Before the
Office of Management and Budget
Washington, D.C. 20503
and the Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Information Collection Being Submitted for Review and Approval to Office of Management and Budget	)	OMB Control No. 3060–0174
	)	
Sponsorship Identification Requirements for Foreign Government-Provided Programming	)	MB Docket No. 20-299
	)	
	)	

To: Cathy Williams, Federal Communications Commission via Email

COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

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I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)[1] submits these comments in response to the Federal Register Notice concerning information collection requirements arising from the Commission's new foreign sponsorship identification rules.[2] As required by the Paperwork Reduction Act of 1995 (PRA),[3] the Notice seeks comment on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and

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

[2] *Notice of Information Collection Being Submitted for Review and Approval to the Office of Management and Budget,* 89 FR 100491 (Dec. 12, 2024) (Notice). *See also Notice of Public Information Collection Being Reviewed by the Federal Communications Commission*, 89 FR 72398 (Sept. 5, 2024) (FCC PRA Notice).

[3] 44 U.S.C. §§ 3501-3520.

clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.[4]

The proposed information collection does not comport with the PRA. The newly expanded foreign sponsor ID rules that undergird the proposed information collection do not comport with the Communications Act of 1934 (Act), the First Amendment, or the Administrative Procedure Act (APA) and therefore cannot be necessary to the proper performance of the functions of the Commission. The Commission also has not demonstrated the need for or practical utility of the information collections, and has not demonstrated that it considered ways to minimize burdens on the respondents. Moreover, although the Commission made some modifications in response to NAB's comments on the FCC PRA Notice and provided additional information about how it developed its estimates in the supporting statement, the Commission continues to underestimate both the number of respondents and responses and the burdens of compliance, especially in light of the last-minute dramatic expansion of the scope of its rules. Because the proposed information collections do not meet PRA standards, they should not be approved by the Office of Management and Budget (OMB). Absent disapproval, OMB should at least require the Commission to gather more data and develop more accurate estimates in connection with the proposed information collections and make changes to minimize the burden on affected respondents.

II. THE ORDER AND PROPOSED INFORMATION COLLECTIONS VIOLATE THE APA, THE PRA, THE COMMUNICATIONS ACT AND THE CONSTITUTION

[4] Notice at 100491-92.

The Order[5] that necessitates the proposed information collections violates multiple provisions of the law and the Constitution. With these deficiencies, the information collections that follow from the Order cannot comport with the PRA because they cannot be "necessary for the proper performance of the functions of the Commission," nor can they have practical utility. Moreover, several aspects of the Order that violate the APA violate the PRA as well. Accordingly, OMB should not approve the proposed information collections.

The Order exceeds the FCC's authority under the Act and violates the APA and the First Amendment.[6] First, the Order violates the APA by failing: (1) to follow mandatory notice-and-comment procedures by extending the foreign sponsorship identification rules to certain short-form advertising that previously was expressly excluded from the rules; and (2) to give a reasoned explanation or provide any evidence supporting the need to alter the existing rules, including by reversing course to cover certain political and other advertising. Even if the Commission had not violated the APA by failing to give a reasoned explanation or providing any evidence supporting the need to alter its rules to cover thousands of political advertisements and public service announcements, this expansion certainly violates the PRA because the Commission has failed to demonstrate the practical utility of and need for expanding its diligence requirements to the wide array of entities sponsoring these ads and

[5] *Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Second Report and Order, MB Docket No. 20-299, FCC No. 24-61 (rel. June 10, 2024) (Order).

[6] *See NAB v. FCC*, Initial Brief of Petitioner, Case No. 24-1296 (D.C. Cir. Dec. 10, 2024) (NAB Brief); *NAB v. FCC*, Petition for Review, Case No. 24-1296 (D.C. Cir. Sept. 13, 2024); *see also* Comments of NAB and MMTC, MB Docket No. 20-299 (Jan. 9, 2023) (NAB/MMTC Comments), at 5-33; Written Ex Parte Communication from Rick Kaplan, NAB, to Marlene Dortch, FCC Secretary, MB Docket No. 20-299 (May 17, 2024), at 1-8 (NAB May 2024 Ex Parte).

all the broadcasters airing them.[7] And because the Commission failed to provide notice that it was even considering expanding the rules in this manner, the Commission cannot have adequately considered ways to minimize the burden of the collection of information on the respondents as required by the PRA.[8] Since none of the respondents had notice that the Commission was considering making political issue ads and paid public service announcements subject to the rules, the record necessarily fails to reflect the impact of these rule changes on the respondents. Second, the Order contrary to the Act imposes corroboration requirements on lessees (*i.e.*, speakers leasing airtime on broadcast stations for First Amendment-protected speech), when Congress has denied the Commission any power to regulate speakers, and prescribes diligence obligations on broadcasters that go beyond the statute. Third, by imposing specific burdens only on certain forms of advertising (political issue ads and paid public service announcements (PSAs)), the Order establishes an impermissible content-based regulation that ironically penalizes the most protected form of speech, even though the Commission never identified a single instance where a foreign governmental entity has purchased political or public service advertising on a broadcast licensee.

The legal errors of the FCC's reversal of course are manifold and manifest. Under modifications to the FCC's sponsorship identification rules adopted in 2021, broadcasters must provide standardized on-air and online public inspection file disclosures identifying the foreign government involved if they ever air programming sponsored by foreign governmental entities *pursuant to a lease*. The 2021 Order limited the new rule's

[7] *See* 44 U.S.C. § 3506(c)(2)(A)(i).

[8] *See* 44 U.S.C. § 3506(c)(2)(A)(iv).

application to "leases" of airtime to prevent its extension to situations without any evidence of foreign government sponsored programming.[9] The FCC specifically stated that the record did *not* show that advertisements were a source of unidentified foreign governmental programming and declared that "traditional, short-form advertising" did *not* constitute a lease.[10]

NAB and other affected parties sought review of the piece of the 2021 rules requiring broadcasters to independently investigate whether lessees are foreign governmental entities. The Court agreed with NAB, holding that the investigation requirement exceeded the FCC's authority under Section 317 of the Act governing sponsorship identification.[11] Following the litigation – and despite the core features of the rules still being in place – the Commission proposed to refashion and expand the rules' requirements by mandating that lessees and stations complete specific written certifications and requiring stations to upload those certifications into their online public inspection files.[12]

On June 10, 2024, the Commission released the current Order, over the dissents of two commissioners.[13] It states for the first time that the Commission now will apply its foreign sponsor ID rules to certain forms of advertising, as well as to leases of airtime. Specifically, the Order makes express that, despite being "traditional, short-form

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[9] *Sponsorship Identification Requirements for Foreign Government-Provided Programming,* Report and Order, 36 FCC Rcd 7702, 7716 ¶ 29 (2021) (2021 Order).

[10] 2021 Order, 36 FCC Rcd at 7716 ¶¶ 28-29.

[11] *Nat'l Ass'n of Broad., et al., v. FCC*, 39 F.4th 817, 820 (D.C. Cir. 2022).

[12] *Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Second Notice of Proposed Rulemaking, 37 FCC Rcd 12004 (2022) (Second NPRM).

[13] *See* Order at Statement of Commissioner Brendan Carr, Dissenting in Part ("Commissioner Carr Statement"); Order at Statement of Commissioner Nathan Simington, Dissenting ("Commissioner Simington Statement").

advertising," political issue advertising by non-candidates, as well as paid PSAs, will be subject to the rules as programming "leases."[14] The Order exempts candidate advertising on grounds that such ads are subject to a Federal Election Campaign Act ban on spending by foreign nationals.[15] Although many political issue advertisements also are subject to the same prohibition to the extent that they reference candidates, the Commission held that political issue ads would be subject to the rules, regardless of whether they reference candidates or not.[16] The Order further requires broadcasters to complete written certifications that they have taken the diligence steps mandated in the rules, including requesting that the innumerable entities regarded as "lessees" provide written certifications or otherwise document their status.[17] These allegedly suspect lessees include churches seeking to air their services, schools wanting to air sporting events, local businesses with programming related to their specific lines of business, and now those seeking to air advertisements on political issues.

Significantly, two of the five Commissioners dissented from the Order or parts thereof. Commissioner Carr objected that the Commission had changed the definition of leasing, and subjected previously excluded non-candidate political advertising and paid

[14] Order at ¶¶ 42-45, ¶ 47.

[15] Order at ¶¶ 46-47.

[16] Order at ¶ 47

[17] Order at Appendix A, modified 47 C.F.R. §73.1212(j)(3)(iv)(B). A lessee can either complete a certification that it is not a foreign governmental entity as defined in the Rule, or it can print screenshots showing that it does not appear in the Foreign Agents Registration Act database or FCC list of U.S.-based foreign media outlets. *Id.* In addition to the screenshots, the entities choosing this option must provide unspecified "other documentation" to corroborate that the lessee is not the government of a foreign country or a foreign political party, because those categories of foreign governmental entities would not be addressed by the screenshots. *Id.*

PSAs to the foreign-governmental-sponsor identification requirements, without adhering to its notice-and-comment obligations.[18] Commissioner Simington likewise objected that the Commission had violated the APA's notice-and-comment requirements.[19] He also objected to the Order's extension to non-candidate electoral advertising. Commissioner Simington observed that it was "senseless" for the Commission to exclude candidate electoral advertising because the federal prohibition on foreign national involvement eliminated the risk of foreign governmental sponsorship, but include non-candidate electoral advertising that is subject to the same prohibition.[20]

The Order and related information collections are plainly contrary to multiple statutes and the Constitution. The FCC's expansion of its rules to cover issue advertising and paid PSAs (but not other types of advertisements) violates the APA for several reasons.[21] Certainly failing to give the public any notice of, and an opportunity to comment upon, the extension of the rules to advertising violates the APA, but by failing to seek or obtain comment from the public on the rules' expansion, the Commission also missed an opportunity to identify ways to minimize burdens on respondents as required by the PRA. Not a single political or public service advertiser submitted comments in response to the Second NPRM, and no other responding comments or reply comments addressed the potential expansion of the rules to these advertisements. Had the Commission sought comment on its rule changes, it would likely have received relevant comments from both

[18] *See* Commissioner Carr Statement.

[19] *See* Commissioner Simington Statement.

[20] *Id.*

[21] *See* NAB May 2024 Ex Parte at 1-2; NAB Brief at 24-32.

broadcast licensees and the advertisers now treated as "lessees" under the rules.[22] Such comments could certainly have assisted the Commission in identifying ways to minimize burdens on respondents. As a direct result of its violation of the APA, the Commission never evaluated whether requiring extensive diligence concerning political advertisers and paid PSA sponsors was justified, or whether less burdensome regulation would have been adequate (for example, simply notifying lessees that if they are foreign governmental entities, the advertising had to include the special announcement prescribed in the FCC's rules). Failing to provide any notice of its rule changes hindered the Commission's ability to take reasonable steps to minimize burdens on respondents.[23]

The Commission also failed to engage in reasoned decision-making, offering no evidence or rationale to support its reversal of course and the rules' expansion to certain short-form advertising, and drawing irrational distinctions between exempt and non-exempt advertising, all contrary to the APA. The Order does not point to a single instance of a foreign governmental entity engaging in covert political or public service advertising on television or radio stations; indeed, the FCC's 2021 Order expressly excluded advertising from the rules' coverage due to the lack of any evidence that ads were a source of foreign government-sponsored programming. While these deficiencies violate the APA, they also are PRA violations. The Commission has not demonstrated a practical utility or need for the burdens

[22] Significantly, when the Commission provided notice of its plans to subject political advertising to rules requiring disclosure of the use of generative AI, political advertisers filed comments. *See, e.g.,* Joint Reply Comments of the National Republican Senatorial Committee and Schmitt for Senate, MB Docket No. 24-211 (Oct. 11, 2024); Comments of the American Association of Political Consultants, MB Docket No. 24-211 (Sept. 19, 2024).

[23] *See, e.g.,* Notice of Office of Management and Budget Action, Commercial Leased Access, OMB Control No. 3060-0568 (July 9, 2008) (disapproving FCC request for approval of information collections because, among other things, the FCC failed to demonstrate that it had taken reasonable steps to minimize burdens on respondents).

being placed on thousands of radio and television stations and political and public service advertisers, who must now conduct or respond to a multi-step diligence process to assess and document whether they or anyone in the chain of producing/distributing the ads are foreign governmental entities.[24]

As NAB previously explained in detail, the Commission also lacks authority under the Act to impose corroboration requirements on lessees, via certifications or documentation of their status or otherwise, or to require that licensees demand such corroboration.[25] While station licensees have specific, limited sponsorship identification obligations under Section 317, the FCC has no comparable authority over entities leasing airtime (or advertising) on broadcast stations. And stations' reasonable diligence duties do not extend to demanding corroboration from lessees once they have received the information needed for the required sponsorship announcements or making the inquiries the rules demand. Beyond exceeding the FCC's statutory authority, expanding the rules to cover political issue advertising and paid PSAs (but not advertisements for commercial products and services) makes it a content-based regulation of speech contrary to the First Amendment.[26] Rules that violate the Communications Act and the Constitution simply cannot be "necessary for the proper functioning of the Commission," as required by the PRA.

In short, given the Order's legal deficiencies, it is not possible for the proposed information collections to be necessary for the proper performance of the FCC's functions.

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[24] *See, e.g.,* Notice of Office of Management and Budget Action, Commercial Leased Access, OMB Control No. 3060-0568 (Jul. 9, 2008) (disapproving proposed information collections because, among other things, the FCC failed to demonstrate the practical utility and need for the collections).

[25] *See* NAB/MMTC Comments at 5-13; NAB May 2024 Ex Parte at 6-8; NAB Brief at 50-59.

[26] *See* NAB May 2024 Ex Parte at 2-6; NAB Brief at 42-50.

The Commission also has not demonstrated the need for or practical utility of certain aspects of the rules and related information collections, because it provided no justification for its expansion of its rules to thousands of political and public service advertisements. Finally, because it never provided notice of its significant rule changes, it cannot demonstrate that it took reasonable steps to minimize the burdens on respondents, given that no respondent had an adequate opportunity to comment on the changes during the proceeding. OMB should disapprove the proposed information collections.

III. THE PROPOSED INFORMATION COLLECTION CONTINUES TO UNDERESTIMATE THE COSTS AND BURDENS ON BROADCAST LICENSEES AND LESSEE PARTNERS

As it did for its 2021 foreign sponsor ID rules,[27] Commission here again significantly underestimates the impact of its now-expanded rules in terms of the numbers of affected broadcasters and "leases," now including advertisements, as well as the time and cost burdens. Although the FCC's supporting statement provides additional information that was not available to the public at the time of the FCC PRA Notice and the Commission has made certain limited modifications to its estimates, those estimates remain unrealistically low.

NAB appreciates the information shared in the FCC's Supporting Statement. The Order contains no discussion of the number of affected broadcasters or lessees under the existing or revised foreign sponsor ID rules and does not respond to evidence in the record concerning the number of affected lessees. The PRA process thus provides the first opportunity to understand and evaluate the FCC's perspective on how its 2024 rules affect licensees and other parties.

[27] *See* Comments of NAB Before the Office of Management and Budget, OMB Control Numbers 3060-0174 and 3060-0214 (Feb. 25, 2022) at 5-7 (NAB 2022 PRA Comments).

The Supporting Statement takes issue with NAB's focus on the number of political issue ad *files* in our comments on the FCC PRA Notice, stating that the best way to determine the number of respondents is to rely on the number of political issue ad *subfolders* in stations' online public inspection files.[28] The Commission has more tools available to it for analyzing data in the online public inspection file database than members of the public. NAB is not aware of a mechanism allowing outside parties to search the number of political advertising folders or subfolders in stations' online political advertising files (at least, not without hiring a developer to use the OPIF application programming interface). In any event, it is not clear that reliance on the number of subfolders is more accurate.

The Commission's reliance on subfolders is likely premised on the idea that it is the advertiser, not the advertisement, that requires diligence under its rules, and that diligence need only be conducted with respect to the same advertiser/lessee once per year. While the Commission's foreign sponsorship identification rules generally require diligence to be conducted at lease inception and renewal, it did adopt an exception designed for short-term,

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[28] FCC Supporting Statement at 10-11 *See also* NAB PRA Initial Comments, MB Docket No. 20-299, OMB Control No. 3060-0174 (Nov. 4, 2024) at 7-8. In our comments on the FCC PRA Notice, NAB stated that its research in the FCC's online public inspection file (OPIF) database as of October 26, 2024 showed that 556,566 files identified as "non-candidate issue ad" files already had been uploaded in 2024. NAB Initial PRA Comments at 7-8. NAB staff later identified additional search functions that allowed us to narrow the search to non-candidate issue ad files of radio and television stations specifically and found that 290,517 files identified as "non-candidate issue ads" had been uploaded by radio and television stations in 2024 as of December 6, 2024. The FCC calculated the total number of subfolders contained within the "Non-Candidate Issue Ads" folder in the Political File section of the OPIF for 2022, "with Commission staff assuming that each subfolder corresponded to a discrete issue advertiser buying time from that station." It found 10,679 subfolders for Radio Broadcast Stations and 13,657 subfolders for Television Broadcast Stations, and these numbers were used to estimate the number of issue advertiser respondents. The Commission contends that its method of calculating the total number of non-candidate issue advertiser respondents is more accurate. FCC Supporting Statement at 10-11.

recurring leases, which allows a licensee to conduct diligence only once per year, provided that the lessee and the programming remain the same.[29] Availing oneself of the ability to conduct diligence only once per year per lessee is not free of costs or burdens. It is not as though lessees bear a stamp of approval that automatically expires after one year. For each ad or program that comes in, a licensee will need to check its records to determine whether diligence has been conducted with respect to that advertiser/lessee, confirm that such diligence occurred within the past year, and confirm that the programming that is the subject of the new lease (or issue ad order) is the "same." That requires the establishment of a process, training for staff, time to confirm that the diligence has been conducted, and time to confirm that the programming that is the subject of the lease remains the same. The time and effort to determine whether diligence has been done and whether the once-per-year exception applies with respect to each lessee every time a new lease agreement is entered into or issue ad order is placed must be reflected in Commission estimates.

We also note that the "same programming" standard in the once-per-year exception is narrow and appears to have been developed before the Commission decided to expand the rules to issue advertising and PSAs. The FCC specifically states, as an example, that a series of short-term leases (e.g., monthly) by a house of worship involving airing its weekly religious services would fall within the one-year exception and the station would not need to conduct the due diligence steps every month when the lease is renewed with the church. If, however, the house of worship decided to use its regular time slot to air a panel discussion with civic leaders, that lease would not fall within the one-year exception and all the required

[29] Order at Appendix A, modified 47 C.F.R. §73.1212(j)(3) (the obligations to undertake the required diligence "apply at the time of the lease agreement and at any renewal thereof, or apply within a one-year period if the lessee and the programming remain unchanged").

due diligence steps purportedly designed to ensure that the church isn't a foreign governmental entity would need to be conducted again (even though the church wasn't a foreign entity the previous month).[30] The "same programming" standard is not self-executing. The Commission's estimates therefore must include time spent by a licensee to determine how recently diligence was conducted and, if a political issue ad is being aired pursuant to a new agreement involving the same "lessee," that the ad meets the "same programming" requirement. Given the challenges of developing such a calculation, relying on the number of political issue ad files, rather than political issue ad subfolders, may be a more accurate means of calculating the number of respondents, responses and costs and burdens arising from the information collection. The estimates for leases that do not involve political issue ads also should reflect the need to make these determinations.

The Supporting Statement additionally critiques NAB's reliance on data from 2024 as problematic because that year "may be an outlier."[31] NAB submits that the year 2022, which the Commission relies on, might also be an "outlier." Rather than speculating whether 2024 had an unusually high number of political ads, the Commission could simply have analyzed the number of issue ads (whether by issue ad "file" or issue ad "subfolder") in both 2022 and 2024 and chosen to rely on the higher of the two years, or even an average of the two (or more) years. Indeed, it would not be unreasonable to rely on data from 2024 as the most recent available data, rather than relying on data now more than two years old. At a minimum, the FCC's political issue ad calculations must in some way reflect a year that includes not only mid-term Congressional elections but also a presidential election. The

[30] *See* Order at Note 68.

[31] FCC Supporting Statement at 11.

Commission cannot simply label election years involving presidential elections – which are not rare events – as "outliers."

NAB notes, moreover, that the Supporting Statement does not appear to include an estimate of the number of paid public service announcements. If the Commission has not included an estimate of the number of paid PSAs in developing its numbers of respondents, responses, costs and burdens, it should be directed to undertake additional diligence to make the necessary determinations and revise its estimates before any information collections are approved. The Commission cannot ignore a portion of its own rules in estimating the costs and burdens those rules impose on broadcast licensees and on those seeking to speak by leasing time on local stations.

The Supporting Statement re-asserts that the 5,524 time brokerage agreements (TBAs) in OPIF at the time the FCC applied for OMB approval of its 2021 rules remains valid, rejecting NAB's calculation based on the number of leases held by six different owners, contending they were not likely to be representative.[32] First, the broadcasters in the sample relied on in NAB's estimate were wide-ranging in terms of size, type, and number of leases.[33]

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[32] FCC Supporting Statement at 9-10. NAB/MMTC reviewed the total number of leases identified by the broadcasters that submitted declarations in connection with their request to stay implementation of the 2021 Order and submitted data into the record. NAB/MMTC Comments at 14-15, *citing* NAB, *et al.,* Petition for Stay Pending Judicial Review, MB Docket No. 20-299 (Sept. 10, 2021) at Exhibits 1-6. The total number of leases reported by stay declarants ranged from three to nearly three thousand, with an average of 15.7 leases per station. We stated that if this holds true across the entire broadcast industry, full power television stations are analyzing a combined total of 21,556 leases, and full power radio stations are analyzing a combined total of 175,604 leases, or *nearly 200,000 leases* across all full power commercial television and radio stations.

[33] The six broadcasters in the sample included both television and radio station owners, and the groups owned differing numbers of stations with a variety of numbers of leases, ranging from a television licensee that owns two stations to a radio licensee with over 200 stations, and station group with only three leases to a group with nearly 3000 leases. The licensees

The variety of broadcasters examined by NAB, in terms of the types and numbers of stations owned and the number of leases held, would logically serve as a representative sample. In any event, the FCC's continued reliance on TBA data is clearly unreasonable, given that the Commission itself conceded that the scope of the 2021 Order was already broader than only TBAs.[34] If the Commission intends to continue to impose extensive regulation on "leases," it should be required to take reasonable steps to understand the extent and nature of their use, as the Commission has defined – and expansively redefined -- them.

Finally, while NAB acknowledges the Commission's modest changes to its estimates to reflect that a handful of broadcasters (10 percent) will seek a few hours of advice from outside counsel, its estimated percentage of broadcasters who will use outside counsel is too low, the amount of time required to be spent is too low, and the hourly rate specified in the Supporting Statement ($300) would not cover even the hourly rate for a junior associate at a typical Washington, D.C. law firm.[35] The hourly rate should be adjusted upward not only for this information collection but for all information collections submitted to OMB by the Commission.

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also had a wide-ranging average number of leases per station, including one with only 0.12 leases per station and one with over 50 leases per station.

[34] FCC Supporting Statement at Note 9 ("The Commission also recognized 'that leasing agreements within the broadcast industry may be known by different designations'"); *see also* 2021 Order at ¶ 27 ("the disclosure requirements we adopt today apply to leasing agreements, regardless of what those agreements are called, how they are styled, and whether they are reduced to writing. We recognize that leasing agreements within the broadcast industry may be known by different designations.").

[35] FCC Supporting Statement at 17-18 and Note 55. For example, the Fitzpatrick Matrix used by the Department of Justice and federal courts to determine appropriate payments in connection with fee-shifting "loser pays" statutes estimates that even a lawyer with a single year of experience costs $500 per hour, while the estimates for lawyers with 8-15 years of experience range from $640-$736 per hour. *See Fitzpatrick Matrix*, available at: https://www.justice.gov/usao-dc/media/1353286/dl?inline.

IV. CONCLUSION

The Commission's expansion of its rules to require multi-step diligence involving thousands of non-candidate issue advertisements and paid public service announcements, with no evidence that any foreign governmental entity has even attempted to sponsor such advertising, cannot pass muster under the PRA. The Commission has not demonstrated the need for or practical utility of the proposed information collections, and, by failing to provide sufficient notice of its proposed rule changes, eliminated the opportunity to learn about ways to minimize the burdens of its revised rules and related collections. Additionally, the aspects of the rules that violate the Communications Act and the First Amendment cannot be necessary for the proper performance of the FCC's duties because they are unlawful. Accordingly, OMB should not approve the proposed information collections. Absent disapproval, OMB should at least require the Commission to gather more data and develop more accurate estimates in connection with the proposed information collections and make changes to minimize the burden on affected respondents.

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