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Submitted via ECFS

July 29, 2026

Marlene H. Dortch,
Secretary, Federal Communications Commission
45 L Street NE,
Washington, D.C. 20554

Re: MB Docket No. 26-131

Dear Ms. Dortch,

The Reporters Committee for Freedom of the Press respectfully submits this opposition to the petitions to deny the renewal applications for the licenses of the Walt Disney Company's American Broadcasting Companies, Inc.'s ("ABC") owned and operated television stations. While the Reporters Committee takes no position on the nominal predicate for this proceeding, we write to express our significant concern that the true impetus for this action is an effort to leverage the license renewal proceeding to influence ABC's news coverage and programming.

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.

This proceeding is highly unusual. While the public notice states that the Commission is investigating ABC's employment policies, the Commission has not called for an early renewal proceeding in more than five decades and it has *never* done so for all of the owned and operated stations for a national network in one grouping. *See* FCC Form 2100, Schedule 303-S, WABC Television (N.Y.), LLC (WABC-TV); Lillian Rizzo & Laya Neelakandan, *Disney's ABC Files Early Broadcast Licenses Renewal. FCC Chair Vows to 'Follow the Facts'*, CNBC (May 29, 2026), <https://perma.cc/B9HZ-BX68>. A filing by a bipartisan group of former FCC leaders notes that no early license renewal proceeding commenced during their "combined decades," with the agency. *Opposition of Former Chairs, Chiefs of Staff, Comm'rs, Gen. Couns., and Bureau Chiefs to Petition to Deny of Ctr. for Am. Rts. & Media Rsch. Ctr.* (July 28, 2026), <https://perma.cc/2QE2-59PX>.

The notice also follows improper actions by the Commission to potentially strip ABC's The View of the bona fide news interview exception to the equal opportunities rule. *RCFP: Interviews on 'The View' Should be Exempt from FCC's Equal Time Rule*, Reps. Comm. for Freedom of the

Press (June 25, 2026), <https://perma.cc/GJF6-X4BB>. The circumstances surrounding this early license renewal raise concerns that the FCC is retaliating against Disney and ABC for news coverage or other broadcast content that the administration perceives as critical.

That conclusion can be further supported by public statements from Chairman Brendan Carr regarding ABC and its programming and suggesting that enforcement action based on that programming may be appropriate.

During an appearance on Fox News in July 2025, for instance, Chairman Carr addressed statements that The View cohost Joy Behar made on air criticizing President Trump's calls to criminally investigate former President Barack Obama. Carr said that 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," and that consequences for media "gatekeepers" generally were not "quite finished." Rachel del Guidice, *FCC Chairman Sounds Clarion Call to Return to 'Unbiased, Trustworthy Journalism,'* Fox News (July 24, 2025), <https://perma.cc/ND4U-ZT86>.

In September 2025, Disney and ABC temporarily suspended late-night talk show "Jimmy Kimmel Live" after Chairman Carr remarked that Kimmel's monologue about the death of Charlie Kirk was a "concerted effort to lie to the American people." Daniel Arkin & Kevin Collier, *Jimmy Kimmel Suspension Puts Spotlight on Brendan Carr, Trump's FCC Chair*, NBC News (Sep. 18, 2025), <https://perma.cc/3KVU-LQN6>. When discussing Jimmy Kimmel's statements on a podcast, Chairman Carr stated, "Frankly, when you see stuff like this – I mean, we can do this the easy way or the hard way These companies can find ways to change conduct and take action, frankly, on Kimmel, or there's going to be additional work for the FCC ahead." John Koblin, Michael M. Grynbaum, & Brooks Barnes, *ABC Pulls Jimmy Kimmel Off Air for Charlie Kirk Comments After F.C.C. Pressure*, N.Y. Times (Sep. 17, 2025), <https://perma.cc/CRU4-RF24>; see also The Benny Show, at 1:30 (Apple Podcasts, Sep. 17, 2025).

During another September 2025 interview on The Scott Jennings Show, Chairman Carr argued that Jimmy Kimmel's ratings were low and that it was a business decision, rather than agency pressure, that caused ABC to suspend his program. He later remarked, however, that Kimmel's monologue was not a "joke," and floated that shows like The View may not qualify for the bona fide news interview exception to the equal opportunities rule. See The Scott Jennings Radio Show, at 39:48, 55:06, 56:03 (YouTube, Sep. 18, 2025), <https://perma.cc/TEZ8-C5BC>.

Most recently, Chairman Carr stated that ABC's choice not to air President Trump's July 16, 2026, address would factor into the agency's decision on whether to renew station's licenses. "I'm sure that there are going to be points raised in that proceeding that relate to Disney's decision Again, we're going to hold all broadcasters to the public interest obligations, and we're always looking to make sure they do exactly that." Lindsay Kornick & Brian Flood, *FCC Chair Suggests ABC Skipping Trump's Speech Will Factor in License Renewal Decision*, Fox News (July 23, 2026), <https://perma.cc/SPM4-NCBL>.

These and other public remarks by Chairman Carr raise concerns that the early call for a license renewal proceeding was motivated by ABC's programming rather than the stated predicate. This concern is compounded by the fact that it appears that there are only three instances of early license recalls in the past 75 years, the last in 1972. *See* Petition to Require Filing of Early Renewal Applications, Am. Cable Ass'n, 4 n.9 (Nov. 26, 2018), <https://perma.cc/LP3V-WFAA>. Since that time, the FCC has had numerous occasions to require early license renewal but has declined, citing a lack of "compelling" reasons to do so. *Id.* (quoting *Greater Portland Broad. Corp.*, 3 FCC Rcd. 1953, 3 (1988)). And requiring one broadcaster to reapply for all held licenses at once is "nearly unprecedented." *See* Mary Cunningham, *Could the FCC Yank ABC's TV Licenses Amid Trump's Spat with Kimmel?*, CBS News (May 1, 2026), <https://perma.cc/UW72-ACV5>.

To deploy 47 U.S.C. § 307(c) and 47 C.F.R. § 73.3539 in a way that targets a particular viewpoint or speaker is an unconstitutional overreach. It is a "bedrock principle" of the First Amendment that the government may not stifle or suppress the expression of an idea that it finds disagreeable. *Texas v. Johnson*, 491 U.S. 397, 414 (1989). In general, even if an action would be otherwise justifiable, the government is prohibited from taking retaliatory actions premised on protected speech, which would include an early license renewal proceeding. *Hartman v. Moore*, 547 U.S. 250, 256 (2006). To put a finer point on it, government action may not "be deliberately based upon an unjustifiable standard . . . including the exercise of protected statutory and constitutional rights." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 497 (1999). And past forbearance from taking a particular action may be a signal that current enforcement is retaliatory. *See Gonzalez v. Trevino*, 602 U.S. 653, 658 (2024).

Additionally, the public notice states that the agency will take the opportunity to review whether ABC stations have been operating in the public interest. The notice specifies that "as trustees of the nation's airwaves," broadcasters must "maintain the character to hold a broadcast license." To the extent this suggests that programming decisions underpin the early renewal process, that would be impermissible under the First Amendment. Licensees still maintain robust discretion over editorial decisions. *See Columbia Broad. Sys., Inc. v. Democratic Nat. Comm.*, 412 U.S. 94, 124–26 (1973). And any interference with that discretion must be narrowly tailored. *See F.C.C. v. League of Women Voters of California*, 468 U.S. 364, 380 (1984) (collecting cases).

It is true that Congress intentionally left the public interest standard as largely undefined, allowing the FCC to determine its meaning. *See F.C.C. v. WNCN Listeners Guild*, 450 U.S. 582, 593 (1981). It is not unbounded, however, and conferring on the FCC the unbridled discretion to force an early renewal proceeding or make a determination regarding license renewal based on program decisions perceived as unfavorable to the administration in power would plainly violate the First Amendment. *See 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 the First Amendment).

Moreover, the FCC's decision to haul Disney and ABC before it in a proceeding that has not occurred in five decades raises serious concerns of a chilling effect. To the extent that the early renewal proceeding carries even the appearance of being motivated by official discontent with licensees' editorial choices, other broadcasters may take notice. At a minimum, this early renewal proceeding will cause confusion among other licensees. All of that can lead to other stations steering "far wider from the unlawful zone" than is warranted or necessary. *Grayned v City of Rockford*, 408 U.S. 104, 109 (1972). And the ultimate victim of that chill will be the public itself.

For the reasons above, the Reporters Committee strongly urges that any decision regarding whether licensees have satisfied the requirements of 47 U.S.C. § 309(k) not be predicated on editorial choices of the licensees. Please do not hesitate to contact Gabe Rottman, the Reporters Committee's Vice President of Policy, at grottman@rcfp.org with any questions you may have.

Sincerely,

Reporters Committee
for Freedom of the Press