

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

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| In the Matter of |) | |
| KTRK Television, Inc. and |) | |
| American Broadcasting Companies, Inc. |) | MB Docket No. 26-124 |
| Petition for Declaratory Ruling Under |) | |
| Section 315(a) of the Communications |) | |
| Act of 1934, as Amended |) | |

UNITED CHURCH OF CHRIST MEDIA JUSTICE MINISTRY COMMENTS

United Church of Christ Media Justice Ministry (UCC Media Justice) respectfully submits these comments to support the request for declaratory ruling submitted by KTRK Television and ABC seeking confirmation that *The View* is a “*bona fide* news interview” program under 47 U.S.C. § 315(a).¹ The previous decision of the FCC determining that *The View* is a *bona fide* news interview program is fully valid. Commission behavior laid out in Disney’s Petition, of harassing broadcasters who employ talent that annoy the President of the United States, is a violation of the First Amendment, the law and Commission rules. The FCC should, however, reject ABC’s request that the Commission determine that the Communications Act’s Equal Time Rule is unconstitutional—the abuse and illegal use of power by this Administration does not mean that broadcasters should receive the complete deregulation they seek. These policies have been in place for many decades for good reason. Recent events only emphasize the importance of broadcasting to our nation’s civic discourse around elections and more.

Legal Background

Section 315 of the Act provides that if a broadcaster or cablecaster’s locally originated program² permits a legally qualified candidate for public office to “use” (*i.e.*, appear on the air) a broadcast station or cable television system, it must afford equal opportunities

¹ KTRK Television, Inc. and American Broadcasting Companies, Inc. Petition for Declaratory Ruling Under Section 315(a) of the Communications Act of 1934, as Amended, MB Docket No. 26-124 (filed May 7, 2026) (*Petition*); Public Notice, DA 26-517 (May 22, 2026) (seeking comment).

² The Commission has applied Section 315 only to a cable system's origination cablecasting, defined as programming over which it exercises exclusive control. 47 C.F.R. §§ 76.5(p), § 76.205.

to all legally qualified opponents for the same office during a campaign.³ Section 315, in response to a concern by Congress that strict application of the rule would “inhibit news coverage of the political arena,”⁴ includes four news exemptions to the equal opportunities requirement:

- 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); and
- 4) on-the-spot coverage of *bona fide* news events (including but not limited to political conventions and activities incidental thereto).⁵

Contrary to the recent *Public Notice* issued by the FCC,⁶ the Commission has engaged in a long, gradual series of determinations expanding the programming that qualifies for the statutory exemption.⁷ The longstanding goal of Congress and the Commission has been to increase the public’s access to information about political candidates while retaining the basic obligation of broadcasters to serve the public interest.

³ 47 U.S.C. § 315(a).

⁴ In 1959, the Commission ruled that the appearance of the incumbent Mayor of Chicago on a local newscast during his reelection campaign triggered equal opportunities rights for his opponents. *Requests of Fox Broadcasting Company, Public Broadcasting Service, and Capital Cities/ABC, Inc. for Declaratory Rulings* at ¶ 17 FCC 96-355 (1996) (citing *Telegram to CBS, Inc. (Lar Dalv)*, 18 Rad. Reg. 238, recon. denied, 26 FCC 715 (1959) (*Free Air Time Ruling*)).

⁵ 47 U.S.C. § 315(a)(1)-(4).

⁶ FCC’s Media Bureau Provides Guidance on Political Equal Opportunities Requirement for Broadcast Television Stations, Public Notice, DA 26-68 (rel. MB Jan. 21, 2026) (*2026 Equal Opportunities Public Notice*).

⁷ *E.g.*, “since the *Aspen* decision more than twenty years ago, the Commission’s interpretations of the news event exemption have accorded broadcasters significant discretion in the formulation of innovative news programming formats and in the overall exercise of their good faith news judgment.” *Free Air Time Ruling* at ¶ 25; *TRAC v. FCC*, 26 F.3d 185 (D.C. Cir. 1994); *Chislom v. FCC*, 538 F.2d 349 (D.C. Cir. 1976). See also Harold Feld, *Equal Time, Unequal Enforcement: The Latest Move to Weaponize the FCC Against Trump Critics* (Jan. 29, 2026), <https://publicknowledge.org/equal-time-unequal-enforcement-fcc-chair/> (citing rulings that the Phil Donohue Show and “shock jock” Howard Stern’s morning radio program were declared exempt from equal time in 1984 and 2003, respectively).

***The View* is a *Bona Fide* News Program**

As explained in the *Petition*, *The View* is a *bona fide* news program. The program combines news-making interviews and commentary and has become an important outlet for discussion of political news. In 2019, for example, the *New York Times Magazine* ran a feature explaining the importance of the show for political candidates.⁸ *The View* “has become a place where Democrats and Republicans alike go to introduce themselves to a national audience, an essential campaign stop.”⁹ Others have explained, *The View* “is one of the few places left on TV where liberal, conservative and moderate voices pose questions that real folks might ask”¹⁰ In fact, Vice President J.D. Vance just appeared on *The View*.¹¹

Not only did the FCC issue a declaratory ruling concluding the show meets the statutory standard,¹² but, as ABC explained in its *Petition*:

The View continues to meet all three of the factors considered by the Commission in determining whether a program qualifies for the *bona fide* news interview exemption under Section 315(a)(2): (1) it is regularly scheduled, (2) ABC, through the program’s Executive Producer, controls the program, and (3) decisions on format, content, and participants are based on newsworthiness rather than on an intention to advance or harm any individual’s candidacy.¹³

The Commission staff delegated to make these determinations have long deferred to Congress:

So long as the program characteristics set out by the Congress are met, our role is properly limited to determining whether a broadcaster was reasonable in deciding that a program fits within an exemption. Our role is not to decide, by

⁸ Amanda FitzSimons, "How 'The View' Became the Most Important Political TV Show in America," *New York Times Magazine*, May 22, 2019, <https://www.nytimes.com/2019/05/22/magazine/the-view-politics-tv.html>.

⁹ *Id.*

¹⁰ Lorraine Ali, “The View’ is America’s kitchen table, political squabbling included,” *Los Angeles Times* (Nov. 7, 2019), <https://www.latimes.com/entertainment-arts/tv/story/2019-11-07/the-view-abc-donald-trump-jr-tulsi-gabbard-jane-fonda>.

¹¹ Tom Jones and Angela Fu, “*The View*’ conducted a respectable (and respectful) interview with Vice President JD Vance,” *The Poynter Report* (June 17, 2026), <https://www.poynter.org/commentary/2026/jd-vance-appeared-the-view-interview/>.

¹² *Petition* at n.112 (citing Letter from Robert Baker, Chief, Office of Political Programming, Policy and Rules Division, Mass Media Bureau, FCC, to ABC, Inc. (Mar. 1, 2002)).

¹³ *Petition* at 29-33.

some qualitative analysis, whether one kind of news story is more *bona fide* than another.¹⁴

There is little question that *The View* falls within the *bona fide* news exemption—if the “news interview portions” of Howard Stern,¹⁵ “the news interview segments” of Jerry Springer¹⁶ and the “newscast portions of the program and the news interview portions” of *The 700 Club* qualified,¹⁷ *The View*’s news interviews do also.

The Equal Time Rule is Fully Constitutional

Public interest regulation is grounded in the notion that broadcasters hold in trust a scarce public resource and must perform some public service and observe certain standards of responsible behavior in exchange for using it for their own benefit.¹⁸ “One of the central goals of the system of broadcasting, private as well as public, should be to promote the American aspiration to deliberative democracy, a system in which citizens are informed about public issues and able to make judgments on the basis of reasons.”¹⁹ “From the beginning, broadcast regulation in the public interest has sought to foster certain basic needs of American politics and culture, over and above what the marketplace may or may not provide. It has sought to cultivate a more informed citizenry, greater democratic dialogue, diversity of expression, a more educated population, and more robust, culturally inclusive communities.”²⁰ The Communications Act’s provisions surrounding elections are one way that broadcast regulation serves deliberative democracy.

Therefore, ABC is wrong that the Equal Time Rule raises profound First Amendment concerns or is unconstitutional.²¹ In *Red Lion*, the Supreme Court unanimously upheld the constitutionality of broadcast public interest obligations — including the personal attack and political editorial rules, which the Court described as “indistinguishable” from the equal time provision of § 315 — grounding its holding in the principle that “it is

¹⁴ *Paramount Pictures Corp.*, 3 FCC Rcd 245 (Pol. Prog. Branch 1988).

¹⁵ *Infinity Broad. Operations Inc.*, 18 FCC Rcd. 18603 (Med. Bur. 2003).

¹⁶ *Request of Multimedia Entertainment, Inc.*, DA 94–631, 9 FCC Rcd 2811 (Med Bur. 1994).

¹⁷ Petition of The Christian Broadcasting Network for Declaratory Ruling, DA 08-1041, 23 FCC Rcd. 7165 (Med. Bur. 2008).

¹⁸ *Free Air Time Ruling* at ¶ 17.

¹⁹ Cass R. Sunstein, “Television and the Public Interest,” 88 California Law Review 499, 501 (2000).

²⁰ Presidential Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, *Charting the Digital Broadcasting Future: Final Report of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters* (Dec. 18, 1998), govinfo.library.unt.edu/piac/piacreport.pdf. See also C. Edwin Baker, “The Media That Citizens Need,” 147 University of Pennsylvania Law Review 317 (1998).

²¹ *Petition* at 7.

the right of the viewers and listeners, not the right of the broadcasters, which is paramount.”²² *Red Lion* has never been overruled.²³ The Court further confirmed the constitutionality of candidate access to broadcasting when it upheld § 312(a)(7)'s reasonable candidate access requirement against a First Amendment challenge, holding that “[t]he First Amendment interests of candidates and voters” justify a limited right of access to broadcast stations and that the FCC's careful case-by-case administration of political broadcasting obligations is consistent with broadcasters' editorial discretion.²⁴

Without the Equal Time rule, we run the risk that every broadcaster in the U.S. could be turned into a full-time mouthpiece for political candidates of one political party or ideology.

The Commission is Unconstitutionally Harassing Speech Not Favored by the President

While ABC is wrong that the Equal Time Rule is unconstitutional, its recitation of facts and the actions of the FCC leadership indicate it is almost certainly suffering illegal and perhaps unconstitutional harassment.²⁵

A central tenet of the Communications Act and FCC regulation is to rely upon broadcaster and journalistic judgment to a maximum degree. One of the central elements of the Commission's evaluation of a *bona fide* exception to Section 315(a) is whether decision-making about candidate and other appearances on a program are made pursuant to such standards. The Communications Act and properly enforced Commission rules protect broadcasters in a number of ways. Most important among

²² *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

²³ ABC could not be more wrong, *Petition* at 11, that spectrum scarcity is no longer present—in fact spectrum is only getting more valuable and more scarce. *E.g.*, “American innovators . . . currently face an acute shortage of usable and readily accessible spectrum.” Spectrum Abundance for Weird Space Stuff, Notice of Proposed Rulemaking, FCC 26-13, SB Docket No. 26-54 (Mar. 27, 2026); Accenture, *The Looming Spectrum Crisis* (March 2025), <https://api.ctia.org/wp-content/uploads/2025/03/Looming-Spectrum-Crisis-Accenture.pdf>.

²⁴ *CBS, Inc. v. FCC*, 453 U.S. 367 (1981).

²⁵ In just one example, the *Petition* describes an extraordinary effort by the Commission to pressure broadcasters and thus engineer the current set of facts, recounting that FCC officials “promised to eschew enforcement” of the Equal Time Rule for some ABC stations if they belatedly placed a record of James Talarico's appearance on *The View* in the station's political file (as required for a non-exempt “use”) but then pursued enforcement at KTRK for failing to place the appearance in its public file and suggested “the assertion by KTRK Television, Inc. that *The View* qualifies for the *bona fide* news interview exception is not a position uniformly held by broadcasters that air the program.” *Petition* at 2-3.

these is the Act’s prohibition of censorship and on any Commission action which “interfere[s] with the right of free speech.”²⁶

The importance of broadcasting has never been more clear. The President has been on a tirade of critiques against various television shows and personalities,²⁷ and FCC Chair Carr and the FCC staff have been facilitating pressure on broadcasters who employ talent that regularly critique the President or his administration.²⁸ Whereas it was once a near-universal principle articulated by leaders on both sides of the aisle “the government has no place in the newsroom,”²⁹ that maxim guides the FCC no longer. Chair Carr’s behavior stands in stark contrast to Trump’s first-term FCC Chair, who, in 2017, when then-President Trump attacked NBC for what he described as “fake news,” Ajit Pai, as his sitting chair, said:

I believe in the First Amendment, the FCC under my leadership will stand for the First Amendment, and under the law the FCC does not have the authority to revoke the license of a broadcast station based on the content of a particular newscast.³⁰

This principle is equally true with respect to requiring broadcasters to respond to reams of legal requests and investigations based on the content of a particular news personality or television host.

Conclusion

The View clearly is a *bone fide* news program. The FCC is clearly operating in conflict with due process and the law to censor and chill speech. The FCC should withdraw its

²⁶ 47 U.S.C. § 326.

²⁷ *E.g.*, Carly Thomas, *White House Calls ‘The View’s’ Joy Behar an ‘Irrelevant Loser’ After She Says Trump’s ‘Jealous of Obama’* The Hollywood Reporter (July 23, 2025), <https://www.hollywoodreporter.com/tv/tv-news/trump-white-house-calls-the-view-joy-behar-irrelevant-loser-1236327548/> (White House spokesperson stated Behar “should self-reflect on her own jealousy of President Trump’s historic popularity before her show is the next to be pulled off air.”)

²⁸ Alexandra Koch, *Cruz warns conservatives ‘will regret’ FCC censorship push against ABC, other media outlets*, Fox News (Sept. 19, 2025), <https://foxnews.com/politics/cruz-warns-conservatives-will-regret-fcc-censorship-push-against-abc-other-media-outlets> (“Cruz compared Carr’s wording to something ‘right out of Goodfellas.’”).

²⁹ Fox News, *FCC commissioner: Agency needs to realize ‘the government has no place in the newsroom’* (February 20, 2014).

³⁰ David McCabe, “FCC chairman pushes back on Trump’s NBC tweets,” Axios (Oct 17, 2017), <https://www.axios.com/2017/12/15/fcc-chairman-pushes-back-on-trumps-nbc-tweets-1513306248>.

directive that *The View* seek a ruling it has already obtained and should cease politicization of the Communications Act.

Respectfully submitted,

/s/_____

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June 22, 2026