Microsoft Teams Meeting
Start:	Wed 2/4/2026 11:00 AM
End:	Wed 2/4/2026 11:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Organizer:	Erin Boone
Required Attendees	Benjamin Arden; Katie McAuliffe; Daniel Suhr

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Microsoft Teams meeting

Join:

https://teams.microsoft.com/meet/[redacted]

Meeting ID: [redacted]

Passcode: [redacted]

Need help? | System reference

Dial in by phone

[redacted] United States, Vancouver

Find a local number

Phone conference ID: [redacted]

For organizers: Meeting options | Reset dial-in PIN

Kristi Thompson

From:	Daniel Suhr <dsuhr@americanrights.org>
Sent:	Monday, February 9, 2026 11:34 AM
To:	Katie McAuliffe; Erin Boone
Subject:	[EXTERNAL]: Ex Parte Copy
Attachments:	Notice of Ex Parte Communication v2-6-26.pdf

Dear Katie and Erin - Thank you for meeting with me last Wednesday concerning the Center's support for regulatory relief for local broadcasters. Please find attached a copy of the ex parte notice that I filed last Friday disclosing our meeting. Thanks - DANIEL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Transfer of Control of Nexstar-Tegna	MB Docket No. 25-331
National Television Multiple Ownership Rule Record Refresh	MB Docket No. 17-318

Per 47 CFR §1.1206(b), I respectfully submit this notice of an *ex parte* meeting. On Wednesday, February 4, 2026, I met via videoconference with Erin Boone, Katie McAuliffe, and Ben Arden from the Chairman's office regarding these two proceedings. During the course of the meeting, I provided a verbal recap of the points made by the Center for American Rights in its prior filings in these matters, with an emphasis on the importance of timely action by the Commission.

Respectfully submitted,

/s/ Daniel R. Suhr
Center for American Rights
1341 W. Fullerton Ave., Suite 170
Chicago, IL 60614
dsuhr@americanrights.org

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, April 14, 2026 4:02 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: FYI: CBS
Attachments: Sixty Minutes Catholics Submission vF.pdf

Dear Katie - Earlier today, this letter was submitted to CBS News' ombudsman via CBS's online bias reporting platform. Because it relates back to the Paramount proceeding, we CCed the chairman. Thanks - DANIEL

Tuesday, April 14, 2026

Kenneth R. Weinstein
Ombudsman, CBS News
Via online submission

Dear Mr. Weinstein,

Skydance promised the FCC "reporting [that] is fair, unbiased, and fact based." The *60 Minutes* segment on Catholics and politics this weekend failed to live up to the journalistic values that are supposed to define the new CBS News.

The drama opened April 6 when Paramount's The Free Press reported from unnamed sources that a senior Pentagon official showed a combative and arrogant attitude toward the Holy See's ambassador during a January 22 meeting. This report was promptly refuted by the Pentagon, the U.S. Embassy to the Holy See, and the Holy See itself ("[media] narrative…completely untrue").

Next Democratic operative David Axelrod met with Pope Leo on April 9. CBS News' headline gushed: "Pope Leo XIV meets with former Obama adviser David Axelrod. Could he meet with former president soon?"

The third act played out after the Masters Tournament, where *60 Minutes* most benefits from carry-over viewership. CBS leveraged that large audience with a 13-minute segment with Norah O'Donnell featuring three cardinals criticizing the president's policies on Iran and immigration. O'Donnell, of course, was notorious for her bias moderating the 2024 VP debate.

The one-sided report did not include any viewpoints other than the three cardinals and a fourth priest also favorable to immigration. O'Donnell could have interviewed Cardinal Timothy Dolan or Bishop Robert Barron, both of whom serve on the President's religious liberty commission, or a Catholic scholar of just war theory like papal biographer George Weigel or Professor J. Budziszewski. She didn't.

This report was neither fair nor unbiased. It was a one-sided hit piece delivered on a high ratings show at the same time as other efforts to push Catholic voters in a particular political direction.

We are copying FCC Chairman Brendan Carr on this letter because Paramount didn't just make these promises to viewers—it made them to a federal regulatory agency to secure approval of the transaction.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Saturday, November 29, 2025 11:07 PM
To: Adam Candeub; Katie McAuliffe
Subject: [EXTERNAL]: ICYMI

https://x.com/danielsuhr/status/1994918054061547982

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, March 10, 2026 4:44 PM
To: Erin Boone; Adam Candeub; Katie McAuliffe
Subject: [EXTERNAL]: Issue for your interest
Attachments: Activist-funded Journalism.pdf

Dear Erin, Adam, and Katie,

As we look across the media landscape, we see an issue of increasing concern for the future of journalism: non-profit organizations with activist agendas funding supposedly unbiased journalists. Though that's a matter of professional ethics for newspapers or streamers, when it comes to over-the-air broadcasters in radio and television, there are principles of the FCC's public-interest standard that come to bear. I'm attaching a brief memorandum that walks through some recent examples of this issue and the legal principles that relate to it. We think it could be a topic worth the Media Bureau's attention as you continue your laudable campaign to promote the public interest.

Thanks,
DANIEL

TO: FCC Staff
FROM: Daniel Suhr
DATE: March 10, 2026
RE: Protecting Editorial Independence from Private Influence

Revelations about private influence over reporting at NBC News raises an important topic for this Commission's attention: the rise of pay-to-place journalism. According to reporting from Semafor, a private advocacy group funded by deep-pocketed special interests sponsored a reporter at NBC News, who then pushed out news reporting in line with the sponsoring group's preferred view of the world. Max Tani, *AI critics funded AI coverage at top newsrooms*, Semaphor (Dec. 7, 2025).

As newspapers try to survive into the 21st century, it's become increasingly common for them to partner with outside organizations to cover costs for journalist staff or content. Journalism Funding Partners, for instance, is a nonprofit 501(c)(3) organization that leverages nonprofit dollars to support journalists in traditional newsrooms. "In Fresno, CA, 10 fulltime reporters have been added to *The [Fresno] Bee's* newsroom just through philanthropy. That has made a difference in Fresno, with hundreds of news stories about education, land use, air quality, diversity and social justice." In case the buzz words "diversity and social justice" in that final line were not enough for you to know the underlying agenda, JFP says on its website that it "places an emphasis on supporting efforts to bring the diversity of local journalists to parity with the demographics of the communities they serve." That's code for DEI. "JFP also prioritizes coverage-topics that have been particularly reduced by the wholesale declines in local news, including: equity, economic mobility, education, health, housing, gun violence and the environment." In other words, JFP uses liberal philanthropy to support liberal journalism.

If you're curious how that works in practice, look at my hometown newspaper. The JFP partnered with the Fund for Lake Michigan and the Outrider Foundation (which "informs the public about nuclear security threats and climate issues") to fund an environmental reporter at the *Milwaukee Journal Sentinel*. "We are very grateful for this valued collaboration that strengthens our ability to deliver the strongest local environmental reporting in the region," said Greg Borowski, executive editor of the Gannett-owned paper. "This like-minded group is passionate about raising awareness on climate change and threats to our air, land, and water in and around the place we call home." In other words, the three funders have a clear agenda—climate change and environmental protection—and they're funding a full-time journalist slot to focus on reporting on those issues.

A similar dynamic is at play when newsrooms give privileged partnerships to activism groups. For instance, "Climate Central communicates climate change science, effects, and solutions to the public and decision-makers." It runs a "Partnership Journalism program [that] collaborates with local newsrooms nationwide, including print, radio, digital and TV outlets. Our partners contribute local reporting and knowledge; Climate Central contributes data, science and data reporting, editing and guidance to joint features coverage informed by new climate data." In short, Climate Central uses radio and TV newsrooms to push its climate agenda. Its list of 2025 journalism partners includes WVTF (NPR affiliate), WWNO (NPR affiliate), WUSF (NPR affiliate), and WHYY (PBS affiliate).

If newspapers want to engage in pay-to-place journalism and call it a philanthropy-sponsored fellowship, that's their right. But here as elsewhere, the public interest demands a higher standard for broadcast journalism.

It has long been FCC policy that "listeners and viewers are entitled to know who seeks to persuade them." *In re Radio License Holding CBC, LLC; Cumulus Radio Corp.*, 31 FCC Rcd 3, 3 (E.B. 2016). This principle has worked out in several ways, such as sponsorship identification requirements and rules around payola and plugola. "[T]he Commission has continued to underscore the need for transparency and disclosure to the public about the true identity of a program's sponsor. . . . When broadcasters air paid-for programming without disclosing the program's sponsor, they can mislead the public." *In re Pacifica Foundation, Inc., Consent Decree*, 39 FCC Rcd 3857, 3861-62 (M.B. 2024).

Another longstanding FCC policy is an interest in ensuring editorial independence for local newsrooms, a theme seen consistently in debates over ownership consolidation within and across news industries. *See, e.g., In re Cross-Ownership of Broad. Stations & Newspapers*, 16 FCC Rcd 17283, 17303 (2001).

The FCC has also long guarded against pressure from corporate advertisers that would wrongfully influence newsroom decision-making. *See, e.g., In re James C. Lange*, 45 F.C.C.2d 1099, 1101 (1973) (investigating whether "the licensee selected or attempted to influence its news programming on the basis of its private rather than the public interest and/or submitted to economic pressures on the part of station advertisers”). *Accord In re ABC*, 7 F.C.C.2d 245, 253 (1966); *In re NBC*, 14 F.C.C.2d 713, 725 (1968) (dissenting statement of Comm’r Johnson) (“Throughout [Chet] Huntley’s various programs, the implication is clear that the selection and rejection of news items and opinions is a function of his own independent news judgment (and that of the NBC News organization) -- uninfluenced by his extraneous economic interests, or those of RCA, RCA subsidiaries, NBC, advertisers or other employees. It is this assumption, indeed, which is fundamental to Huntley’s credibility and influence as a newscaster.”).

The Commission has reiterated this same concern in the context of donor acknowledgments for noncommercial broadcasting. Core to this Commission’s approach to sponsor underwriting and noncommercial stations is “the development of a public broadcasting system that is free from extraneous influence and control.” *In re Maricopa County Cmty. College Dist.*, 29 FCC Rcd 5180, 5182 (M.B. 2014). The Commission has emphasized the importance of “strict adherence” to its rules against corporate advertising on noncommercial stations to maintain public broadcasting’s independence. *In re Network of Glory, Inc.*, 26 FCC Rcd 14259, 14261 (M.B. 2011). Fifty-five years ago, Commissioner Nicholas Johnson warned that public broadcasting stations were shaping programming and news stories in response to pressure from corporate sponsors. *In re Amendment of Those Provisions of Part 73 of the Commission’s Rules*, 26 F.C.C.2d 339, 348-49 (1970) (dissenting statement of Comm’r N. Johnson).

The Commission has been particularly concerned when an advocacy group has provided "free" news content for broadcast stations to air, and doubly so when it concerns political or controversial topics. *See In re Sponsorship Identification Requirements for Foreign Government-Provided Programming*, 35 FCC Rcd 12099, 12102-12103 (2020) (discussing *Violation of Section 317 of the Communications Act*, 40 FCC 12 (1958)).

All three of these principles—sponsor disclosure, editorial independence, and advertiser/donor insulation—bear on this new situation of privately sponsored journalists in broadcast newsrooms or privately sponsored co-authors of stories. This trend in broadcast journalism cries out for Commission attention.

More particularly, the Media Bureau should consider asking licensees and national programmers whether they have privately sponsored journalists or co-authors in their newsrooms, and if so (1) what safeguards they have in place to ensure that private actors do not influence news content, (2) what standards they use to determine which private actors are allowed to sponsor or co-author journalism, and (3) what safeguards they have in place to ensure that issues of interest to private philanthropists and private organizations do not receive disproportionate coverage compared to the issues of interest to everyday Americans who cannot afford to sponsor journalists in elite newsrooms.

Once the Commission has accumulated information on this topic, it may need to issue formal guidance that ensures broadcasters protect the public interest from private influence through agenda-driven pay-to-place "journalism."

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, March 23, 2026 7:42 PM
To: Adam Candeub; Erin Boone; Katie McAuliffe
Subject: [EXTERNAL]: letter on The View investigation
Attachments: Talarico Investigation Letter vF.pdf

Dear Erin, Adam, and Katie,

Please find attached a letter from the Center for American Rights laying out our perspective on ABC's assertion that *The View* qualifies as bona fide news.

Gratefully,
DANIEL

Daniel R. Suhr, president
Center for American Rights

CENTER FOR
American Rights

March 24, 2026

Ms. Erin Boone, acting chief
FCC Media Bureau
Via e-mail

Dear Ms. Boone,

The Center is aware of a recent news report indicating that ABC has asserted its daytime television talk program *The View* should qualify for exemption from the equal time statute, such that ABC's Houston owned-and-operated station KTRK did not violate the statute by failing to report a recent appearance by James Talarico in its political file. *See* Ted Hearn, D.C. Memo, Policyband (March 11, 2026).

ABC's owned-and-operated station KTRK (ABC 13 in Houston) did not promptly record Mr. Talarico's appearance in its political file.[1] KTRK also failed to record Rep. Jasmine Crockett's earlier appearance on *The View* in its political file. If Mr. Talarico's appearance was in response to an equal-time request from his campaign following Rep. Crockett's appearance, then KTRK also failed to include his request in its file. This investigation is important because "[m]aintenance of an accurate political file is an essential element of Section 315 of the Communications Act."[2]

Based on Policyband's reporting, that investigation may turn on a determination of whether *The View* is an exempt program—no one doubts that Mr. Talarico appeared on the program and that KTRK failed to promptly record the appearance in its file.

1. The "Bona Fide News" exemption should be applied in line with the FCC's recent Public Notice.

The regulated community is entitled to know where the FCC stands on the laws and rules it is charged to administer. "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." *FCC v. Fox TV Stations, Inc.*, 567 U.S. 239, 253 (2012). When the FCC shifts its interpretation without notice, it cannot bring a violation. *Id*. at 254. At the same time, once the regulated community has been given "affirmative notice

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[1] 47 CFR 73.1943(c)-(d). *See* https://publicfiles.fcc.gov/tv-profile/KTRK-TV/political-files/2026/federal/us-senate/james-talarico/27f2d89b-90c8-3c13-5912-bb26144acdae.

[2] *Metropolitan Broadcasting Corp.*, 6 FCC Rcd 7524, 7524 (1991).

that its broadcast would be considered actionabl[e]," then the Commission has full power to act. *Id*. at 257. *Accord FCC v. CBS Corp*., 567 U.S. 953, 954 (2012) (Roberts, C.J., concurring in the denial of certiorari).

On January 21, 2026, the Media Bureau issued a public notice, *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142 (Jan. 21, 2026). A public notice can clarify rules or policies but does not—cannot—change or amend the law. *In the Matter of Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C.; Petition*, 17 FCC Rcd 16100, 16100 (WTB 2002). *See* Gigi Sohn, LinkedIn[3] (the Public Notice "just restated the law and the agency's precedent"). Rather, a public notice "offer[s] interpretive guidance regarding the meaning and application" of a statute or rule. *In re Acceleration of Deployment by Improving Wireless Facilities Siting Policies*, 28 FCC Rcd 14238, 14273 (2013). A public notice is issued to "assist [broadcaster] compliance and to ensure [candidates and voters] receive the benefits of the [rules]." *In re CGB Reminds Providers of Consumer Broadband Label Requirement*, 39 FCC Rcd 13723, 13723 (CGB 2024). That is all a long way of saying that the Media Bureau's Public Notice was the relevant Commission guidance when the Talarico interview aired, such that ABC was on fair notice as to the Commission's current interpretation of the rules at the time it made its decision.[4]

If there was any doubt on that point, on January 29, 2026, Disney's FCC lawyers at Covington & Burling issued an alert highlighting the importance of the new Public Notice for their clients.[5] In the alert, Covington's lawyers wrote, "In its new guidance, the FCC signals a more restrictive view of the bona fide news exemption, particularly in the context of late-night shows, daytime talk shows, and other hybrid news-entertainment formats." The alert continues, "The Media Bureau's new Public Notice underscores that the agency is now taking a narrower approach. While a

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[3] https://www.linkedin.com/posts/gigisohn_fcc-chair-brendan-carr-says-media-were-lied-activity-7430287985905995777-EyoJ

[4] To acknowledge the obvious, the law in this area has ebbed and flowed over time. From 1960 to 1984, the Commission and its staff adopted a narrow view of the exemptions. From 1986 to 2006, it adopted a broader view of the exemptions, although even then it had at least one case saying a radio "morning talk program is not a news program exempt from Section 315." *Notice of Apparently Liability to WERC*, 7 FCC Rcd 6537, 6537 (MBB 1992), *aff'd* 9 FCC Rcd 228, 229 (MBB 1994).

The Center has reviewed this ebb and flow of adjudications in an article for the Yale Journal of Regulation Blog: *The FCC's Public Notice on "Bona Fide News"* (Feb. 2, 2026), https://www.yalejreg.com/nc/the-fccs-public-notice-on-bona-fide-news-by-daniel-r-suhr/.

[5] https://www.globalpolicywatch.com/2026/01/fcc-issues-guidance-focused-on-candidate-appearances-on-talk-shows/

Public Notice cannot overturn prior rulings or formally change the Commission's interpretation of a rule, the Notice emphasizes that earlier decisions were program-specific and fact-specific and should not be interpreted as blanket determinations for all similar programs. In other words, broadcasters should not assume that late-night or daytime talk shows currently on air automatically qualify for the *bona fide* news exemption. Notably, the Media Bureau's notice states that it has seen no evidence that *any* interview on any late-night or daytime talk currently on air today would qualify for a bona fide news interview exemption." Covington's alert should give the Commission assurance that Disney knew or should have known the state of the law at the time of its decision on Talarico.

Moreover, if ABC was concerned about whether *The View* qualified as an exempt program, it could have sought a declaratory ruling from the Commission (as the Public Notice itself suggests). Alternatively, if it believes the Public Notice was flawed to its core, ABC could have filed a petition for reconsideration. *In the Matter of Mintz, et al., Petition*, 17 FCC Rcd at 16100 (seeking reconsideration of a public notice). And though there were only a few weeks between the Notice and the Talarico interview, the Commission staff has responded to time-sensitive election-related requests on a heroically prompt basis. *See, e.g., In re Complaint of Dennis J. Kucinich,* 23 FCC Rcd 482, 482 (MB 2008) (complaint filed January 18 and ruling issued January 18 in advance of a CNN debate on January 21); *In Re Complaint of Edward Silvio Emery*, 87 F.C.C.2d 754, 756 (BB 1980) ("Because of the proximity to the election this ruling was read to you by telephone on October 31, 1980."). If ABC had any doubt, it should have sought clarification or reconsideration, but it instead chose to risk an enforcement action by airing a program contrary to the Public Notice's guidance.

In sum, the easiest way to resolve this investigation is to compare *The View* to the Public Notice, which was the Commission's guidance at the time. If that results in an enforcement action, then ABC can challenge that action in court if it chooses. But in order to protect the integrity and authority of its public notices, the Commission should enforce in line with the Public Notice.

2. The statutory text and legislative history confirm that the "Bona Fide News" exemption does not cover entertainment talk shows like *The View*.

If the Commission takes this proceeding as an opportunity to step back and look at the equal time statute from a higher level, that analysis should confirm the Public Notice's interpretive guidance.

The equal time statute's requirements do not apply to a "(1) bona fide newscast, (2) bona fide news interview, (3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or (4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto)." Section 315(a). *The View* is obviously not a newscast or a news documentary, and the show's interview with Talarico was not "on the spot coverage" of a bona fide news event. So its only option is to assert it fits as a "bona fide news interview."

At different times in the past, both the Commission and the courts have suggested that a certain "lean" is appropriate in construing the exemptions in the equal time statute, variously suggesting Congress intended a broad or narrow ruling. *Chisholm v. FCC,* 538 F.2d 349, 358 (D.C. Cir. 1977); *In re Requests of Fox, et al.*, 11 FCC Rcd 11101, 11108 (1996); *In re ABC Inc.*, 15 FCC Rcd 1355, 1358 (MMB 1999). The best approach, however, is to engage in standard statutory interpretation, which means to give the exemptions their most fair and natural reading, neither trying to artificially constrict or expand their scope. *Food Mktg. Inst. v. Argus Leader Media*, 588 U.S. 427, 439 (2019).

As a matter of basic statutory interpretation, a "bona fide news interview" is an appearance on a television broadcast that occurs outside of a "newscast" or "documentary" or special coverage of a "news event." These terms, then, provide helpful statutory context to determine the meaning of a "news interview."

A newscast, for instance, "reports news of some area of current events, in a manner similar to more traditional newscasts." *In re GNH Prods., Inc.*, 30 FCC Rcd 8350, 8350 (MB 2015). Such a show has, for instance, a host and reporters (*i.e.,* professional journalists) and covers the news with interviews and event footage. *Id. See King Broadcasting Co. v. FCC*, 860 F.2d 465, 467 (D.C. Cir. 1988) (quoting *Branch v. FCC*, 824 F.2d 37, 43-44 (D.C. Cir. 1987) ("'equal time' need not be provided when the candidate was the subject of 'a routine news broadcast.'").

A news documentary, the statute itself says, only qualifies "if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary." Sec. 315(a)(3). Thus, an elected official who is also a candidate for office may be interviewed for a documentary on a policy topic, for instance, but the exemption does not extend to circumstances where "the candidates themselves are the subjects of the documentaries in question," whether in their capacities as candidates or their life more broadly. *In re A&E TV Networks*, 15 FCC Rcd 10796, 10800 (MMB 2000).

Coverage of "on-the-spot news events" is illuminated by the example Congress itself gave in the statute: political conventions.

To state the obvious, *The View* does not look like a newscast, a news documentary, or a news event like a political convention. So an adjudicator should be skeptical that it fits in the fourth and final category when it doesn't look close to the other three things in the statute. *Lagos v. United States*, 584 U.S. 577, 582 (2018) ("if we look to *noscitur a sociis*, the well-worn Latin phrase that tells us that statutory words are often known by the company they keep").

We can then turn to the words themselves, "news interview," especially as understood in 1959 in the television era as it existed at that time. *Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1081 (10th Cir. 2025) ("we adhere to a fundamental canon of statutory construction and consider the original meaning of the terms at the time Congress enacted the statute—here, that year is" 1959).

When the Commission promulgated its Jack Paar decision just one year after Congress enacted the exemptions, it understood that a "variety program" like the *Tonight* show was different from a "news program" like the *Today* show. *Broadcast Actions*, 40 F.C.C. 314 (1960). *See Udall v. Tallman*, 380 U.S. 1, 16 (1965) ("respect due" to "a contemporaneous construction of a statute by the [agency] charged with the responsibility of setting its machinery in motion"); *Safdieh v. Comm'r*, 2026 U.S. App. LEXIS 5796, *8 & n.31(2d Cir. Feb. 27, 2026) ("substantial weight" afforded a contemporaneous agency interpretation).

In the immediate aftermath of the exemptions' enactment, the regulators and those regulated clearly understood the difference between "network interview television or radio programs such as 'Meet the Press', 'Youth Wants to Know' and 'Capitol Cloakroom' and network programs of entertainment content such as 'Today', 'Tonight' and 'PM.'" *In re Inquiry Concerning "Equal Time" Requirements of Section 315*, 1962 FCC LEXIS 30, *1; *In re Interpretation of Second Sentence of Section 315a*, 1963 FCC LEXIS 53, *2 (differentiating types of programming, including children's programming, religious, educational, public affairs and news, sports, and entertainment). These early interpretations demonstrate that "news" adds meaningfully to the statutory text—it cannot be read out to mean that any "interview" counts because any political candidate is inherently newsworthy.

Another basic principle of statutory interpretation is that an exception or exemption is "just that—an exception. Congress, after all, is unlikely to intend for an exception to swallow the rule." *EPA v. Calumet Shreveport Refin., L.L.C.*, 605 U.S. 627, 644 (2025). *See* Gigi Sohn, LinkedIn[6] ("if what is really an entertainment show can provide opportunities to candidates for public office (and they must be a candidate - the rule doesn't apply to regular old members of Congress if they aren't running) to have a 15 minute free campaign ad, then the law has no meaning.").

[6] https://www.linkedin.com/posts/gigisohn_fcc-chair-brendan-carr-says-media-were-lied-activity-7430287985905995777-EyoJ

This textualist analysis is confirmed by the legislative history specific to 315(a)(2): "Congress did not intend to exempt all programs and had specifically cited, during floor debate on the proposed amendments, certain programs such as 'Meet the Press' and 'Face the Nation' as being the type of interview programs it meant to exempt." *Political Primer 1984*, 100 F.C.C.2d 1476, 1498 (1984).

Again, to state the obvious, *The View* is primarily an entertainment program—celebrities, authors, and soap opera stars are the show's bread-and-butter.[7]

Here, interpreting "news interview" to cover every candidate interview would reduce Section 315 to nothingness: all that would be left for equal time is old movie and television show reruns of Ronald Reagan or Fred Thompson.[8]

3. The Commission should doubt *The View*'s qualification for the "Bona Fide News" exemption in light of indicators that it is not exercising "good faith news judgment."

Just as much as Congress wanted to ensure that the equal time statute would not stand as a barrier to routine news coverage of politics, "of equal and opposite concern was Congress' fear that these exemptions would license favoritism or bias on the part of the news media -- the very things that the equal time principle was designed to avoid. Thus, Congress aimed to enact provisions for exemptions to achieve the first objective without destroying the second." *King Broadcasting*, 860 F.2d at 467.

Congress's tool to achieve that goal was limiting the exemption to only "bona fide" news. "Congress qualified all four categories of exempt news programming with the term 'bona fide,' which 'was intended to emphasize Congress' intent that the program be of genuine news value and not be designed to serve the political advantage of any particular candidacy.'" *In re Hearst TV Inc.*, 31 FCC Rcd 7191, 7192 (MB 2016) (quoting *In re Request of Oliver Productions, Inc.*, 4 FCC Rcd 5953, 5953 (1989)). This

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[7] *The View's* January 2026 guests included actor Jason Biggs; actress Katherine LaNasa; television personality Star Jones; actress Sarah Shahi; author Spencer Pratt; author Marc Shaiman; actress Pam Grier; actress Jessica Williams; actor Anthony Ramos; author Dr. Tara Narula; television personality Anthony Anderson; comedian Matt Friend; and actors Luke Thompson and Yerin Ha. Three partisan officials were guests in January: U.S. Rep. Jim Clyburn (D-S.C.), New York City Mayor Zohran Mamdani (D-N.Y.); and Gov. Josh Shapiro (D-PA).

[8] On this expansive view, NBC should never have extended time to President Trump after Vice President Harris's *Saturday Night Live* appearance—"satire" from a "humorist" can still fit within an equal time exemption. *In re Request of ABC*, 15 FCC Rcd 1355, 1359 (MMB 1999).

"possible candidate favoritism [was] a concern of Congress when it enacted the news exemption." *In re request of Fox, et al.*, 11 FCC Rcd at 11102.

The Commission has not, to the Center's knowledge, ever laid out in detail a test or standard for judging "good faith news judgment" versus "favoritism or bias on the part of the news media -- the very things that the equal time principle was designed to avoid." *King Broadcasting*, 860 F.2d at 467. Here, the Center suggests three possible modes of analysis the Commission could consider when it lacks overt evidence of the kind present in *In re Star Stations of Ind.*, 51 F.C.C.2d 95 (1975).

A. Does the program have a history of exhibiting favoritism or bias toward one candidate or set of candidates or party?

When the Commission has evaluated debates or other programs in the past, it has granted exemptions where programs are "balanced" between candidates of both major political parties, whether as participants on the same debate stage or as separate participants in the same format: "the balanced nature of the program format, which includes structural safeguards for objective news coverage of political candidates, is critical to our assessment of the bona fides of a news event under Section 315(a)(4)." *In Re Request of Fox, et al.*, 11 FCC Rcd at 11113 n.24, quoting *In re Request of King Broadcasting*, 6 FCC Rcd 4998, 4998 n.4 (1991). In *Fox* and *King*, the Commission relied on the fact that both major party candidates who were to receive airtime were given back-to-back access in the same format (and in *Fox*, with the same questions). *Id*. at 11112.

The View is not "objective" or "balanced" given the blatant, consistent partisan slant of its guest lists. Both Republicans and Democrats "make news." Both Republican and Democratic candidates are of interest to viewers. Yet Democrats are featured on *The View* at an insanely high ratio compared to Republicans.[9] In 2025, *The View* hosted a total of 348 guests. Of those, Media Research Center reports that the hosts talked politics with 128 liberal guests and just two conservatives.[10] Twenty-five of the liberal guests were Democrat politicos, including Senators John Fetterman (twice), Elizabeth Warren, Bernie Sanders, Amy Klobuchar, Elissa Slotkin, Chuck Schumer, Tammy Duckworth, Cory Booker, Joe Manchin, and Raphael Warnock; Governors Gretchen Whitmer, JB Pritzker, and Wes Moore; Representatives Hakeem Jeffries

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[9] *In re Greater Wash. Educ. Telecomms. Ass'n*, 26 FCC Rcd 16509, 16511 (MB 2011) ("Congress qualified all four categories of exempt news programming with the term 'bona fide,' which 'was intended to emphasize Congress' intent that the program be of genuine news value and not be designed to serve the political advantage of any particular candidacy.'").

[10] https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2025/12/22/2025-view-chatted-politics-128-lib-guests-2-conservatives

and Jasmine Crockett (twice); former President Joe Biden; former Vice President Kamala Harris; and New York mayoral candidates Anthony Weiner and Zohran Mamdani. The other 100 or so liberals were journalists, academics, and activists.

The two "conservatives" were actress Cheryl Hines, wife of HHS Secretary Robert F. Kennedy, Jr., and Congresswoman Marjorie Taylor Greene. And Hines was until recently a "lifelong Democrat" herself, while Greene was invited on at a time when she was having a very public dispute with House GOP Leadership.

Such a deep and consistent lack of balance suggests the airtime is being used "in service of a political agenda" rather than as an exercise in good-faith newscasting.[11] In the language of the FCC's recent Public Notice, the persistent bias in favor of Democratic candidates and their ideological advocates and allies indicates *The View* is "unfairly putting their thumbs on the scale for one political candidate or set of candidates over another."[12] Though that has broader implications under the public-interest standard, at a minimum in this context it means the Commission should doubt the show qualifies as a bona fide news interview program.

Former DOJ official Eric Columbus has slightly different numbers but reaches the same conclusion using information from IMDB: "The equivalent numbers for 'The View' reflect a similar imbalance: 31 to 4. And once again, the exceptions were telling: Reps. Marjorie Taylor Greene (twice) and Thomas Massie—following their well-publicized breaks with Trump on key issues—and [former Governor Arnold] Schwarzenegger himself, who had endorsed Harris. Such numbers make it difficult to argue that the interviews qualify for the 'bona fide news interview exception' given the FCC's long-standing position, rooted in legislative history, that the selection of guests must lack a partisan purpose. While the FCC typically has been deferential in applying this standard—as in the Leno/Schwarzenegger decision—the staggering partisan imbalance makes it hard to say the shows qualify."[13]

B. Is the interview conducted or controlled by professional journalists?

Though plenty of professional journalists can be partisans, it at least runs against most professional training and industry ethics for professional journalists to overtly act as partisans. *See In re request by Fox, et al.*, 11 FCC Rcd at 11113 (Commission finds "good faith news judgment" demonstrated where "the questions to be answered

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[11] *Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, at *3.

[12] *Id*. at *4.

[13] Eric Columbus, *Brendan Carr Has a Point About the Equal Time Rule*, Lawfare (March 4, 2026), https://www.lawfaremedia.org/article/brendan-carr-has-a-point-about-the-equal-time-rule.

during the statements are to be formulated by independent nonpartisan organizations."). Having an interview conducted by professional journalists demonstrates both the "bona fide" and "news" components of the statutory standard—allowing celebrity hosts to conduct the interview suggests it is not "bona fide" or "news" but rather entertainment.

In the case of *The View*, Whoopi Goldberg is a comedy actress, Joy Behar is a comedian, Sunny Hostin is a legal commentator, Sarah Haines is a game show host, and Ana Navarro and Alyssa Griffin are political strategists. None of them is a traditional reporter or journalist.

C. Is the interview conducted or controlled by clear partisans?

The flip side of questions from "independent nonpartisan organizations" are questions from obvious partisans. In the case of *The View*'s cohosts, Whoopi Goldberg made seven donations to Democrats in the 2024 election, including five separate donations to Kamala Harris.[14] Sunny Hostin and Joy Behar have made multiple donations to Democratic candidates,[15] and Joy has written a book entitled, *The Great Gasbag: An A-to-Z Study Guide to Surviving Trump World*. Ana Navarro and Alyssa Griffin are both former GOP political aides who both nevertheless voted for Kamala Harris over Donald Trump in 2024.

In sum, evaluating factors such as these—guest partisanship, professional journalistic training, and host partisanship—allows the Commission to evaluate "good faith new judgment" versus "favoritism and bias" in a way that avoids ever looking at the content of the individual broadcast in question. None of them is a perfect rule: Tim Russert may have been a partisan staffer before becoming an NBC journalist, and William F. Buckley was a partisan at the same he was a PBS host, but both hosted guests from both parties and treated them fairly on air. But evaluating these three factors, more or less ranked in order of value as indicators, gives the Commission a starting point on determining whether "bias and favoritism" is so overt and problematic as to render a program no longer "bona fide" news.

CONCLUSION

The Center applauds the Commission's decision to open this investigation. The Commission's guidance (as embodied in the Public Notice), a textualist or legislative-history approach to statutory interpretation, and a framework for ensuring only "bona fide" news all point toward denying an exemption to *The View*.

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[14] https://www.opensecrets.org/search?q=whoopi+goldberg&type=donors

[15] https://www.opensecrets.org/search?q=joy+behar&type=donors;
https://www.opensecrets.org/search?q=Asuncion+hostin&type=donors

Respectfully,

Daniel R. Suhr, president
Center for American Rights

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, April 13, 2026 3:34 PM
To: Erin Boone
Cc: Katie McAuliffe
Subject: [EXTERNAL]: Letter
Attachments: Swalwell Late Night Letter vF.pdf

Thanks,
DANIEL

CENTER FOR American Rights

Monday, April 13, 2026

Chairman Brendan Carr
Federal Communications Commission
C/O Erin Boone, via email

Dear Mr. Chairman,

If you need proof that late night television is operating in a "narrow partisan, political interest" (*Media Bureau Provides Guidance on Equal Time Obligations*, 2026 FCC LEXIS 142, *4 (Jan. 21, 2026)), look no further than the fawning treatment previously extended by Jimmy Kimmel and Stephen Colbert to disgraced California congressman Eric Swalwell.

When Swalwell wanted to launch his 2026 run for governor of California (now suspended), he did so with a glowing softball interview on *Jimmy Kimmel Live!* (Nov. 20, 2025)[1] Swalwell was previously a guest on *Kimmel* on September 6, 2024.[2]

When Swalwell announced his doomed 2020 presidential campaign, he did so on *The Late Show with Stephen Colbert* (April 9, 2019). Swalwell was also a guest on *Late Night with Seth Myers* (Jan 21, 2020).

The love runs two ways – not only did Kimmel platform Swalwell to announce his run, but then Swalwell led a "Stand with Kimmel" campaign when Disney and local broadcasters chose to suspend his program. *See Eric Swalwell dons 'Jimmy Kimmel*

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[1] Image from Jimmy Kimmel's youtube page, https://www.youtube.com/watch?v=nIdUSzz44KA

[2] Image from Jimmy Kimmel's youtube page, https://www.youtube.com/watch?v=9DGPd8HgCI4.

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Live!' hat in solidarity for CNN interview, Fox News (Sept. 18, 2025).[3] Don Lemon reported that Swalwell also handed out Kimmel swag to fellow House Democrats for a photo op on the Capitol steps in September 2025.[4]

Perhaps unsurprisingly, Swalwell isn't alone in receiving love on late night. Congresswoman Katie Porter, running second among Democrats in the golden state's gubernatorial primary, was also a guest on Colbert (Sept. 24, 2020; Apr. 10, 2023; Apr. 11, 2023); Myers (Oct. 2, 2019; Apr. 28, 2020; Apr. 25, 2023); and Kimmel (Aug. 16, 2022; guest host former Democratic U.S. Senator Al Franken). Kimmel donated twice to Porter's congressional campaign, $1250 in 2019 and $2800 in 2020, facts that were not disclosed when she came on the show.[5] The third place Democrat, Tom Steyer, joined Colbert on January 20, 2020, while a 2020 Democratic presidential candidate.

Missing from broadcast late night? Steve Hilton or Chad Bianco, the two Republicans who are currently leading in polling in California. Both would make great guests on late night—Hilton is a longtime TV personality with a British accent, while Bianco is a hard-charging, tough-talking sheriff who has plenty of media experience as Riverside County Sheriff, starting as an officer on NBC's *To Catch a Predator* in 2006.

The totally one-sided love showered on Eric Swalwell, heretofore the golden boy from the Golden State in Democratic politics, and other Democrats shows again the New York-Hollywood values that dominate our media landscape. Voters in California will have a real choice on their ballots this fall, and they deserve information about and interviews with their different options. Moreover, they should make that choice for themselves, not with a thumb on the scale from media moguls conferring their cultural cache on their handpicked favorites. As we've said before, late night is where Democratic politics and Hollywood celebrity intersects. That is not bona fide news, and it is not in the public interest.

Sincerely yours,

/s/ Daniel R. Suhr

Daniel R. Suhr
dsuhr@americanrights.org

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[3] https://www.foxnews.com/media/eric-swalwell-dons-jimmy-kimmel-live-hat-solidarity-cnn-interview
[4] https://www.facebook.com/donlemon/videos/rep-eric-swalwell-d-ca-distributed-jimmy-kimmel-merchandise-to-fellow-house-memb/1475094307111400/
[5] Our previous memorandum shows the need for the FCC to clarify that hosts must disclose their campaign donations so viewers can have full information when candidates appear as guests.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Wednesday, March 25, 2026 2:51 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: Memo
Attachments: News Distortion Memo.pdf

Thanks
DANIEL

NEWS DISTORTION Q&A

(1) What constitutes news distortion?

News distortion is a capacious concept that embraces different aspects of news reporting. The Commission has used different phrases or language to describe different aspects of news distortion, each of which brings a particular nuance. *See, e.g., Remarks of FCC Comm'r Olivia Trusty at the Media Institute*, 2025 FCC LEXIS 2459, *3 ("the FCC has a policy against news distortion, which prohibits broadcast station licensees from deliberately manipulating, slanting, or rigging the news."). In recent orders, the Commission has used the terms "falsified, distorted or suppressed news," *In re Existing S'holders of Clear Channel Communs., Inc.*, 23 FCC Rcd 1421, 1430 (2008) or "intentional and deliberate falsification (distorting, slanting, rigging, staging) of the news." *Complaints About Broadcast Journalism*, 1999 FCC LEXIS 4302, *3 (MMB 1999). These overlapping ideas can be separated into falsified, slanted, suppressed, or rigged/staged.

Some concepts, like falsifying information in a particular story, are relatively straightforward, while others are terms of art. Not all forms of "news distortion" require reporting false or incorrect information—a station can also distort the news by only reporting certain true information while excluding other true information.

News slanting. News slanting refers to when a station selectively reports the news in a particular direction to benefit a private or political interest of the broadcaster. *See In re Applications of Voce Intersectario Verdad America*, 100 F.C.C.2d 1607, 1611 (1985) (presentation of misleading information designed to benefit broadcaster's personal political agenda). That could mean presenting misleading information or adopting a positive or negative attitude or tone in stories reported (or not reported).

In *In re Star Stations of Indiana*, 51 F.C.C.2d 95 (1975), a licensee was investigated for, among other things, ordering news coverage that "slanted news broadcasts to deliberately favor one candidate over another candidate." The licensee told his news director "to make sure that Senator Hartke receive frequent, favorable mention in the station's news broadcasts," "slanting of WIFE's news to provide favorable coverage for the candidate." In a second race two years later, the owner directed another of his stations to "provide one-sided coverage of the campaign" for U.S. Senate. He ordered that the station assign a regular reporter to provide reports from the campaign trail for just one candidate. He further instructed that the station was to run promotional advertising telling listeners the station was covering this campaign. And he wanted "only positive news items regarding Governor Hatfield and negative stories concerning Representative Duncan." The station ended up carrying approximately 70 stories about Governor Hatfield, all glowing, while it carried only 45 stories about Representative Duncan, many of which were bland or benign. Because of these and other violations, the FCC revoked the owner's licenses.

In another case, "the licensee instructed his news staff to slant news reports in specified ways [specifically, to report positively on Republicans and negatively on Democrats]. Such slanting of the news amounts to a fraud upon the public and is patently inconsistent with the licensee's obligation to operate his facilities in the public interest." *In re Inquiry into WBBM-TV's Broad*., 18 F.C.C.2d 124, 132 (1969) (describing *KMPC, Station of the Stars, Inc*., 14 F.R. 4831 (1949)).

News suppression. A licensee has an "obligation to keep the public informed of important local news and to promote discussion of substantial local issues." *In re Radio Station WSNT, Inc*., 27 F.C.C.2d 993, 999 (1971). "[S]uppressing news coverage of significant local events" flunks that obligation. *Id*. at 996. Of course, "[a]ny time a producer, news director or editor decides not to print or broadcast a news story, he is, in a sense, 'suppressing' news. However, the 'news suppression' we are concerned with arises where the licensee's decision is based on private rather than public interest, a determination that must rest largely on questions of intent or motive." *Screen Gems Stations, Inc*., 46 FCC 2d 252, 257 (1974). *See In re Bramble Complaint against Paul Bunyan Broadcasting*, 58 F.C.C.2d 565, 572 (1976) (news suppression when licensee "exclu[des] all news regarding a certain category of event, person or group because of the licensee's private opinions or prejudices").

News Staging (or Rigging). News staging is "the deliberate portrayal of a significant event which did not in fact occur but rather is acted out at the behest of news personnel." *Black Producers Ass'n*, 70 F.C.C.2d 1920, 1922 (1979). News staging can also mean entrapping an individual in a situation. *Kenneth E. Howard*, 2007 FCC LEXIS 5232, *7 (Video Div. 2007) ("the solicitation of prostitutes for the specific purpose of interacting with the targets of the story, if true, could constitute 'staging.'").

In summary, "news distortion" is a broad concept that covers lots of different types of broadcast misconduct, all of which stem from distortion of the news that viewers see or hear either by presenting false or manufactured information or by selectively presenting true information in a misleading or manipulative way.[1]

(2) What justifies Commission action on news distortion?

News distortion can be perpetrated by top management or junior employees. To affect a license directly, "the licensee, its top management, or its news management" must participate, direct, or acquiesce in the news distortion. *Kenneth E. Howard*, 2007 FCC LEXIS 5232, at *8 (licensee/management); *In re TVT License, Inc.,* 22 FCC Rcd 13591, 13595 (Video Div. 2007) (participate/direct/acquiesce). However, "the licensee is accountable and cannot evade responsibility [for news distortion] by attributing the misconduct to a[junior] station employee," it just means the enforcement ramifications are calibrated appropriately, especially based on whether the management was negligent in its training or supervision of employees. *In re Application of WMJX, Inc*., 85 F.C.C.2d 251, 267 (1981).

The determination of whether a licensee or management was involved in news distortion comes at the investigation stage, not the allegation stage. *Black Producers Ass'n*, 70 F.C.C.2d 1920, 1922 (1979) ("where allegations of news staging simply involve news employees of the station [the Commission] would, in appropriate cases, investigate, but that unless the investigation reveals involvement of the licensee or its management there will be no hazard to the station's licensed status.").

Similarly, Commission action against news distortion requires that the distortion be "deliberately intended" – it cannot be simply a mistake. *In re TVT License, Inc.,* 22 FCC Rcd at 13595. *See In re Post-Newsweek Stations*, 52 F.C.C.2d 887, 892 (1975) ("isolated instances of inaccuracies in a station's news reports" insufficient). However, deliberate indifference to key facts can justify Commission action. *In re Action Radio*, 51 F.C.C.2d 803, 808 (1975) ("where, as here, there is the clearest evidence of reckless disregard for truth in a licensee's own news practices . . . , public interest questions are raised. Since in this case, there is extrinsic corroboration of such reckless disregard of easily ascertainable facts and materials, the licensee's

[1] *In re TVT License, Inc*., 22 FCC Rcd 13591, 13595 (Video Div. 2007) ("deliberately intended to slant or mislead").

conduct warrants censure."). *See also In re Anti-Defamation League of B'Nai B'Rith Against Station Ktym*, 4 F.C.C.2d 190, 192-94 (1966) (Comm'r Cox, dissenting).

Moreover, questions of intent are rarely knowable for a complainant because they go to internal information and questions of motive. Therefore, "[i]t is sufficient for a petitioner to raise a 'substantial and material question of fact' as to intent, and the Commission cannot require a petitioner to demonstrate 'intent'" at the complaint stage. *In re TVT License, Inc.,* 22 FCC Rcd at 13595 (citing *Serafyn v. FCC*, 149 F.3d 1213, 1220 (D.C. Cir. 1998)).

Commission action is also only justified when the news distortion involves "a significant event and not merely a minor or incidental aspect of the news report." *In re TVT License, Inc.,* 22 FCC Rcd at 13595.

Finally, though the Commission primarily has jurisdiction over local broadcast stations as licensees, the Commission has traditionally investigated national programmers (networks) for news distortion under the same framework. *See Complaints About Broadcast Journalism*, 1999 FCC LEXIS 4302, *3 (MMB 1999).

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, December 9, 2025 3:36 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: Network-Affiliate Relations
Attachments: 25-322 Network Affiliate Opening Comment vF.pdf

Hi. Today the Center for American filed its comment in MB 25-322, the Commission's look at network-affiliate relations; a final copy is attached as a PDF. Thanks - DANIEL

Daniel R. Suhr, president
Center for American Rights

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Empowering Local Broadcast TV Stations to Meet Their Public Interest Obligations	MB Docket No. 25-322

INITIAL COMMENT OF THE CENTER FOR AMERICAN RIGHTS

There are significant, persistent structural issues in the relationship between the national programmers ("networks") and the local stations that actually hold the licenses from this Commission ("affiliates"). Those issues are not new to this Commission—the Chairman has highlighted them in letters to both ABC and NBC in the past year.[1] The Center for American Rights also considered these questions during the Skydance-Paramount transaction[2] and is encouraged that Skydance committed to a healthier approach to CBS affiliate relations. *In re Skydance / Paramount (CBS) Transaction*, 40 FCC Rcd 5689, 5714 (2025) ("Skydance . . . will work closely with its affiliated broadcast stations to ensure a productive partnership, including by considering technological improvements, investments in local news resources, and other measures that bolster local broadcasting.") (though as we have said, our approach to the new ownership is trust but verify).

[1] Letter of Chairman Carr to Comcast CEO Brian Roberts (July 29, 2025), https://s3.documentcloud.org/documents/26036906/chairman-carr-letter-to-comcast-final-72925.pdf; Letter of Commissioner Carr to Disney CEO Bob Iger (Dec. 21, 2024), https://www.fcc.gov/sites/default/files/Carr-Letter-to-Disney-12212024.pdf.

[2] Letter of Daniel Suhr to Chairman Carr, ECFS Doc. 10721253377429 (July 21, 2025), https://www.fcc.gov/ecfs/document/10721253377429/2.

However, fixing the relationship between the affiliates and networks is about much more than the dollars-and-cents of these deals. We expect other commenters will raise these topics, and we may respond in our reply comments. Our general view is that "revenues should remain 'available for local broadcast TV stations to invest in their local news operations and content that serves their communities.'"[3]

For the Center for American Rights, we see the question of network-affiliate relations first and foremost through the lens of the public interest. And here, just as in the purely economic context, things are deeply out of whack.

(1) News. When the networks produce news that the American people do not trust[4] and therefore do not watch[5], it costs local broadcasters money. We often hear the phrase "Go woke and go broke" applied to brands like Bud Light and Cracker Barrel. But the reality is that the same is true of broadcast television news: when networks choose to continue producing one-sided news that vast swathes of the American people won't watch, it costs the affiliates the ratings that drive ad revenue. The network executives, anchors, and producers can feel good that they have done their part to indoctrinate the American people from their left-wing perspective, but when viewers in red states refuse to tune in and turn to cable news instead, local affiliates lose the viewers that lead to ad revenue. Biased news is bad for broadcasting

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[3] *Id.* at 3 (quoting Letter of Commissioner Carr to Disney CEO Bob Iger, Dec. 21, 2024).

[4] *Trust in Media at New Low of 28% in U.S.*, Gallup (Oct. 2, 2025), https://news.gallup.com/poll/695762/trust-media-new-low.aspx.

[5] David Bauder, *A lost generation of news consumers? Survey shows how teenagers dislike the news media*, Assoc. Press (Dec. 1, 2025), https://apnews.com/article/news-media-journalism-young-people-attitudes-f94bec50fc266d42d6ae369e7b9fb10e.

as a business—it drives away the half of the country that does not share the networks' bias. That's doubly so when the news is not only biased but also focuses on stories important to coastal elites rather than covering topics and stories that resonate in middle America. And those spurned viewers are likely not in the blue DMAs like New York or Los Angeles, the places where the networks own and operate the stations. Rather, it is affiliated local stations in red states that most lose out from biased news shows that don't attract viewers in those markets. People don't bother to spend their time watching news they don't trust to be fair and accurate. When the national networks push out consistently liberal news, they kill ad revenue for their affiliates in red states, even while they hold onto all the ad revenue in blue mega-markets through their owned-and-operated stations.

(2) Entertainment. As with news, so too with entertainment. As an example: when all three networks produce left-wing late night, it drives half the country to watch Gutfeld instead. That's great for Fox News Channel, but not for the affiliates, as ABC, NBC, and CBS fight over the same shrinking pool of left-leaning viewers while FNC gets every right-leaning viewer all to itself ("Charles Krauthammer, one of Fox's commentators, jokes that [Roger] Ailes saw the opportunity to serve a niche market of half the country. The point of the quip is that the major networks had a liberal outlook and millions of Americans wanted something else."[6]). Again, the viewership in blue state mega-markets with owned-and-operated stations may be

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[6] Ramesh Ponnuru, *The House That Roger Ailes Built*, Bloomberg (May 18, 2017), https://www.aei.org/articles/the-house-that-roger-ailes-built/.

fine, but viewers in Nashville or Jacksonville would rather see Nate Bargatze than Jimmy Kimmel, and so they don't watch network late night, and their eyeballs (and the attendant ad revenue) go elsewhere.

That's true not just of late night, but all entertainment programming. When ABC or NBC produce entertainment shows that push an overt leftist social agenda or anti-conservative or anti-faith story lines, they drive away viewers (again, especially in affiliate-served red states) that hunger for entertainment that is values-aligned, faith-inspired, family-friendly, and patriotic. The consistent bias on ABC's *The View,* for instance, tells women in red states who voted for President Trump that they are responsible for putting in office an autocratic dictator. Those viewers believe otherwise, and because they don't want to be insulted day after day, they don't watch. Similarly, when NBC's *Law & Order SVU* villainizes ICE agents or when CBS's *Elsbeth* makes a nun into a murderer, it's the affiliates based in the red regions where MAGA and faith-focused voters are concentrated that lose the ratings.[7]

For both news and entertainment, bringing the networks back to "fair, unbiased, fact-based reporting" and an "array of news and entertainment programming [that] embodies a diversity of viewpoints across the political and ideological spectrum" (*Skydance Order*, 40 FCC Rcd at 5714) would not only better serve the public interest—it would benefit affiliates' bottom line by providing them

[7] *See* Nikki Schwab, *Homeland Security slams Law & Order for 'villainizing' ICE agents amid spike in attacks*, Daily Mail (Sept. 30, 2025), https://www.dailymail.co.uk/news/article-15150163/homeland-security-defend-ICE-law-order-svu.html; Tim Graham, *CBS exploits murdering Mother Superior*, Creators Syndicate (Dec. 2, 2025), https://www.newstribune.com/news/2025/dec/02/commentary-cbs-exploits-murdering-mother-superior/.

with content that the viewers in their markets would be open to watching. The networks may not care—they seem okay with losing money on shows that push their liberal views[8]—but it's fundamentally unfair to affiliates and ultimately viewers.

(3) Sports. Live sporting events are absolutely crucial to the ad revenues that sustain broadcasting. They are also deeply in the public interest—they are essential to cultivating the cohesive communities that define many American cities. Yet in their quest for greater profits, sports leagues increasingly play different platforms off one another, as local broadcast, cable, and streaming compete for games. This is especially awkward for local broadcasters when networks negotiate on behalf of affiliates while at the same time negotiating on behalf of their subsidiary cable and streaming platforms like ESPN or Peacock+.

Fans now need multiple paid streaming and cable subscriptions on top of local TV and they *still* can't always watch their favorite team. As one reporter wrote recently, "I subscribe to nearly every service there is with live sports — YouTube TV, MLB.TV, NBA League Pass, NFL Sunday Ticket, Peacock, Apple TV+, Max, Amazon Prime, Paramount — for $2,634 a year. But to watch the Boston Red Sox play the New York Yankees earlier this month, I would have had to fork over an additional $19.99 a month for some obscure baseball-focused service that has that slice of one of the most iconic rivalries in America's national pastime."[9] Those kinds of prices are

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[8] Charles Gasparino, *Bottom line on demise of Stephen Colbert and his late show: 'Losing money left and right,'* N.Y. Post (July 25, 2025), https://nypost.com/2025/07/25/media/bottom-line-on-demise-of-stephen-colbert-and-his-late-show-losing-money-left-and-right/.

[9] Joon Lee, *$4,785. That's How Much It Costs to Be a Sports Fan Now*, N.Y. Times Magazine (June 22, 2025), https://www.nytimes.com/2025/06/16/opinion/sports-nba-mlb-leagues-streaming-fan.html.

pushing far beyond what many working and middle-class American families can afford for entertainment.

Moreover, the streaming experience can feel downgraded compared to the freedom to flip between games on cable or broadcast. Fans are even more angry after the ESPN-YouTube blackout and the Comcast-YES dispute, both of which show the breakdown in this arena as different players stare one another down.[10]

The Center reminds the Commission of its prior order in a similar situation. The FCC adopted a condition sought by the NBC Affiliates to foreclose Comcast from "an increased incentive and ability to migrate marquee sports programming from NBC and the NBC O&Os to Comcast's cable networks" because "such action would harm consumers who rely exclusively on OTA broadcasting." *In re Comcast Corp.*, 26 FCC Rcd 4238, 4306 (2011).

Or as then-Commissioner Carr wrote to Disney's CEO, "ABC is reportedly pulling the marquee programming, including local sports, from broadcast TV stations in favor of coowned cable networks or those same subscription streaming services." He warned, "the increasing ability of certain national programming networks with direct-to-consumer subscription streaming services to impose onerous and restrictive conditions on local broadcast TV stations through the terms of affiliate agreements suggests that the network/affiliate relationship is out of balance. . . . Reported restrictions on negotiating carriage on streaming platforms and provisions that

[10] *See* https://x.com/BrendanCarrFCC/status/1906434919363920205 (Comcast-YES negotiations); https://x.com/BrendanCarrFCC/status/1906897743404204316 (Comcast-YES resolution); https://x.com/BrendanCarrFCC/status/1988015718634582391 (Disney-Google negotiations).

restrict a station's ability to compete for local sports rights are further evidence of this growing imbalance." Iger letter at 3.

The migration of marquee sporting events from broadcast to cable and streaming is a real issue for both local broadcasters and fans. *See* Adam Jacobson, *Survey Says Broadcast TV 'Primary and Preferred' Live Sports Source*, Radio & TV Business Report (March 26, 2024).[11] And companies like Comcast and Disney are caught in a real conflict of interest between their cable and streaming subsidiaries and their affiliates.

Because "the availability of" "sports programming" is "an important public interest consideration," *In re Am. TV & Commc'ns Corp.*, 64 F.C.C.2d 647, 649 (1977), the Commission may wish to open a separate inquiry that evaluates sports in more than just the network-affiliate context to ensure a thorough record and consideration of possible rule-making or other policy steps specific to sports broadcast rights.

(4) Preemption and the Right to Reject. The law requires that licensees enjoy an absolute, unqualified right to refuse to air network programming that they do not believe serves the public interest of viewers in their local market. Last time this Commission considered the network-affiliate relationship at a national level, the affiliates and networks agreed to three overarching principles to govern their relationship, the first of which recognized: "Affiliates, as the licensees of local television stations, must retain ultimate control over station programming, operations and other critical decisions with respect to their stations, and network

[11] https://rbr.com/survey-says-broadcast-tv-primary-and-preferred-live-sports-source/.

affiliations must not undercut this basic control. Retention of this control by Commission licensees is required by Section 310(d) of the Communications Act and the FCC's Rules." *In re Petition For Inquiry Into Network Practices*, 23 FCC Rcd 13614, 13615 (2008). The Commission officially adopted this principle in its subsequent order. *In re National Affiliated Stations Alliance*, 23 FCC Rcd 13610, 13611 (2008).

This principle that licensees must maintain their right to refuse programming is incorporated in the Commission's rules. 47 C.F.R. § 73.658(e). This "right to reject" ensures licensees have "the sole right and nondelegable responsibility to select the programs to be broadcast." *Muir v. Alabama Educ. Television Comm'n*, 688 F.2d 1033, 1040 (5th Cir. 1982). "The Right to Reject Rule was adopted as a result of the FCC's Report on Chain Broadcasting which found that right to reject clauses in the then-prevalent network affiliation clauses did not sufficiently protect the public interest. The report emphasized that the station, not the network, is licensed to serve the public interest. . . . The station is obliged to reserve to itself the final decision as to what programs will best serve the public interest." *Home Shopping Club, Inc. v. Roberts Broad. Co.*, 989 S.W.2d 174, 178 (Mo. Ct. App. 1998) (cleaned up).

Some courts have described this rule as guaranteeing "that local licensees must retain the absolute right to edit, select and reject programs." *Network Project v. Corporation for Public Broadcasting*, 398 F. Supp. 1332, 1341 (D.C. Dist. 1975), *aff'd and rev'd on other grounds*, 561 F.2d 963 (D.C. Cir. 1977). *Accord Levitch v. Columbia Broadcasting System, Inc.*, 495 F. Supp. 649, 677 (S.D.N.Y. 1980) ("under FCC regulations it is legally impossible for the defendants to in any way compel the affiliates to accept any of the proffered programs. The affiliates still possess the editorial discretion to accept or reject any of the programs offered by the network defendants." Cleaned up).

Other courts have found the rule "gives the licensee very broad discretion to reject programming, but not an absolute power to do so." *Home Shopping Club,* 989 S.W.2d at 178. *Accord Home Shopping Club v. Roberts Broad. Co.*, 961 P.2d 558, 562 (Colo. Ct. App. 1998) (similar). The two *Home Shopping Club* decisions say that once a licensee agrees to carry programming through an affiliation contract, it cannot preempt that programming for purely economic reasons. This sentiment is reflected in the 2008 Networks-Affiliates Agreement and subsequent Commission order. *In re National Affiliated Stations Alliance*, 23 FCC Rcd at 13612-13 ("This language does not give an affiliate the unfettered right to preempt network programs.").

Importantly, the networks cannot "exercise [their] market power . . . over their affiliates to the detriment of the public,"[12] including by bullying affiliates when they exercise their right to reject. In other words, the networks cannot punish affiliates when they exercise their right to reject in the public interest. Networks may not beat affiliates down by withholding desirable programming when affiliates decline other programming in the public interest.

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[12] *In the Matter of Amendment of Part 73 of the Commission's Rules concerning the Filing of Television Network Affiliation Contracts*, 10 FCC Rcd 5677, 5679 (1995).

Let's address the elephant in the room: Kimmel. Earlier this fall, Nexstar and Sinclair decided to exercise their right to not carry the *Jimmy Kimmel Live!* program from ABC. Though other ABC affiliates chose to continue carrying Kimmel, it was certainly a reasonable exercise of discretion for Nexstar and Sinclair to decide that the program was not suitable or in the public interest (licensee must "reasonably believe [rejected program] to be unsatisfactory or unsuitable or contrary to the public interest," 47 C.F.R. 73.658(e)(1)).

Prior to any comment from Chairman Carr, the *New York Times* has reported, "Conservative influencers and radio hosts started to take notice throughout the day [on Tuesday], and Fox News hosts turned their attention to the clip by [Tuesday] evening. Then, hours before Mr. Carr's podcast taping on Wednesday, Elon Musk, the most-followed user on X and the site's owner, posted that Mr. Kimmel was 'disgusting' for the jokes."[13] A separate story from the *Times* reported ABC owner Disney was "hearing from skittish advertisers" and had "received a flood of angry messages from the public and vows to boycott Disney products . . ."[14]

This was not a case where an affiliate had agreed to air one program, and then a better offer came along with a more lucrative payday, so they bumped it (which is what happened in the *Home Shopping Club* cases cited above). America had just endured a political assassination unseen since the murders of RFK and MLK.

[13] Stuart A. Thompson, *How Outrage at Kimmel Grew to a Shout From a Whisper*, N.Y. Times (Sept. 19, 2025), https://www.nytimes.com/2025/09/19/technology/kimmel-carr-outrage-online.html.

[14] John Koblin, Brooks Barnes, Benjamin Mullin and Michael M. Grynbaum, *Disney Pulled Jimmy Kimmel as Pressure Built on Multiple Fronts* (Sept. 18, 2025), https://www.nytimes.com/2025/09/18/business/media/disney-abc-jimmy-kimmel.html.

Kimmel came on air and started cracking jokes about it, in contrast to the tasteful, "somber" tone adopted by CBS's Stephen Colbert for his monologue.[15] Nexstar and Sinclair were likely hearing and seeing the same things that the *Times* reported: outrage on social media, critical coverage on other news channels, and negative feedback from advertisers and viewers. In light of that information, suspending Kimmel was at minimum a "reasonable" exercise of their "very broad discretion to reject programming" in the public interest. *Home Shopping Club*, 989 S.W.2d at 178.

According to an article in *The Atlantic,* "The terms of the contracts that affiliates sign with the networks are confidential, but they typically limit the number of times a station can refuse to air a network show. When a station violates its contract, a network can inflict both financial penalties and other problems by denying the station some of its programming. In ABC's case, its most dire threat would have been to pull college football and Monday Night Football from Sinclair and Nexstar stations. That would be painful to local stations; football is perhaps the most valuable property they have."[16] Any such threat by ABC would have been deeply contrary to this Commission's policy on the right to reject. Similarly, any contract provision limiting a station's right to reject in the public interest to a certain number of times in a given contract period would also violate the Commission's rules and policies (the 2008 agreement included no such numerical limit on the right to reject).

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[15] *Stephen Colbert Reacts to Charlie Kirk's Death*, TMZ, https://www.tmz.com/watch/stephen-colbert-charlie-kirk-09-11-2025/.

[16] James Surowiecki, *Nexstar and Sinclair Lost Their Game of Chicken* (Sept. 27, 2025), https://www.theatlantic.com/ideas/archive/2025/09/kimmel-response-local-tv-stations-abc-conflict/684388/.

This proceeding should clarify that any affiliate contract provision limiting the number of times a station can exercise its right to reject under 47 C.F.R. 73.658(e) is *ultra vires*. The rule is clear: no affiliate may have "any contract, arrangement, or understanding, express or implied, with a network organization which, with respect to programs offered or already contracted for pursuant to an affiliation contract, prevents or hinders the station" exercising its lawful discretion. *Id*. Certainly a numerical limit on preemption with programming or financial penalties otherwise prevents or at minimum hinders a station's ability to exercise its discretion. Similarly, any action or threat of action by the network to punish an affiliate for exercising its discretion in the public interest hinders the station's exercise of that discretion and is contrary to this Commission's policies established in *National Affiliated Stations Alliance*.

The *Home Shopping Club* cases provide the correct legal response to an unjustified rejection of programming: a network may bring a breach-of-contract action for damages if an affiliate rejects programming for purely economic reasons, and then the network must prove to a judge and jury that the affiliate rejected for economic and not public-interest reasons (as the network successfully did in the *Home Shopping Club* cases).

Confidential Commission review of network-affiliate contracts, including as an element of future license renewals, is likely a necessary step, at least for the time being, to ensure that the law in this area is being obeyed.

(5) PBS. Though the focus of network-affiliate relationships is ABC, NBC, CBS, and Fox, a word is also important on PBS. *See In the Matter of Implementation of Video Description of Video Programming*, 14 FCC Rcd 19845, 19851 (1999) (referring to "the largest broadcast networks (ABC, CBS, Fox, NBC, and PBS)"). PBS is also a network that produces content for independent network affiliates nationwide. Though PBS does not have the same economic pressures that define commercial broadcasting, the Commission's review of this topic should not ignore PBS. When PBS sends out consistently liberal news, entertainment, and education programming, it lets down millions of potential viewers of PBS affiliates in red states just as much as ABC and NBC let down potential viewers in those same red states. That doesn't cost those local PBS affiliates ad revenue in the same way that it costs ABC or NBC affiliates, but it drives viewers away all the same.

In the wake of the wind-down of the Corporation for Public Broadcasting and the end of federal funding for NPR and PBS, the Center respectfully suggests that the Commission open an inquiry that looks at the future of "public" broadcasting in that new environment. If PBS and NPR cannot prove a viable long-term business model as national networks—and if their individual affiliates cannot show long-term business models in each market—then this Commission needs to consider whether those channels (i.e., that spectrum) will become available in the near future for other potential licensees or uses. At the time, PBS advocacy group America's Public Television Stations predicted, "Local Public Television Stations Will Close After U.S. Congress Votes to Rescind Essential Funding." The press release dated July 18, 2025 includes a line from organization president Kate Riley: “This elimination of federal funding — over 70% would go to local stations — will decimate public media and force many local stations to go dark…”[17] Predictions such as these should prompt the Commission to require PBS and NPR and their member stations to provide transparent financial information, to give the Commission a viable long-term business model, and to tell the Commission how they plan to increase donor support while maintaining editorial independence.[18] If in fact many local stations will “go dark,” PBS and NPR need to provide wind-down or transition plans and those stations need to give the Commission adequate notice to protect the public.

Additionally, if PBS does not have a viable long-term business model in many markets, the Commission needs to consider what will become of its historic role as a provider of daytime children’s programming.

Finally, given that the President and Congress are elected by the American public, the Commission should ask whether PBS (and NPR) stations are fulfilling their public-interest obligations as licensees when the public’s elected representatives have just chosen to cut off public funding because of their failure to serve the public well. That question is especially pressing after PBS’s big brand reboot, the Ken Burns documentary timed to America’s 250th birthday, was “a woke mockery of America’s

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17 https://apts.org/news/press-releases/local-public-television-stations-will-close-after-us-congress-votes-rescind-essential-funding.

18 Senator Cruz presented these concerns last year: “Sen. Cruz Presses NPR on Left-Wing Mega-Donors’ Influence Over Partisan News Coverage,” U.S. Senate Committee on Commerce (July 23, 2024), https://www.commerce.senate.gov/2024/7/sen-cruz-presses-npr-on-left-wing-mega-donors-influence-over-partisan-news-coverage.

founding."[19] Ken Burns' credibility and patriotic Americans' interest in their nation's history, especially at this 250th birthday, prompted many who may not watch PBS otherwise to tune in. PBS blew its chance to reboot its brand with the American people at large: the choice to heavily promote a controversial, politicized version of America's founding story suggests PBS has not learned the lesson from its defunding.

CONCLUSION

Unbiased, broadly appealing news and entertainment programming aren't just in the public interest—they're good for business. By contrast, consistent left-wing programming drives away viewership, especially in the red-state markets more likely to be served by affiliates than the blue-state markets more likely to be served by the network's owned-and-operated stations. This Commission should act to ensure that the national networks are limited to their appropriate role providing optional programming for licensees to consider airing and that the relationship is rebalanced to protect the licensees and ultimately the public.

Respectfully submitted,
Daniel R. Suhr, president
Center for American Rights
1341 W. Fullerton Ave., Suite 170
Chicago, IL 60614
dsuhr@americanrights.org

[19] Rich Lowry, *Ken Burns' 'childish canard' makes a woke mockery of America's founding*, N.Y. Post (Nov. 24, 2025), https://nypost.com/2025/11/24/opinion/ken-burns-makes-a-woke-mockery-of-americas-founding/.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Wednesday, January 21, 2026 7:35 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: NYT

Federal Regulators Take New Aim at Late-Night TV

The F.C.C. said it planned to enforce long-dormant rules on appearances by political candidates on network talk shows.

The Trump administration is opening a new front against late-night comedy, announcing plans to enforce long-dormant rules on appearances by political candidates on network talk shows.

Under new guidance released on Wednesday, the Federal Communications Commission warned that entertainment-oriented talk shows carried on local television stations were required to offer candidates vying for the same office equal airtime.

The guidance was clearly aimed at the late-night hosts who frequently anger President Trump — Jimmy Kimmel of ABC, Stephen Colbert of CBS and Seth Meyers of NBC — and have in turn drawn scrutiny from the F.C.C. chairman, Brendan Carr. But it would also cover daytime talk shows including another Trump target, “The View.”

The guidance addresses longstanding conservative complaints that the late-night shows have tilted too far to the left and are far more likely to have Democrats than Republicans as guests. It is in keeping with Mr. Carr's yearlong campaign to use old and largely un-enforced media regulations, known as the "public interest standard," to crack down on the major networks for perceived bias.

In a statement, the F.C.C.'s lone Democratic commissioner, Anna Gomez, called the new guidance "an escalation in this F.C.C.'s ongoing campaign to censor and control speech." She added: "Broadcasters should not feel pressured to water down, sanitize, or avoid critical coverage out of fear of regulatory retaliation."

A conservative group that has led in bringing formal complaints at the F.C.C., the Center for American Rights, hailed the F.C.C. announcement; media experts on both sides of the ideological spectrum said it would make it easier for the group, and others, to bring complaints against the late-night hosts and "The View."

The guidance involves a "public interest" requirement that stations give rival candidates for office equal opportunities to buy ad time and appear on their airwaves. "Bona fide" news programming such as the evening newscasts is exempt from those rules.

"This major announcement from the FCC should stop one-sided left-wing entertainment shows masquerading as 'bona fide news,'" Daniel Suhr, the president of the Center for American Rights, said on X.

For the past two decades, the broadcast industry has taken as a given that interviews with candidates on entertainment talk shows fell into the same category. That view was solidified by a 2006 F.C.C. determination that interviews on "The Tonight Show With Jay Leno" counted as bona fide news. The F.C.C. took no action when the other major network talk shows treated it as a broad exemption.

In its new guidance, the F.C.C. alerted broadcasters that talk shows were not broadly exempt. As Mr. Carr put it in a message on X on Wednesday, "For years, legacy TV networks assumed that their late night & daytime talk shows qualify as ‘bona fide news’ programs — even when motivated by purely partisan political purposes.” He added: “Today, the FCC reminded them of their obligation to provide all candidates with equal opportunities.”

Talk shows that want to have political candidates on as guests in an election year would have to petition the F.C.C. for an exemption — or give an equivalent amount of free airtime to the candidates’ opponents. And, it indicated, it would not grant exemptions lightly, basing decisions on whether it determined that the show in question was motivated “by partisan purposes.”

Andrew Jay Schwartzman, a longtime public interest lawyer, said the intent seemed to be to “trim the sails of certain talk shows” and induce a chilling effect; talk shows may be inclined to think twice before booking political candidates in election years altogether.

But he also said there could be an unintended consequence — by raising the question of whether conservative talk show hosts on radio, which falls under the same law, would have to provide equal time to political candidates, too.

Jim Rutenberg is a writer at large for The Times and The New York Times Magazine and writes most often about media and politics.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Wednesday, March 18, 2026 12:05 PM
To: Erin Boone
Cc: Adam Candeub; Katie McAuliffe
Subject: [EXTERNAL]: Proposal
Attachments: Defining the Public Interest.pdf

Dear Erin, Adam, and Katie - Please find attached a memo outlining an idea. Thanks - DANIEL

To: Erin Boone
From: Daniel Suhr
RE: Defining the Public Interest

As Chairman Carr has led the way on reinvigorating the public interest doctrine, questions have naturally risen from the regulated community about the contours of that doctrine. Commissioner Gomez has raised the same concern and has suggested a rulemaking to define the term. However, a rulemaking is not necessary because the doctrine does not need to change or evolve, it simply needs to be synthesized and restated in a straightforward, usable format.[1]

A public notice from the Media Bureau would provide the regulated community with the clarity it seeks for the years ahead.[2] And it would help broadcasters think meaningfully about their public interest obligations as they approach their octennial review cycles starting in 2017.[3] Such a public notice could serve as a sort of guide, matrix, or grading rubric for both applicants and Commission staff to evaluate the public interest component of license renewal when they start coming due next year.

At a high level, what is the public interest in broadcasting? The Commission defined the concept early in its history: "Operation in the public interest requires the presentation of civic, cultural, entertainment, educational and religious programs; discussions of controversial issues, full and fair reporting of the news; equal opportunity to all sides of opposing public issues for the use of the facility; and an otherwise balanced program schedule to meet the needs of the community." *Powel Crosley*, 11 F.C.C. 3 (1945). Since then, the Commission has fleshed these principles out across a number of adjudications and rulemakings. The public notice can collect and synthesize these precedents in an accessible, easy-to-review format.

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[1] "The public interest" is "a longstanding and well-known term in the context of the Commission's media regulation. Over the years, the Commission has further fleshed out that term in the context of the Quadrennial Review to encompass three tangible public interest goals--competition, localism, and viewpoint diversity--which have been further interpreted, articulated, and defined with substantial detail through the Commission's Quadrennial Review notices and orders." *In re FCC Adopts 2018 Quadrennial Rev. of Broad. Ownership Rules*, 38 FCC Rcd 12782, 12794 n.67 (2023).

[2] "[G]ood administrative practice dictates that both licensees and the public should know what the pertinent criteria are and thus be able to make rational forecasts about their courses of action. *See* Friendly, *The Federal Administrative Agencies: the Need for Better Definition of Standards* (Harvard Univ. Press, 1962). Absent such clear and understandable criteria, Commission rulings tend to become simple recitations of the variables in each case, and a judgment that the action was reasonable or unreasonable." *In re Wilderness Soc'y & Friends of the Earth*, 31 F.C.C.2d 729, 737 (1971) (Statement of Chairman Burch).

[3] To underline the point, the notice could be released on June 1, 2026, one year out from the first applications coming due for the radio cycle in 2027.

The public interest promotes positive goods for viewers:

Competition, which means giving consumers real choices in programming. "Competition--true competitive choice for consumers--is one of the best ways to safeguard the public interest." *Remarks of Comm'r Michael Copps*, 2011 FCC LEXIS 344, *4. Competition is limited when a very small number of national programmers dominate certain time slots or types of programming, such that it is all the more important that these programmers offer consumers real choices through different approaches to those time slots or program types.

Localism, which means news and entertainment programming sensitive to a particular community, including its views and values, not homogenized content pushed out by Hollywood or New York. Localism is primarily defined as "community responsive news and public affairs programming offered by over-the-air broadcasters." *In re 2010 Quadrennial Regulatory Review-Broadcast Ownership Rules et al.*, 25 FCC Rcd 6086, 6104 (2010). Localism means more than just news, though—it can mean highlighting local artists on a radio station, or television shows and movies of interest to a particular market. *In re Jeffrey B. Bate & Andrew Johnson*, 24 FCC Rcd 5836, 5841 (2009) (statement of Comm'r Copps). Localism also means respecting the values of a community when national content conflicts with those values (for instance by preemption). *See Statement of Comm'r Jonathan Adelstein*, 2006 FCC LEXIS 6461, *5 ("localism--putting the local community's values and interests first.").

Viewpoint Diversity, which means a robust, open conversation with multiple voices from across the political spectrum. "Viewpoint diversity refers to the availability of media content reflecting a variety of perspectives. A diverse and robust marketplace of ideas is the foundation of our democracy. Consequently, 'it has long been a basic tenet of national communications policy that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.'" *In the Matter of 2002 Biennial Regulatory Review*, 2003 FCC LEXIS 3671, *19-20. Importantly, viewpoint diversity is broad enough to include not only news and public affairs programming, but also entertainment programming. *In re FCC Approves Skydance / Paramount (CBS) Transaction*, 40 FCC Rcd 5689, 5714 (2025) (New Paramount promises an "array of news and entertainment programming [that] embodies a diversity of viewpoints across the political and ideological spectrum.").

Full and fair reporting of the news. Across its history, the Commission has used different terminology to describe the public interest in news reporting: "objective news reporting," *In re Chi. Fedn*, 38 F.C.C.2d 417, 428 (1972); "full and fair reporting of the news," *Powel Crosley*, 11 F.C.C. 3 (1945); "fair, unbiased, and fact-based coverage." *FCC Approves Skydance's Acquisition of Paramount CBS*, 2025 FCC LEXIS 1236, *1 (statement of Chairman Carr). *See* Sec. 315(a) ("bona fide news."). The thrust of these phrases is the same—the public benefits from news that is fair, complete, unbiased, and accurate.

Equal time for candidates for public office (in addition to being a statutory requirement). "As the FCC has determined, equal opportunities generally means that a broadcaster must provide comparable time and placement to opposing legally qualified candidates. Adherence to these requirements is central to a broadcast licensee's obligation to operate in the public interest." *FCC's Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, *2.

Candidate debates. Another way that stations can fulfill their public interest obligations is by sponsoring candidate debates. *In re Smith*, 18 F.C.C.2d 747, 748 (1969) ("WTTG's efforts to schedule a debate between the candidates plus its news coverage and willingness to sell spot announcements similarly indicates the station is fulfilling its public interest obligations."); *Statement of Comm'r Susan Ness*, 2000 FCC LEXIS 5218, *2 ("It is hard to imagine what could be more in the public interest of American democracy than covering a presidential debate just weeks before the election."); *Statement of Chairman Wm. Kennard*, 2000 FCC LEXIS 5341, *1. However, candidate debates only serve the public interest when they are conducted in a fair, objective manner by a neutral moderator. *See Ark. Educ. Tv Comm'n v. Forbes*, 523 U.S. 666, 675 (1998); *In re American Independent Party*, 62 F.C.C.2d 4, 8 (1976); *In re Applications of Voce Intersecario Verdad America*, 100 F.C.C.2d 1607, 1611 (1985); *In re Fox Broadcasting Corp.,* 11 FCC Rcd 11101 (1996).

Sports. *See FCC sets limits on media concentration*, 2003 FCC LEXIS 3121, *25 (June 2, 2003).

Children's and family-friendly programming. "[T]here is a continuing duty, under the public interest standard, on each licensee to examine the program needs of the child part of the audience and to be ready to demonstrate at renewal time its attention to those needs." *In the Matter of Children's Television Programming*, 96 F.C.C.2d 634, 656 (1984). "Children's educational television is a great example of how broadcasters can serve the public interest." *Statement of Reed E. Hundt, Chairman*, 1997 FCC LEXIS 5086, *5.

Religious programming. "[R]eligious programming serves the public interest." *Remarks of Comm'r Ajit Pai*, 2013 FCC LEXIS 4087, *3. This includes both religion-specific channels and religious programming in appropriate time slots like Sunday mornings.

Civic and patriotic programming. *Chairman Carr Announces Pledge Am. Campaign*, 2026 FCC LEXIS 382, *3 ("I am calling on broadcasters to pledge to provide programming that promotes civic education, national pride, and our shared history."); *Statement of Comm'r Michael J. Copps,* 2005 FCC LEXIS 565, *1 (recognizing the public interest in "sustaining the virtues of education, civic involvement and American democracy."); *Speech of Chairman Reed Hundt*, 1996 FCC LEXIS 1917, *13 ("Only you [broadcasters] can persuade the public that you are truly serving the public interest. Only by providing universal, free, popular, and civic-spirited programming can you continue to hold the trust and loyalty of the country.").

What is not in the public interest?

Gratuitous and explicit sex and violence. "As you know, there is an alarming epidemic of violence in America. Television cannot be entirely blamed. But broadcasters who are licensed to serve the public interest and who hold licenses to use the public airwaves as public trustees cannot stand by, doing nothing to help combat America's most pernicious problem." *Remarks of Comm'r Quello*, 1994 FCC LEXIS 462, *5. *Accord Remarks of Comm'r Quello*, 1993 FCC LEXIS 1346, *11-20. "[T]elevision violence has a harmful and noxious impact on our children. Entertainment violence is polluting the minds of our children." *Statement of Comm'r Tristani*, 2000 FCC LEXIS 3870, *1.

Obscenity, indecency, and profanity. These are against the law by statute, but they are also contrary to the public interest. "In awarding broadcast licenses, the Commission is charged with considering and promoting the public interest. Obscene broadcasting is proscribed by statute as contrary to the public interest." *Monroe Communications Corp. v. FCC*, 900 F.2d 351, 357 (D.C. Cir. 1990). *See In re application of: EZ New Orleans*, 15 FCC Rcd 7164, 7165 n.5 (1999).

News distortion, slanting, and suppression. "Rigging or slanting the news is a most heinous act against the public interest -- indeed, there is no act more harmful to the public's ability to handle its affairs." *In re Complaints Covering CBS Program "Hunger in Am."*, 20 F.C.C.2d 143, 151 (1969).

Partisanship. "[B]roadcast television stations have an obligation to operate in the public interest-- not in any narrow partisan, political interest." *FCC's Media Bureau Provides Guidance*, 2026 FCC LEXIS 142, *4. It is contrary to the public interest for stations to adopt a partisan slant to programming in favor of particular candidates or sets of candidates. *KMPC, Station of the Stars,* 14 Fed. Reg. 4831 (1949); *Star Stations of Indiana*, 51 FCC 2d 95 (1975). *See Nebraska Broadcasters Association*, 21 FCC Rcd 10742, 10743 (MB 2006); *In re Springfield TV Broad. Corp*., 28 F.C.C.2d 339, 341 (1971).[4]

Broadcast hoaxes. "As we have made clear on a number of occasions, we believe that certain types of broadcast hoaxes are so potentially harmful that they are inconsistent with the public interest." *In re Amendment of Part 73*, 6 FCC Rcd 6935, 6935 (1991).

Slander and defamation. "[T]he selection and presentation of program material is the responsibility of the individual station licensee, subject to its obligation to operate in the public interest. The Commission does, however, review periodically, usually upon renewal of license, the over-all operations of station licensees and may, in the course of such review, have occasion to consider whether a licensee has deliberately, knowingly and consistently permitted its facilities to be utilized as a forum for the broadcasting of material patently defamatory under applicable state

[4] Overruled, *In the Matter of The Handling of Public Issues under the Fairness Doctrine and the Public Interest Standards of the Communications Act*, 58 F.C.C.2d 691 (1976).

slander and libel statutes." *Letter to Capt. James Hamilton*, 44 F.C.C. 999, 1000 (1957). *Accord In re Applications of Voce Intersectario Verdad America,* 100 F.C.C.2d 1607, 1611 (1985); *Statement of Comm'r Nathan Simington*, 2024 FCC LEXIS 1916, *3 ("malicious and dishonest political speech is not, in my view, in the public interest"); *In re Anti-Defamation League of B'Nai B'Rith Against Station Ktym*, 4 F.C.C.2d 190, 193 (1966) (statement of Comm'r Cox); *Trinity Methodist Church v. Federal Radio Com*., 62 F.2d 850, 851 (D.C. Cir. 1932) ("the government, through agencies established by Congress, may [] refuse a renewal of license to one who has abused it to broadcast defamatory and untrue matter. In that case there is not a denial of the freedom of speech, but merely the application of the regulatory power of Congress in a field within the scope of its legislative authority.").

Conflicts of interest. When a programming executive, host, or reporter has a conflict of interest because a program impacts a private interest (which can be financial, political, or otherwise personal), the public interest requires safeguards to ensure their private interest does not supplant the public interest. *In re NBC*, 14 F.C.C.2d 713, 715-17 (1968).

DEI/Invidious discrimination. "[D]iscriminatory employment practices are incompatible with a station's obligation to operate in the public interest." *In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules*, 15 FCC Rcd 2329, 2338 (2000). *See In re Cox Enters*., 2026 FCC LEXIS 461, *24 ("these changes will prevent DEI discrimination in the post-transaction company, as consistent with the law and the public interest."); *In re New Cingular Wireless PCS, LLC*, 2025 FCC LEXIS 2683, *72 (same); *In re FCC Approves Skydance / Paramount (CBS) Transaction*, 40 FCC Rcd 5689, 5714 (2025) (same); *In re WTB & OIA Issues Order Granting T-Mobile-UScellular Applications*, 40 FCC Rcd 4776, 4840 (WTB/OIA 2025) (same); *In re Domestic Section 214 Application Granted*, 40 FCC Rcd 4440, 4446 (WCB 2025) (same); *In re Frontier Commc'ns Parent, Inc*., 2025 FCC LEXIS 2244, *47 (WTB/OIA/WCB 2025) (same).

Conclusion: by issuing a public notice that pulls together the Commission's precedents on the public interest standard, the Bureau can give greater clarity to the regulated community and provide a matrix of considerations for future decisions, especially regarding license renewals, all while encouraging broadcasters to pursue good practices and to avoid problematic practices.

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, December 2, 2025 3:32 PM
To: Adam Candeub; Katie McAuliffe
Subject: [EXTERNAL]: Re: ICYMI

Further and more recently on this point - https://x.com/danielsuhr/status/1995952458590515363

From: Daniel Suhr
Sent: Saturday, November 29, 2025 10:07 PM
To: Adam Candeub ; Katie McAuliffe
Subject: ICYMI
https://x.com/danielsuhr/status/1994918054061547982

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Tuesday, March 24, 2026 4:48 PM
To: Katie McAuliffe
Subject: [EXTERNAL]: Re: Keynote Invitation | Wisconsin Chapters Conference

Hey - FedSoc reached out to me to let me know they'd invited Chairman Carr to Wisconsin to speak at an upcoming event. Obviously if he chooses to come, I look forward to welcoming him with cheese curds and bratwurst, but I also know he has a very busy schedule and it's just a month away. If it works, great. If not, obviously understand and hope to see him another time...

From: Hannah Kunasek <hannah.kunasek@fed-soc.org>
Sent: Monday, March 23, 2026 12:36 PM
To: Katie.McAuliffe@fcc.gov <Katie.McAuliffe@fcc.gov>
Cc: Abbie Kepto Brower <abbie.kepto@fed-soc.org>; Meredith Pardo <meredith.pardo@fed-soc.org>
Subject: Keynote Invitation | Wisconsin Chapters Conference

Ms. McAuliffe,

On behalf of the Wisconsin Lawyers Chapters of the Federalist Society, I am writing to formally invite Chairman Carr to keynote our 2026 Wisconsin Chapters Conference. This statewide event will be on Friday, April 24 just outside of Milwaukee.

This conference is one of our signature regional events and brings together lawyers and students from chapters throughout Wisconsin, as well as other nearby midwestern states.

We would be very interested in hosting the Chairman for a fireside chat-style discussion moderated by Daniel Suhr. However, we are completely open to the Chairman's preference if he favors a different format. Additionally, we invite the Chairman to discuss the topic of his choice. The Federalist Society would be happy to cover the Chairman's travel expenses and hotel.

Please let me know at your convenience if Chairman Carr may have availability in his schedule to join us. My colleagues Meredith Pardo and Abbie Kepto are cc'd here as well, and if we can provide any additional information, we would be happy to do so.

Respectfully,
Hannah Kunasek

--

Hannah Kunasek
Counselor to the Vice-President, Lawyer Chapters, The Federalist Society
Direct: 202-627-1107
fedsoc.org

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Sunday, December 7, 2025 6:33 PM
Subject: [EXTERNAL]: The Left Unites on Ownership Cap Reform

Good evening. Today, TheBlaze.com (part of the media empire of Glenn Beck) has an oped from me explaining the Left's favorite tool of censorship — retaining the FCC cap on local station owners. As we show why those on the right should support cap reform/repeal, one good way to know that's the right answer is to look at everyone who's opposed to us on it. Enjoy. Thanks - DANIEL

Daniel R. Suhr, president
Center for American Rights
1341 W. Fullerton Ave., Suite 170
Chicago, Illinois 60654

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, February 2, 2026 11:03 AM
Subject: [EXTERNAL]: Today in the Yale JREG - On the Public Notice

https://www.yalejreg.com/nc/the-fccs-public-notice-on-bona-fide-news-by-daniel-r-suhr/

Some recent news stories suggested that the Media Bureau's notice on the equal time rule was a departure from previous FCC precedent. As I explain today for the Yale Journal of Regulation's Notice & Comment blog, it's actually a *return* to the original meaning set by Congress and a *restoration* of longstanding FCC precedent.

Thanks for reading - DANIEL

Kristi Thompson

From: Katie McAuliffe
Sent: Friday, January 9, 2026 5:34 PM
To: Katie McAuliffe
Subject: Announcement from Chairman Carr: FCC Approves Next-Gen Satellite Constellation

Hey Friends, I wanted to share with you an announcement from Chairman Carr that marks a significant milestone in global broadband connectivity. Enjoy!

OFFICE OF CHAIRMAN BRENDAN CARR

FCC Approves Next-Gen Satellite Constellation

Enabling Better, Faster Broadband throughout America

WASHINGTON, January 9, 2026 — Today, the FCC granted Space Exploration Holdings, LLC (SpaceX) a major authorization to advance its second-generation Starlink satellite system, marking a significant milestone in global broadband connectivity.

Under this grant, SpaceX is authorized to construct, deploy, and operate an additional 7,500 Gen2 Starlink satellites, bringing the total to 15,000 satellites worldwide. This expansion will enable SpaceX to deliver high-speed, low-latency internet service globally, including enhanced mobile and supplemental coverage from space. The FCC's decision today benefited in particular from the work and collaboration provided by the Commerce Department and NTIA.

Chairman Carr issued the following statement:

"President Trump is restoring America's technology leadership. And this FCC authorization is a game-changer for enabling next-generation services. By authorizing 15,000 new and advanced satellites, the FCC has given SpaceX the green light to deliver unprecedented satellite broadband capabilities, strengthen competition, and help ensure that no community is left behind."

Additional Background Information:

The FCC's decision allows SpaceX to:

- **Upgrade the Gen2 Starlink satellites** with advanced form factors and cutting-edge technology.
- Operate across **Ku-, Ka-, V-, E-, and W-band frequencies**, supporting both **Fixed Satellite Service (FSS)** and **Mobile Satellite Service (MSS)**.
- **Waive obsolete requirements** that prevented overlapping beam coverage and enhanced capacity.
- Add new orbital shells at altitudes ranging from **340 km to 485 km**, optimizing coverage and performance.

- Provide **direct-to-cell connectivity** outside the United States and supplemental coverage within the U.S., paving the way for next-generation mobile services.

In case you missed it are a few other announcements from this week:

- FCC Updates Covered List to Exempt Certain Drones and Releases FAQs
- President Trump Unleashes American Innovation With 6 GHz Win
- FCC Announces Lead Administrator Filing Window
- FCC Key Wins in 2025

Happy Friday!

~ Katie McAuliffe
Policy Advisor
Chairman Carr
Federal Communications Commission

Kristi Thompson

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, March 16, 2026 11:17 AM
To: Katie McAuliffe
Subject: Re: [EXTERNAL]: Call Centers

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Have you talked to any of the immigration or MAGA groups - America First Legal, America First Policy Institute, Center for Immigration Studies - about filing a comment in the Lifeline proceeding on adopting the Working Families Tax Cut Act standard for noncitizen eligibility?

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Monday, March 16, 2026 10:08 AM
To: Katie McAuliffe <Katie.McAuliffe@fcc.gov>
Subject: Re: [EXTERNAL]: Call Centers

That explains why I couldn't find it on the Federal Register when I looked to try and get it on my calendar!

From: Katie McAuliffe <Katie.McAuliffe@fcc.gov>
Sent: Monday, March 16, 2026 10:07 AM
To: Daniel Suhr <dsuhr@americanrights.org>
Subject: Re: [EXTERNAL]: Call Centers

It's up for vote at the open commission meeting this month, so only on the agenda for right now. It will have to be voted on at this month's meeting then once its published in the federal register the usual 30 and 60 day time clocks will start.

https://docs.fcc.gov/public/attachments/DOC-419247A1.pdf

~ Katie McAuliffe
Policy Advisor
Chairman Carr
Federal Communications Commission

From: Daniel Suhr <dsuhr@americanrights.org>
Sent: Friday, March 13, 2026 7:01 PM
To: Katie McAuliffe <Katie.McAuliffe@fcc.gov>
Subject: [EXTERNAL]: Call Centers

Can you send me the NPRM that you mentioned the other day? I don't see it on ECFS but maybe I'm just using the wrong search terms. . . When are comments due? Thanks.