

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's <i>Ex Parte</i> Rules And Other Procedural Rules)	GC Docket No. 10-43
)	
Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization)	GC Docket No. 10-44
)	

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ hereby submits reply comments in the above-referenced dockets,² in which the Commission seeks to improve the transparency and effectiveness of its decisionmaking by reforming its *ex parte* rules and seeks to modernize and increase the efficiency of its procedures. NAB supports the Commission's efforts to modernize its rules and procedures and agrees with many of the proposals advanced in the NPRMs, some of which we specifically comment on

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

² *Amendment of the Commission's Ex Parte Rules and Other Procedural Rules*, Notice of Proposed Rulemaking, GC Docket No. 10-43, 75 Fed. Reg. 14409 (March 25, 2010) ("*Ex Parte NPRM*"); *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Notice of Proposed Rulemaking, GC Docket No. 10-44, 75 Fed. Reg. 14401 (March 25, 2010) ("*Procedures NPRM*").

here. However, we disagree with certain proposals offered in initial comments, to which we reply.

Ex Parte Rules Reform

In the *Ex Parte NPRM*, the Commission explains that the *ex parte* process allows “parties in most Commission proceedings to speak directly (or have written communications) with Commission staff and decisionmakers, providing a way to have an interactive dialogue that can root out areas of concern, address gaps in understanding, identify weaknesses in the record, discuss alternative approaches, and generally lead to more informed decisionmaking.”³ We agree that this process can assist policymakers, and believe that oral *ex parte* communications, in particular, can help focus proceedings on the most relevant issues and emphasize specific points in a way not always accomplished via written presentations.

NAB therefore strongly disagrees with the draconian suggestions of Public Knowledge and Consumer Federation of America to do away with oral *ex parte* communications entirely or severely inhibit them.⁴ These proposals are neither necessary nor appropriate. Eliminating *ex parte* presentations would deprive policymakers of the benefits of the *ex parte* process, described above. PK/CFA’s alternative suggestions to either video record all oral presentations or fully transcribe them are simply overkill and unnecessary. *Id.* PK/CFA in fact acknowledges that full

³ *Ex Parte NPRM* at 1.

⁴ Comments of Public Knowledge and Consumer Federation of America, GC Docket No. 10-43 (filed May 19, 2010) (PK/CFA) at 3-7.

audio and video recordings of every oral *ex parte* presentation could become unwieldy.⁵ NAB suggests that they also are impractical, unduly burdensome, and would inhibit free-flowing, useful discussions.

The FCC's proposals to ensure complete and accurate notice of all *ex parte* presentations will suffice to remedy any deficiencies in reporting – without throwing out the baby with the bath water. NAB supports the Commission's efforts to ensure that all oral presentations are accurately documented. We agree that interested parties should be aware when conversations occur and should be apprised of the pertinent content of these communications so that they are enabled to respond and further inform the debate. We thus support the general thrust of the proposals in the FCC plan to reform its *ex parte* rules.

For example, the Commission's proposal to require notices of *ex parte* presentations during the Sunshine period to be filed electronically within four hours of completion of the presentation is a good one. NAB agrees with comments supporting this idea.⁶ Other parties to a proceeding should be able to be informed of *ex parte* communications during this short pre-decisional "quiet" period as quickly as possible.

⁵ PK/CFA at 6. For the same reasons, we oppose the suggestion of Pierre de Vries to require posting of digital audio records of *ex parte* meetings. Comments of Pierre de Vries, GC Docket Nos. 10-43, 10-44 (filed May 9, 2010) at 10-11. Mr. de Vries himself acknowledges that this could discourage candid conversation and limit the FCC's ability to obtain necessary information. *Id.* at 11.

⁶ Comments of Media Access Project, GC Docket No. 10-43 (filed May 10, 2010) (MAP) at 3; PK/CFA at 8; Comments of Verizon and Verizon Wireless, GC Docket No. 10-43 (filed May 10, 2010) (Verizon) at 4; Comments of Independent Telephone & Telecommunications Alliance, GC Docket No. 10-43 (filed May 10, 2010) (ITTA) at 6; Comments of the National Association of Telecommunications Officers and Advisors, GC Docket No. 10-43 (filed May 10, 2010) (NATOA) at 4.

There should also be an opportunity for responses⁷ to substantive presentations during the Sunshine period, because those presentations may be relied on in Commission decisionmaking. While we appreciate Verizon's comment opposing replies during Sunshine for fear of "opening the floodgates" to unsolicited filings and defeating the purpose of a quiet period,⁸ we believe that it is more important to afford an opportunity to respond to *ex parte* presentations that may affect decisions.

NAB also joins with commenters who support clearly prohibiting an outside party from soliciting a request from staff for an *ex parte* presentation during the Sunshine period "for the clarification or adduction of evidence, or for the resolution of issues".⁹ Requests from staff for such presentations should be genuine and not solicited.

In addition, while we agree with AT&T and Sprint Nextel that detailed disclosure of ownership or other information about entities making *ex parte* presentations or filing pleadings typically is not necessary,¹⁰ NAB does support the principle of disclosing basic information, *i.e.*, who presenters and filers are and what their interests are. This is often obvious in pleadings and in *ex parte* notices,¹¹ but sometimes it is not, particularly

⁷ PK/CFA at 8 and the Comments of the National Association of State Utility Consumer Advocates, GC Docket No. 10-43 (filed May 10, 2010) (NASUCA) at 7 support permitting responses to presentations made during Sunshine.

⁸ Verizon at 4.

⁹ *Ex Parte NPRM* at ¶23, citing 47 C.F.R. §§ 1.1203(a)(1); 1.1204(a)(10). See MAP at 3; PK/CFA at 8; NASUCA at 7; Comments of American Cable Association, GC Docket No. 10-43 (filed May 10, 2010) (ACA) at 4.

¹⁰ Comments of AT&T Inc., GC Docket No. 10-43 (filed May 10, 2010) (AT&T) at 3-5; Comments of Sprint Nextel, GC Docket No. 10-43 (filed May 10, 2010) (Sprint Nextel) at 7-8.

¹¹ See AT&T at 3, 5.

with regard to *ad hoc* coalitions, as NTCA mentions.¹² We agree with NTCA that *ad hoc* coalitions should disclose information about their membership. *Id.*

NAB suggests that achieving meaningful disclosure is not a “one size fits all” issue and thus an onerous standard disclosure requirement may not be appropriate or necessary to inform the Commission, its staff or other parties of the interests of participating parties.¹³ NAB finds merit in the recommendation of NTCA that the Commission create a best practices list of examples of types of disclosures.¹⁴ NTCA states that, with a best practices list, commenters can tell at glance what is expected of them. *Id.* Like NTCA,¹⁵ NAB believes that its standard identification contained on the first page of our filings is descriptive of our members and would enable other parties to understand the nature of our interests in general or in a given proceeding.¹⁶ We agree in particular with NTCA that individual members of trade associations not present at the meeting should not be required to be named.¹⁷

¹² Initial Comments of National Telecommunications Cooperative Association, GC Docket No. 10-43 (filed May 10, 2010) (NTCA) at 10.

¹³ See NTCA at 9; see also AT&T at 4 for a discussion of the different purposes, standards and information required by the Court of Appeals for the D.C. Circuit and Lobbying Disclosure Act models of required disclosures, neither of which would be appropriate here.

¹⁴ NTCA at 10.

¹⁵ See *id.*

¹⁶ NAB’s standard disclosure statement reads: “NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.”

¹⁷ NTCA at 10. NAB has thousands of member stations, and it would be impractical and highly burdensome to require a complete listing on every NAB filing at the Commission.

Procedural Rules Reform

NAB joins with the vast majority of initial commenters in generally supporting the Commission's proposals to revise some of its procedural and organizational rules.¹⁸ Specifically, we believe that it is entirely appropriate to adopt rules to allow the staff to dismiss or deny defective or repetitive petitions for reconsideration. Allowing this will enhance the Commission's ability to resolve the many properly-filed petitions for reconsideration which require the full Commission's attention, and should also enable the Commission to more swiftly notify parties when their petitions are defective. The examples listed in the *Procedural NPRM* of defective or repetitive petitions seem to be the right ones.¹⁹ But because there may be other cases where petitions are not properly filed, we hesitate to endorse AT&T's request to adopt an exclusive listing of such situations,²⁰ rather than allowing some leeway for the staff to act in other appropriate cases, as the Commission proposes.²¹

NAB also agrees with most commenters in supporting the Commission's proposal to expand the use of docketed proceedings.²² This, along with the proposal to increase electronic filing, should enable interested parties to more easily locate, follow

Such a lengthy and repetitive listing would also fail to provide relevant information to other parties.

¹⁸ See, e.g., ACA, AT&T, MAP, Sprint Nextel, Verizon.

¹⁹ *Procedural NPRM* at ¶ 4.

²⁰ AT&T at 1-2.

²¹ *Procedural NPRM* at ¶ 4.

²² See, e.g., MAP, Sprint Nextel, Verizon.

and participate in proceedings. We therefore generally support more expansive Commission utilization of both the formal docket system and electronic filing.

For the reasons stated herein, NAB supports the Commission's efforts to revise its *ex parte* and procedural rules in the ways discussed above and endorses its goals of openness, transparency, efficiency and effectiveness that these proposals seek to achieve.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Valerie Schulte". The signature is fluid and cursive, with a long horizontal stroke at the end.

**NATIONAL ASSOCIATION OF
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