

**Objection to Unlawful Early Renewal**

**I. INTRODUCTION**

WABC-TV (“WABC” or the “Station”) submits this license renewal application under protest in response to an unlawful, arbitrary, and unconstitutional Order issued on April 28, 2026, by the Media Bureau.<sup>1</sup> The Commission had not demanded early renewal in over five decades. And it has never before demanded simultaneous license renewal applications from a group of stations commonly owned with a network as it has here.<sup>2</sup> The Order has *no* legitimate purpose. There is no information that the application will reveal that the Commission could not obtain through other means. The Order is inconsistent with a legitimate exercise of investigative authority and is plainly incompatible with the First Amendment. Worse, the Order opens the door to an assault on the Station’s license, while the Commission searches for a legal pretext to achieve its desired goal. This effort to suppress speech under the guise of bureaucratic process must not prevail. WABC files this application without waiving any rights, and calls on the Commission to rescind the Order.

***The Order is procedurally and legally indefensible.*** The Order is not a measured or legitimate exercise of regulatory discretion. It is an unprecedented attack on a single company’s entire portfolio of broadcast licenses. The Commission has never attempted an action akin to the

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<sup>1</sup> *The Walt Disney Company, American Broadcasting Company et. al.*, Order, DA 26-416, ¶ 3 (MB rel. Apr. 28, 2026) (“Order”) (demanding the simultaneous filing of license renewal applications for all eight ABC owned television stations: KABC-TV, Los Angeles, California (Facility ID 282), KFSN-TV, Fresno, California (Facility ID 8620), KGO-TV, San Francisco, California (Facility ID 34470); KTRK-TV, Houston, Texas (Facility ID 35675), WABC-TV, New York, New York (Facility ID 1328), WLS-TV, Chicago, Illinois (Facility ID 73226), WPVI-TV, Philadelphia, Pennsylvania (Facility ID 8616), and WTVD, Durham, North Carolina (Facility ID 8617)).

<sup>2</sup> Under the Commission’s customary approach, television station license renewal applications are filed in regional groups spaced out every two months over nearly three years. 47 C.F.R. § 73.1020(a).

Order,<sup>3</sup> and it finds no cognizable support in the structure or purpose of the Communications Act of 1934, as amended (the “Act”).

The Commission has elsewhere committed to identifying and eliminating obsolete or unnecessary regulations.<sup>4</sup> Here, it does the opposite—excavating an arcane procedural relic, dormant for decades, to justify its actions. The “call-up” provision that it now invokes was designed for a regulatory world that no longer exists: an era of shorter license terms, comparative hearings weighing applicants’ merits, and exhaustive renewal showings on program content. That world is gone. The Commission once acknowledged as much, recognizing that it “has always been circumspect in its discretionary use of the callup procedure.”<sup>5</sup> The Bureau’s one-sentence justification for the Order suggests no such circumspection here—only a predetermined destination and a forgotten rule pressed into service to reach it.

That one-sentence justification stated in the Order is this: that accelerating renewal will aid the Commission in “investigating Disney’s ABC stations for possible violations of . . . the agency’s prohibition on unlawful discrimination.”<sup>6</sup> That rationale does not survive scrutiny. The path for investigating any such potential violations is obviously through the investigation of that very subject which the Commission began in June 2025 and has been ongoing since then.

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<sup>3</sup> The first early call-up in over fifty years was issued just 24 hours before the Order at issue here. *See Bridge News, LLC*, Order, DA-26-413 (MB rel. Apr. 27, 2026); *see also* Kelcee Griffis & Saijel Kishan, *ABC License Renewal Call Surprised FCC Staff and Shattered Norms*, Bloomberg (Apr. 29, 2026) (“Bloomberg April 29 article”), <https://news.bgov.com/bloomberg-government-news/abc-license-renewal-call-surprised-fcc-staff-and-shattered-norms> (“[The Bridge News] action . . . creates plausible deniability that the license renewals are only targeting Disney”). That action did not involve stations under common ownership with a broadcast network and involved clear and egregious misconduct by the licensee.

<sup>4</sup> *See In re: Delete, Delete, Delete*, Public Notice, DA 25-219 (rel. Mar. 12, 2025).

<sup>5</sup> *Robert E. Thomas & Ferris A. Maloof, D.B.A. Click Broad. Co., Blue Ridge, Ga.*, 17 F.C.C.2d 375, 380 (1969) (citing *William L. Ross*, FCC 63-366, 25 Rad. Reg. 360 (1963)).

<sup>6</sup> Order ¶ 1.

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Before the Order issued, the Enforcement Bureau had already served a string of inquiries, and the Company has produced over 11,000 pages of responsive documents on a mutually agreed schedule. The Enforcement Bureau has never suggested its existing tools are insufficient for whatever it is investigating, and has elsewhere touted those same tools as providing “broad statutory authority to investigate any question that may arise under any of the provisions of the Act.”<sup>7</sup>

It is not credible to now declare the early renewal process “essential” to the same investigation,<sup>8</sup> particularly when after releasing the Order, the Enforcement Bureau issued yet another request for information to which the Company is required to respond less than 24 hours after the instant filing. The early renewal procedure is not an investigative tool and adds nothing to the Commission’s investigative capacity.

The Order purports to investigate “possible violations” of the “prohibition on unlawful discrimination,” but never identifies what violation it had in mind. The Commission has never articulated—let alone adopted through notice-and-comment rulemaking—any new compliance standard under its broadcast Equal Employment Opportunity (“EEO”) requirements, which focus on non-discrimination and providing access to opportunities for those from underrepresented groups.<sup>9</sup> It has never stated whether or when diversity, equity, and inclusion (“DEI”) practices violate a Commission rule or warrant ordinary punishment, much less the extraordinary

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<sup>7</sup> *Resp-Org.com*, Letter, 26 FCC 8498, 8498-99 (EB 2011) (cleaned up); *World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545, 18547 ¶ 6 (EB 2003) (“Congress afforded us broad authority to investigate regulated entities.”).

<sup>8</sup> Order ¶ 2.

<sup>9</sup> 47 C.F.R. § 73.2080(c).

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punishment of a demand for early license renewal. A licensee cannot comply with a standard that is announced nowhere, defined nowhere, and exists nowhere.

In truth, the Station has acted consistently with the Commission’s EEO requirements. Yet it is now being punished under an interpretation the Commission invented but has never promulgated or even fully articulated—one that turns the longstanding EEO rules on their head. A licensee cannot be held to a standard it was never given notice of—that is not enforcement, it is arbitrary, capricious, and a denial of due process. And even if the Commission were to eventually declare that the Station committed an EEO rule violation—a finding that the Station in no way concedes—jeopardizing the Station’s license would be grossly disproportionate to any such violation, especially one premised on an unarticulated standard.

***The Order violates the First Amendment.*** Its true purpose and inescapable effect are to suppress speech—to ramp up toward possible license revocation and cause the Station and others to think twice before they say something the government might dislike. “[T]he First Amendment prohibits government officials from relying on the ‘threat of invoking legal sanctions and other means of coercion . . . to achieve the suppression’ of disfavored speech.”<sup>10</sup> That is what is happening here.

“If a coercive campaign is carried out with enough sophistication,” its true purpose can be difficult to prove.<sup>11</sup> This one, however, leaves little to the imagination. The record of public statements by senior government officials targeting ABC and its parent company for their coverage and programming choices is extensive and explicit. The FCC Chairman himself has

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<sup>10</sup> *Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 189 (2024) (quoting *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67 (1963)).

<sup>11</sup> *Murthy v. Missouri*, 603 U.S. 43, 80 (2024) (Alito, J., dissenting).

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threatened broadcasters that “[w]e can do this the easy way or the hard way,” and he has warned that stations could lose their licenses if they do not “correct course.”<sup>12</sup>

*The Order harms the public.* By threatening WABC, the Order threatens harm to the community the Station serves.<sup>13</sup> By the Commission’s own standards, the licensee is not only in good standing but exceptional standing, with not a single enforcement violation during the license term under review. Its record of compliance makes the Order’s threat to the Station’s license all the more striking and all the more revealing of its true purpose. For decades, the central mission of WABC has been to serve its viewers by providing daily news coverage, public affairs, and other programming of interest to the audience in the greater New York area, and other extensive community engagement to meet the needs and interests of its local community. The Station has invested deeply in its community through charitable partnerships, educational outreach, consumer advocacy, and the employment of hundreds of local community members. Although public interest showings are not submitted in license renewal applications in the normal course, WABC feels compelled to do so here, given the extraordinary nature of the Order—and because its viewers and the general public deserve to know what is at stake.

The harm to the Station’s community is particularly acute—but the chilling effect of the Order extends far beyond any particular market or broadcaster. The FCC Chairman has made his

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<sup>12</sup> Chris Megerian, *Kimmel’s suspension is the latest display of Trump’s growing power over the US media landscape*, Associated Press (Sept. 18, 2025), <https://apnews.com/article/trump-kimmel-abc-suspension-media-pressure-kirk-eb4f0fcd38499e37c94613fe8bd8e9c6> (quoting Brendan Carr, Chairman, FCC); Maria Paula Mijares Torres, *FCC’s Carr Threatens TV broadcast licenses over news coverage*, Fortune (Mar. 14, 2026), <https://fortune.com/2026/03/14/fcc-brendan-carr-tv-broadcast-licenses-news-coverage-us-war-iran-trump/> (discussing social media post); *see also* President Donald J. Trump (@realDonaldTrump), Truth Social post (Aug. 24, 2025), <https://truthsocial.com/@realDonaldTrump/posts/115087160158530143> (ABC should “lose their Licenses for their unfair coverage of Republicans and/or Conservatives.”).

<sup>13</sup> *See generally* WABC Public Interest Statement.

broader message explicit: “If you didn’t take us seriously, now you should.”<sup>14</sup> Simultaneously forcing every station in a media company’s portfolio to file premature license renewal applications is not a regulatory tool. It is an extraordinary demonstration of power and coercion directed at disfavored editorial voices, which sends a clear warning to every broadcaster in America.<sup>15</sup> This is a threat to the First Amendment that this Commission and this proceeding must not be permitted to normalize.

## **II. THE ORDER IS LEGALLY AND PROCEDURALLY INDEFENSIBLE.**

The Media Bureau has no legal basis for this Order. The Act dictates that the license renewal evaluation must occur at the end of the license term—not whenever the Commission decides that a broadcaster’s speech warrants scrutiny. The ostensible explanation the Order provides violates the Commission’s duty to provide fair notice and explain itself through lawful process. Strip away the procedural veneer and what remains is a governmental agency using the license process renewal to punish a broadcaster for its editorial choices.

### **A. The Act Does Not Authorize the Order.**

The Order violates the plain language and clear purpose of the Act. Section 309(k) of the Act mandates that the Commission evaluate a renewal application based on the licensee’s performance “*during the preceding term of its license.*”<sup>16</sup> The Commission renewed WABC’s

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<sup>14</sup> Anna Nicolaou, ‘*The US needed a shock to the system*’: Brendan Carr, US media watchdog, Financial Times (May 15, 2026), <https://www.ft.com/content/d62d3361-a337-4e2c-ab6b-afb791ba566f?syn-25a6b1a6=1>.

<sup>15</sup> *Illinois Citizens Comm. for Broad. v. FCC*, 515 F.2d 397, 407 (D.C. Cir. 1975) (Bazelon, C.J. statement on denial of rehearing en banc) (“The main threat is, of course, that the government can put a licensee out of business but I suppose that the more pervasive threat lies in the sub rosa bureaucratic hassling which the Commission can impose on the licensee, i.e. responding to FCC inquiries, forcing expensive consultation with counsel, immense record-keeping and the various attendant inconveniences.”). Both threats are present here.

<sup>16</sup> 47 U.S.C. § 309(k)(1) (emphasis added).

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current license on August 28, 2024,<sup>17</sup> and that term extends until June 1, 2031—more than four years from now.<sup>18</sup> There is no complete term to review. There is no record ripe for adjudication. The Act’s structure—including the prohibition on granting a renewal more than thirty days before license expiration<sup>19</sup>—reflects a deliberate congressional design: The renewal process must operate at the end of a license term. By demanding a premature application, the Order exceeds the Commission’s authority by deviating from the renewal process Congress designed, and it deprives the Station of the opportunity to build the full record of service the Act commands.

Even if the call-up rule on which the Order relies was once lawful, this Order’s application of that rule has lost any tether to the Act. The Commission “literally has no power to act” absent a statutory delegation of authority.<sup>20</sup> Because Congress dictated that the Commission must evaluate renewal applications based on the full preceding term, the Order’s application of the rule is unlawful.

The Commission’s violations of the Act do not end there. Nearly seventy years ago, the Commission acknowledged that station’s license term “will in no way be affected” by an order calling for early filing of a renewal application.<sup>21</sup> But without any notice to the Station, the

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<sup>17</sup> See WABC, Renewal of License, LMS File No. 0000208980, (filed Feb. 1, 2023) (“WABC Renewal Application”).

<sup>18</sup> This renewal application covers the period since grant of the Station’s last license renewal application on August 28, 2024. See WABC Renewal Application. Section 503(b)(6) of the Act, 47 U.S.C. § 503(b)(6), provides that the “date of commencement of the current term of such license” means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. See, e.g., *Furniture City Broadcasting Corporation*, Memorandum Opinion and Order, 11 FCC Rcd 13678, 13680 ¶ 6 n.3 (1996); *Mapleton License of San Luis Obispo, LLC*, Forfeiture Order, 27 FCC Rcd 4099, 4101 n.15 (EB 2012).

<sup>19</sup> 47 U.S.C. § 307(d).

<sup>20</sup> *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986).

<sup>21</sup> *Application of Herbert P. Michels (WAUB), Auburn, N.Y.*, 44 F.C.C.2d, 1346, 1348 (1958).

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Commission altered WABC’s license expiration date—and that of the other seven ABC owned stations—in its Licensing and Management System and Online Public Inspection File to May 28, 2026, the date the instant application is due. This unilateral action, if it were taken literally, would violate both Commission precedent and the underlying requirements of Section 316 of the Act.<sup>22</sup> The Media Bureau informed the Station that this was merely a technical maneuver to enable the Commission’s systems to process the early filing of the license renewal application, but of course the need for jerry-rigged database workarounds illustrates that the Order is inconsistent with the law as the Commission has long applied it.

**B. The Order is Arbitrary and Capricious.**

Independent of its statutory defects, the Order fails under the Administrative Procedure Act (“APA”). By tying the early call-up to the Commission’s so-called “unlawful discrimination” investigation, the Order implies that certain types of employment policies and programming—presumably different from the requisite EEO demonstration of “how the station achieved broad and inclusive outreach”<sup>23</sup>—will factor into the renewal adjudication. That would constitute a new interpretive standard for measuring public interest compliance, adopted without notice or an opportunity for comment.

The Commission has never said what this new standard is. The same standards have governed the renewal process for decades—WABC has operated under them without incident,

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<sup>22</sup> Section 316 provides that the Commission may not modify a station license without affording the licensee the process and procedural rights provided by the Act. 47 U.S.C. § 316. Moreover, modifying a station license to eliminate the balance of its license term would constitute a revocation of the license, which would be subject to the process and procedures provided in Section 312 of the Act. *Id.* § 312.

<sup>23</sup> See FCC, *Instructions – Form 2100, Schedule 396 – Broadcast Equal Employment Opportunity Program Report*, at 4 (Feb. 2019), <https://www.fcc.gov/sites/default/files/lms-396-eeo-instructions.pdf>; see also 47 C.F.R. § 73.2080(c); WABC EEO Narrative Statement.

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and the Commission has never suggested they were insufficient or that something more was required. WABC has no fair notice of what conduct the Commission now expects, what prior conduct it deems deficient, or how the Commission will execute on its apparent plan to begin weighing DEI practices in the renewal process.<sup>24</sup> Punishing a licensee without fair notice of what the agency requires—under a standard that did not exist until the Commission decided to apply it—violates both the APA and the Due Process Clause of the Constitution.<sup>25</sup>

The retroactivity problem is equally serious. Neither the Act nor the Commission’s rules suggest that DEI practices are relevant to renewal evaluation, let alone that they could trigger an extraordinary, accelerated renewal proceeding years before the ordinary renewal cycle. The Station has no time machine to conform past conduct to standards the Commission still has failed to define. Any attempt to apply new and undefined standards to conduct predating their articulation—in a proceeding itself accelerated years ahead of the ordinary renewal schedule—is precisely the retroactive application of novel requirements the Supreme Court has repeatedly condemned.<sup>26</sup>

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<sup>24</sup> The current Commission has repeatedly extracted commitments concerning DEI practices from transaction applicants. *See, e.g.*, Letter from Stephanie Kyoko McKinnon, General Counsel and Co-President of Business Operations, Skydance Media, to Brendan Carr, Chairman, FCC, MB Docket No. 24-275 (July 22, 2025), <https://www.fcc.gov/ecfs/document/1072299913934/1>. These private commitments, made in the context of specific transactions, do not and cannot legally serve as sufficient notice to licensees of a change in the Commission’s EEO rules or its license renewal requirements.

<sup>25</sup> *See e.g., FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253-54 (2012) (“A conviction or punishment fails to comply with due process if the statute or regulation under which it is obtained ‘fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.’”) (quoting *United States v. Williams*, 553 U.S. 285, 306 (2008)); *see also Trinity Broad. of Fla., Inc. v. FCC*, 211 F.3d 618, 628 (D.C. Cir. 2000) (requiring “ascertainable certainty” as to “the standards with which the agency expects parties to conform”) (quoting *Gen. Elec. Co. v. EPA*, 53 F.3d 1324, 1329 (D.C. Cir. 1995)).

<sup>26</sup> *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) (discussing longstanding Supreme Court precedent holding that “congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result”); *Landgraf v. USI Film Prods.*, 511 U.S. 244, 265 (1994) (finding that it is “deeply rooted” in the Supreme Court’s jurisprudence that “elementary

The APA further requires an agency to acknowledge and provide reasoned justification for departing from its prior policies and precedents.<sup>27</sup> The Order departs from decades of consistent practice without a single word of explanation for why this case is different. That silence is not a valid exercise of regulatory discretion. It is the hallmark of arbitrary and capricious agency action.<sup>28</sup>

**C. This Proceeding Does Not Accomplish Any Lawful Goal.**

Contrary to the Media Bureau’s conclusory assertion in the Order, this early license renewal application is not “essential” for the conduct of any Commission investigation.<sup>29</sup> That assertion is baseless as a legal matter, factually unsupported, and contradicted by the Commission’s own conduct in its DEI-related investigation. The Order specifically references the Commission’s ongoing investigation into the Company’s alleged “unlawful discrimination.”<sup>30</sup> As the Commission frequently emphasizes, however, it has ample tools to conduct an investigation, including enforcement authority for failure to fully comply with the legal obligations of a letter of inquiry.<sup>31</sup> Thus, the Commission can obtain the information it requires without the “aid” of early renewal applications, and it is doing so.

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considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly”).

<sup>27</sup> See *Motor Vehicle Manufacturers Ass’n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41 (1983); 5 U.S.C. § 706(2)(A).

<sup>28</sup> *FCC v. Fox Television Stations*, 556 U.S. 502, 515 (2009) (“[T]he requirement that an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it is changing position.”); *SEC v. Chenery Corp.*, 332 U.S. 194, 196 (“If the administrative action is to be tested by the basis upon which it purports to rest, that basis must be set forth with such clarity as to be understandable.”).

<sup>29</sup> Order ¶ 2.

<sup>30</sup> *Id.* ¶ 1.

<sup>31</sup> See 47 U.S.C. § 503(b)(1)(B); see also *Aura Holdings of Wisconsin, Inc.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688, 3696 ¶ 21, 3697 ¶ 23 (2018), *forfeiture order issued*, 34 FCC Rcd 2540

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In accordance with the Commission’s asserted authority and standard enforcement tools, the investigation has been ongoing for nearly a year, and the Company has been fully engaged and cooperative throughout. The Company received a Letter of Inquiry from the Enforcement Bureau on June 5, 2025, and promptly negotiated with that Bureau an agreed scope and timetable for its responses consistent with standard practice.<sup>32</sup> Between July and September 2025, the Company produced over 6,200 pages of documents in response following the schedule and scope agreed to by the Enforcement Bureau. The Company did not hear from the Commission until five months later when the Enforcement Bureau issued an expansive Supplemental LOI on February 20, 2026.<sup>33</sup> The Company timely responded to the Supplemental LOI on April 21, 2026, again pursuant to the Bureau’s agreed upon timetable, producing a 38-page narrative response to the Commission’s 78 additional written requests and an additional 4,839 pages of documents.

Yet only seven days later, on April 28, the Commission issued the Order. Chairman Carr publicly suggested that the April 21, 2026, submission was somehow deficient and that those purported deficiencies justified the extraordinary step of accelerating the Stations’ renewal applications.<sup>34</sup> Prior to the issuance of the Order, the Enforcement Bureau staff had not

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(2019) (imposing a \$19,693 penalty for failure to respond to a letter of inquiry); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325-26 ¶ 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to a letter of inquiry); *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600 ¶ 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

<sup>32</sup> Letter from Patrick Webre, Acting Chief, Enforcement Bureau, FCC, to Mr. Robert A. Iger, Chief Executive Officer, The Walt Disney Company (June 5, 2025).

<sup>33</sup> Letter from Patrick Webre, Acting Chief, Enforcement Bureau, FCC, to Mr. Robert A. Iger, Chief Executive Officer, The Walt Disney Company (Feb. 20, 2026) (“Supplemental LOI”).

<sup>34</sup> Brian Flood, *FCC boss Brendan Carr maintains early ABC license renewal is about DEI probe, not Jimmy Kimmel controversy*, Fox News (Apr. 30, 2026), <https://www.foxnews.com/media/fcc-boss-brendan-carr-maintains-early-abc-license-renewal-about-dei-probe-not-jimmy-kimmel-controversy>.

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communicated any such deficiencies to the Company or otherwise engaged with the submission in any discernible way. It was only on May 15, 2026, two weeks *after* the issuance of the Order (and after Commissioner Gomez and the press had suggested that the Commission’s citation to the DEI investigation was pretextual), that Enforcement Bureau staff sent an email to the Company with an 11-page addendum detailing alleged deficiencies in the Company’s April 21 submission. If the Bureau remained fully capable of obtaining the information it sought through ordinary investigative tools as it did on May 15, 2026, the Commission cannot explain why an extraordinary acceleration of license renewals was needed. That is because the asserted deficiencies did not necessitate the April 28 Order; they simply supplied a pretext for it.

Furthermore, information solicited by the license renewal application is not “essential to the proper conduct of” the ongoing investigation.<sup>35</sup> In fact, it is irrelevant to that investigation. A simple review of the license renewal application form underscores that fact. While a license renewal application includes certifications related to Commission ownership rules, children’s programming reports, public file compliance, and various other matters, the application does not even request information about employment issues, apart from confirming that the licensee has filed the standard EEO public file reports and EEO Program Report (FCC Form 2100, Schedule 396). Even these EEO Program Reports will provide the Commission with no new insights, as the information required by these reports, including confirmation of the Station’s “broad and inclusive outreach,” is either already publicly available or available to the Commission through the investigatory process. License renewal proceedings exist to evaluate local public interest service—not to adjudicate employment practices or content policies that have their own distinct

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<sup>35</sup> *Cf.* 47 C.F.R. § 73.3539(c).

statutory and regulatory frameworks.<sup>36</sup> Thus, far from being “essential” to the investigation, the license renewal application information is irrelevant. The Order’s conflation of the investigatory and renewal processes undermines the integrity of both.

### **III. THE COMMISSION IS PUNISHING THE STATION FOR THE CONTENT OF ITS SPEECH IN VIOLATION OF THE FIRST AMENDMENT.**

The only plausible reason to issue the Order is to punish the Station for speech the government does not like. Commissioner Gomez recognized in her May 11, 2026 letter what the record makes plain: The Commission’s actions against Disney and ABC constitute “not a series of coincidental regulatory actions but a sustained, coordinated campaign of censorship and control, carried out through the weaponization of the FCC’s authority as a federal regulator and aimed at pressuring a free and independent press and all media into submission.”<sup>37</sup> This is not a partisan point. Senator Ted Cruz called one of Chairman Carr’s threats to broadcasters “dangerous as hell” and warned that “[g]overnment officials threatening adverse consequences for disfavored content is an unconstitutional coercion that chills protected speech.”<sup>38</sup>

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<sup>36</sup> *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 354 (D.C. Cir. 1998) (“[T]he FCC is not the Equal Employment Opportunity Commission . . . and a license renewal proceeding is not a Title VII suit.”).

<sup>37</sup> Letter from Anna M. Gomez, Commissioner, FCC, to Josh D’Amaro, Chief Executive Officer, The Walt Disney Company, at 1 (May 11, 2026) (“Commissioner Gomez Letter”), <https://docs.fcc.gov/public/attachments/DOC-421580A1.pdf>. Commissioner Gomez also described the FCC’s concurrent revival of a previously closed “news distortion” complaint and the institution of an “equal opportunities” investigation into ABC’s *The View* as additional elements of the same coordinated campaign. *See id.* at 3; *see also* David Shepardson, *FCC reinstates complaints over ABC presidential debate, Harris TV appearances*, Reuters (Jan. 23, 2025), <https://www.reuters.com/business/media-telecom/fcc-reinstates-complaints-over-abc-presidential-debate-harris-tv-appearances-2025-01-22/>.

<sup>38</sup> John Hendel & Gabby Miller, *Cruz threatens to disarm FCC over Jimmy Kimmel’s suspension*, Politico (Dec. 17, 2025), <https://www.politico.com/news/2025/12/17/cruz-presses-trumpian-regulator-to-stand-down-after-kimmel-threats-00695379>.

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The timing of the Order makes the retaliatory purpose unmistakable. The Order suddenly emerged the day after public calls for punitive action in response to comments made during ABC Network programming.<sup>39</sup> The Order’s pretextual investigatory motivation is belied by the facts. The Company had produced nearly 5,000 pages of responsive documents to the Enforcement Bureau just seven days earlier.<sup>40</sup> Bureau staff had been in routine, cooperative contact with the Company and gave no indication whatsoever of any deficiency. The intent to pressure the Company to alter or withhold its speech is clear from the scope of the Order. Simultaneously requiring *all* television stations owned by a single and specific network to file premature license renewal applications is an unprecedented and uniquely targeted action—one with a national focus, rather than the local one dictated by the Act for review of local broadcast station licenses.<sup>41</sup> Consequently, the instant license renewal proceeding, rather than being a routine review of the Station’s service to its community as required by the Act, is the product of unconstitutional retaliation and coercion.

The Order ultimately threatens speech in three concentric ways, growing in scope and impact at each step. First, it imposes a direct cost on the Station in terms of time and resources to submit an early renewal application. As Commissioner Gomez stated in her letter, “the process is the punishment.”<sup>42</sup> Second, it is the beginning of a process that threatens the Station’s license and therefore the local news, emergency information, and community journalism that

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<sup>39</sup> See, e.g., Bloomberg April 29 article.

<sup>40</sup> It is not at all clear how the Commission completed its review of nearly 5000 pages in just seven days, especially given that it apparently took five months to complete its review of the original 6000 page submission.

<sup>41</sup> See 47 U.S.C. § 309(k). The plain language of Section 309(k) provides that the FCC shall grant a licensee’s renewal application if it meets the mandated standard “with respect to that station.”

<sup>42</sup> Commissioner Gomez Letter at 2.

millions of New Yorkers depend upon every day from WABC. Third, it serves as a signal to broadcasters that chills protected speech across the entire broadcast industry and potentially for all Americans.<sup>43</sup>

Under the First Amendment, government regulation based on the content of speech is subject to strict scrutiny, meaning it must further a compelling interest and be narrowly tailored to achieve that interest.<sup>44</sup> The Commission has not even attempted to articulate a specific policy that the Order advances, and the Commission's path thus far is consistent with aiming for maximum chilling effect rather than narrow tailoring.<sup>45</sup> Thus, the Order violates the First Amendment.<sup>46</sup>

#### **IV. THE ORDER HARMS THE STATION AND THE PUBLIC.**

##### **A. The Accelerated Process Is Prejudicial.**

As a result of the Media Bureau's demand for a greatly accelerated license renewal application, as well as the wholly inadequate time frame provided for filing the application, the overall record of the Station's service set forth in this renewal application cannot be expected to be as robust as it would have been under a customary renewal schedule. This is highly

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<sup>43</sup> *Illinois Citizens Comm. for Broad.*, 515 F.2d at 407 (Bazelon, C.J. statement on denial of rehearing en banc) (“For better or worse, a licensee confronted with the choice between an economic disadvantage and pleasing the government through curtailment of a constitutional right will generally choose curtailment.”).

<sup>44</sup> *Reed v. Town of Gilbert*, 576 U.S. 155, 163, 169-70 (2015); *see also Action for Children's Television v. FCC*, 58 F.3d 654, 660 (D.C. Cir. 1995) (en banc) (applying “strict scrutiny to [content-based] regulations . . . regardless of the medium affected by them”).

<sup>45</sup> The chilling effect on all licensees who observe these proceedings is itself a constitutionally cognizable harm. *See Sec'y of State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 956-57 (1984).

<sup>46</sup> *See generally* Petition of KTRK Television, Inc. & American Broadcasting Companies for Declaratory Ruling, MB Docket No. 26-124, at 5 (May 7, 2026), <https://www.fcc.gov/ecfs/document/10522087167981/1> (“While the Supreme Court may once have upheld the FCC's distinct ‘personal attack’ and ‘political editorial’ regulations, the fundamental factual predicates of that decision no longer exist.” (citing *Red Lion Broad. Co. v. FCC*, 395 U.S. 367 (1969))).

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prejudicial to the Station. In the normal course of predictably-scheduled licensing proceedings, a license renewal period covers the complete arc of a licensee's service to its community. The public is entitled to that full record. The Order forecloses it. As a result, the Order denies WABC the procedural protections afforded to every other broadcaster for a half-century.

Moreover, under the Commission's longstanding processes, licensees are on notice for years that a renewal application deadline is approaching. Typically, licensees take several months or more to collect and vet the necessary information. In this case, however, the Station was given 30 days. The result is that the accompanying application, while demonstrating a record of exceptional public service, is less comprehensive than it would have been under any normal process because the time allowed for compiling, reviewing, and presenting that record was woefully insufficient.

Subjecting all of the stations to this arduous process at once further deviates from the typical process and amplifies the burden. Under the standard schedule, the Company would never file more than three applications on the same date. The Order's unique demand to simultaneously produce eight renewal applications within 30 days is highly burdensome and prejudicial to the assembly of a comprehensive record for the Commission's review.

For these reasons, the Station, while acknowledging that it fully intended to comply, requested a 60-day extension of time, until July 28, 2026, to help ensure a more orderly and thorough diligence process. The Media Bureau summarily denied the request without explanation. The extraordinary circumstances surrounding the application, the lack of adequate notice, and the explicit refusal of customary preparation time raise significant APA and due process problems.

**B. The Playing Field is Tilted Toward One Outcome.**

The practical consequences of the Order compound its legal defects. Section 307(d) of the Act prohibits the Commission from granting a renewal more than thirty days before license expiration.<sup>47</sup> Thus, with years remaining on the Station’s license, this proceeding cannot conclude in the grant of a license renewal at any time during the current Administration. Any proceeding concluded during this Administration can *only* end in adversity. The alternative of leaving the proceeding open is hardly better. That leaves the “Sword of Damocles” of a burdensome hearing or even license revocation constantly hanging over the Station. This unique, ever-present threat itself poses significant harm to the Station.<sup>48</sup> In sum, there is no procedural path for this proceeding to terminate favorably for the Station, which demonstrates the unlawful Order’s punitive intent and the harms flowing directly from it.

**C. Americans Bear the Cost of This Order.**

The ultimate injury here is not to the Station or its parent company. It is to the public. When a broadcaster must weigh regulatory retaliation before making editorial decisions, the public loses access to journalism that is free from government influence. The Order—both on its own terms and as a signal to other broadcasters—advances exactly that result. A press that edits itself to avoid government displeasure is not a free press. The Commission should not be the instrument of that outcome.

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<sup>47</sup> 47 U.S.C. § 307(d).

<sup>48</sup> *First Choice Women’s Res. Centers, Inc. v. Davenport*, 146 S.Ct. 1114, 1127 (2026) (“[T]he value of a sword of Damocles is that it hangs—not that it drops.”) (quoting *Arnett v. Kennedy*, 416 U.S. 134, 231 (1974) (Marshall J., dissenting)).

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The Company and the Station reserve all rights and arguments, and this filing and all material accompanying it are without prejudice to those rights and arguments and to the Station's right to supplement the record as the law and circumstances may require.