

Throw Out Those Letters – But Not Just Yet

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Don't close it down just yet – but get ready.

In his first FCC meeting leading the Commission, newly appointed Chairman Pai delivered on expectations that he would feel the pain of broadcasters. As one of his very first items served up for action, the Commission acted on the long awaited order to eliminate the public inspection file requirement that commercial broadcast stations retain letters and email from the public in their public inspection file. Since it is the last and only item still required to be kept locally, many broadcasters are anxious to move swiftly to complete their transition to the FCC online file, enabling them to do away with the local public file altogether and thereby allowing them to safely close out public access to the main studio.

So, get ready, but don't do it yet!

First, the order is not yet effective. It will become effective only after it is published in the Federal Register and the Commission has issued a notice announcing OMB approval and the date the order becomes effective.

Second, every broadcaster contemplating a swift move to the online public file, must review their station practices for compliance with all Commission rules to be sure that items still permitted under the rules to be kept in the onsite local public file are transferred to the appropriate places in the FCC online public file.

Currently, only commercial radio stations in the top 50 Nielsen markets with 5 or more full-time employees are required to have completed the transition to the FCC online public file. All other radio stations, regardless of market or the number of full-time employees, have another year to comply, until March 1, 2018. But, all stations are required to upload only new political file materials, as of the date of required compliance. So, whether required to transition or doing so voluntarily before the March 1 deadline, stations are still required to maintain older political file materials for the mandatory two year period. In order to eliminate having to maintain a local public file requirement, a station must by upload all political file materials for the required two year holding period to the online public file.

So, while under the order existing political file materials can remain in a local physical or accessible electronic file, there is strong incentive to move everything online since it will enable new efficiencies and potential cost savings by being able to close unlimited main studio access to the public in order to view the local public file. So if you want move online, make a good checklist and upload all the political file materials, issues-programs lists and any other materials required to be kept in the local file, except FCC applications which the Commission itself will transfer from its own databases.

Remember too, that the FCC requires that each station maintain a local backup of the political file to be used in the event that FCC online public file becomes unavailable. While it

does not need to be made available to the public unless the FCCs' online files become unavailable, it must be maintained in either paper or electronic form. To ease this obligation, the Commission provides a link to download a mirror copy of the public file, thereby enabling the broadcaster to reconstruct the files locally, should before the online files become compromised.

In addition, remember that, if it maintains a website, each licensee must make available to the public a link on its welcome page to the FCC online public file. There must also be a direct link to the annual FCC EEO report and a contact listed to assist persons with disabilities in obtaining access to the public file materials.

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