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PO Box 34176  
Washington, DC 20043  
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Submitted via ECFS

June 22, 2026

The Honorable Brendan Carr  
Chairman, Federal Communications Commission  
45 L Street NE,  
Washington, D.C. 20554

Re: MB Docket No. 26-124

Dear Chairman Carr,

The Reporters Committee for Freedom of the Press and the Radio Television Digital News Association submit this comment to urge the agency to maintain a broad interpretation of the bona fide news exemptions to the equal opportunities rule, also known as the equal time rule. Consistent with the history of the exemptions, the FCC should continue to defer to the news judgment of licensees and should consider relevant segments of The View exempt as bona fide news interviews. We also write to note that, were the bona fide news exemptions construed narrowly, the equal opportunities rule itself could pose significant First Amendment concerns.

The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation's news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

Radio Television Digital News Association ("RTDNA") is the world's largest and only professional organization devoted exclusively to electronic journalism. RTDNA is made up of news directors, news associates, educators and students in radio, television, cable and electronic media in more than 30 countries. RTDNA is committed to encouraging excellence in the electronic journalism industry and upholding First Amendment freedoms.

In 1959, Congress passed 47 U.S.C. § 315, amending the Communications Act of 1934, to add exemptions to the FCC's equal opportunities rule, removing barriers to airing newsworthy programming on political candidates. The creation of the four "bona fide" exemptions – newscasts, news interviews, news documentaries, and on the spot news coverage – ultimately provided broadcasters with wider latitude to cover political campaigns without the requirement to provide each legally qualified candidate with equal airtime.

The amendment intentionally left the scope of the exemptions broad, and thus, in determining whether a program qualifies for a bona fide news interview exemption, the FCC considers: (1) whether the program is regularly scheduled, (2) whether the content, format, and participants are determined by the licensee, and (3) whether the choice of programming was made in the exercise of a station's bona fide news judgment and not for the political advantage of a candidate for political office. *See In re Request of ABC, Inc.*, 15 F.C.C. Rcd. 1355, 1358 (1999). Historically, the Commission has relied on the broadcaster's "good faith news judgment" when determining whether a program qualifies for a bona fide exemption.

The history of the equal time rule underscores how a narrow interpretation of the bona fide news exemptions can stifle political news coverage. For instance, the waiver of the equal time rule in advance of the 1960 presidential election debates fundamentally changed political campaign coverage. *See* Pub. L. No. 86-677, 74 Stat. 554 (Aug. 24, 1960). For the first time, broadcasters were able to air televised debates between the major party political candidates, then John F. Kennedy and Richard M. Nixon. Prior to the suspension of the rule, such debates were severely impractical to organize and broadcast, given the likely obligation to include numerous third-party candidates. Congress's move improved political campaign coverage and enriched political discourse. *See Sept. 26, 1960: First Televised Presidential Debate*, N.Y. Times (Sep. 26, 2011), <https://perma.cc/BLA9-7482>; *see also* G L. Earnest, *The "Equal-Time" Provisions: Has Broadcasting Come of Age?*, 36 U. Colo. L. Rev. 257 (1964) ("The decisive role played by the broadcast industry and the impact of the Kennedy-Nixon debates in the 1960 campaign added a new dimension to our democratic electoral process and engendered new interest in federal legislation governing the appearance of political candidates on radio and television."). The FCC's decision to enforce the equal opportunities rule with respect to debates moving forward, however, resulted in a 16-year void of debate coverage, until enforcement was rescinded for the 1976 presidential election. Christopher Lydon, *Equal-Time Rule on Political News Reversed by the F.C.C.*, N.Y. Times (Sep. 26, 1975), <https://perma.cc/LNR2-JNAM>.

The Commission grappled with the application of the exemptions beyond the debate context throughout the 1960s and 1970s, applying, as relevant here, the news interview exemption narrowly to only traditional news media programs. *See, e.g.*, Richard F. Shepard, *Nominee TV Visits Raise a Question; Possible Equal Time Abuse Seen in Appearances on Regular Shows*, N.Y. Times (Aug. 26, 1960), <https://perma.cc/NZC4-FVZK>. Then, in 1984, the FCC began broadening the scope of programs covered under the bona fide news interview exemption. Noting Congress's intent to increase political campaign coverage, the Commission exempted the "Donahue Show," a syndicated talk show, as a bona fide news interview program. *Multimedia Entertainment, Inc.*, 56 RR 2d 143, 146 (1984). In analyzing factor two of the three-factor test, the FCC concluded that a licensee could develop and broadcast innovative interview programs, and any contrary finding would improperly cabin exempt programs to only those in a traditional question and answer format, like "Meet the Press" or "Face the Nation." And as to the third factor, the FCC determined that, in line with congressional intent, it would

defer to the good faith journalistic judgment of the broadcaster with respect to newsworthy content, absent bad faith or unreasonableness.

The FCC's reasoning with respect to factor two in the *Donahue* decision underscores the necessity for the bona fide exemptions to remain broad to avoid restricting the right of the broadcaster to make editorial decisions about what is newsworthy. Were programs like *The View* required to conform to a traditional question and answer format to be considered bona fide news, the structure of the exemption would change from one of deference to the broadcasters' news judgment to one of broad deference to the FCC's news judgment, which would pose serious concerns under the First Amendment. Cf. *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 764 (1988) (finding licensing scheme without appropriately clear standards guiding state decision-making violative of First Amendment).

Since the *Donahue* decision, the FCC has continued to recognize innovative programs as exempt. In 1994, the FCC determined that portions of the "Jerry Springer" program qualified as bona fide news interviews based on the regularity of the broadcast, the control exercised by both the licensee and Springer as a host, and the assurance that guests were selected based on their newsworthy quality and not to advance their political candidacy. *In re Request of Multimedia Ent., Inc.*, 9 F.C.C. Rcd. 2811 (1994). In 1999, the FCC found that interviews conducted by Bill Maher on "Politically Incorrect" qualified for a bona fide exemption, because the show was regularly scheduled, control over the content was exercised by the broadcaster to ensure the newsworthiness of the content, and guests were not selected to advance a partisan purpose. *In re Request of ABC, Inc.*, 15 F.C.C. Rcd. at 1359. Interviews conducted on the "Howard Stern Show" were exempted under a similar analysis in 2003. *In re Infinity Broad. Operations Inc.*, 18 F.C.C. Rcd. 18603, 18604 (2003).

And again in 2006, the FCC recognized "The Tonight Show with Jay Leno" as containing bona fide news interviews, relying on "the reasonable, good faith judgment of broadcasters regarding newsworthiness." *In the Matter of Equal Opportunities Complaint Filed by Angelides for Governor Campaign Against 11 California Television Stations*, 21 F.C.C. Rcd. 11919, 11923 (2006). Quoting an earlier decision, in deciding that an entertainment show like "The Tonight Show" did contain genuine news interviews, the FCC said, "the prospect of the Commission making determinations as to whether particular kinds of news are more or less bona fide, 'would involve unwarranted intrusiveness into program content and would be thus, [sic] at least suspect under the First Amendment.'" *Id.* There, the Commission also affirmed that the *Donahue* framework was the acceptable understanding of Congress's aim in adopting the bona fide exemptions and declined to find that a 1960 decision involving the Jack Paar program was binding. *Id.* Interviews of legally qualified candidates for political office conducted on *The View* should likewise fall within the FCC's longstanding understanding of what constitutes innovative news programming and should therefore be considered exempt.

Additionally, the practical wisdom of allowing broadcasters the discretion to determine the newsworthiness of a particular subject is aptly demonstrated by this

specific election cycle. For example, in California, over 60 candidates declared for the state’s gubernatorial primary. *California Governor Primary Results 2026*, NBC News (last accessed June 18, 2026), <https://perma.cc/KNK7-4D6B>. Similarly, a crowded Republican senate primary in Texas resulted in a runoff. *2026 Primaries and Caucuses: Texas Results*, NPR (last accessed June 18, 2026), <https://perma.cc/3QKL-F3SJ>. And thirteen Democrats declared for the 12th Congressional District race in New Jersey. Arit John, *Former US Army Doctor Adam Hamawy Wins Democratic House Primary in New Jersey*, CNN (June 3, 2026), <https://perma.cc/B7TG-K93E>. Requiring any informational program like The View to afford dozens of candidates equal time simply to interview a single candidate is not feasible and would chill political news coverage. Should the FCC consider The View, and programs with a similar format, nonexempt from the equal opportunities rule, nontraditional interview programs will be unsure of whether they qualify for the exemptions, leading them to “steer far wider from the unlawful zone.” *Grayned v City of Rockford*, 408 U.S. 104, 109 (1972). And the ultimate victim of that undue vagueness will be the public interest the Commission is charged with guarding.

A restrictive reading of the exemptions would also lead to a First Amendment overbreadth problem. An overly broad application of a regulation occurs where “a substantial number of [the measure’s] applications are unconstitutional, judged in relation to the [regulation’s] plainly legitimate sweep.” *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449, n.6 (2008). Because the scope of the potential enforcement departs from past practices of exempting innovative programs, the denial The View’s bona fide status would ultimately create confusion as newsrooms navigate what is considered exempt. See *United States v. Stevens*, 559 U.S. 460, 481 (2010). Moreover, a narrow reading of the bona fide news exemptions would intrude into constitutionally protected editorial discretion, which licensees maintain. See *Columbia Broad. Sys., Inc. v. Democratic Nat. Comm.*, 412 U.S. 94, 124–26 (1973). Thus, the Supreme Court has cautioned that any content-based restraint must be narrowly tailored. *F.C.C. v. League of Women Voters of Ca.*, 468 U.S. 364, 380 (1984) (collecting cases).

And, indeed, any other constitutional standard would permit the FCC to *skew* news coverage to the benefit of state actors. That is, “if the public’s interest in receiving a balanced presentation of views is to be fully served, we must necessarily rely in large part upon the editorial initiative and judgment of the broadcasters who bear the public trust.” *Id.* at 378 (internal citation omitted). Journalists and editors – not Commissioners or elected officials – are in the best position to determine which interviews are newsworthy. The FCC should continue to defer to their judgment regarding candidate interviews and political speech more broadly.

For the reasons detailed above, the Reporters Committee and RTDNA urge the Commission to abide by longstanding precedent and to construe the bona fide news exemptions broadly. Any other result would present acute First Amendment concerns. Please contact Gabe Rottman, the Reporters Committee’s Vice President of Policy, at [grottman@rcfp.org](mailto:grottman@rcfp.org), or Tara Puckey, President and CEO of RTDNA, at [tara@rtdna.org](mailto:tara@rtdna.org), with any questions you may have.

Sincerely,

Reporters Committee  
for Freedom of the Press

Radio Television  
Digital News Association