

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Early Renewal Applications)
of the Walt Disney Company's)
ABC Licenses)

Docket No. 26-131

File No. 0000298318

Facility ID. 1328

File No. 0000298350

Facility ID. 8620

File No. 0000298356

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File No. 0000298353

Facility ID. 35675

To: Marlene H. Dortch, Secretary
Attn. Alexander Sanjenis, Chief Media Bureau

**Reply to Oppositions of the American Broadcasting Company and Former
Commission Employees to the Media Research Center's Petition**

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Introduction

On June 29, 2026, the Media Research Center (“MRC”) filed a petition asking the Federal Communications Commission (“Commission”) to deny renewal of the licenses of eight American Broadcasting Company (“ABC”) stations owned and operated by the company. ABC filed its opposition one month later.

ABC’s opposition to the MRC petition effectively boils down to a “squatters rights” argument. Someone else may own the property, have the statutory right to license the property, and bear the responsibility to ensure the property is well maintained, but ABC seems to believe it has an entitlement to control the property in perpetuity. But broadcast spectrum is publicly owned, and a license to use it is a limited-term privilege conditioned on compliance with statutory and contractual obligations.

In its efforts to wrench permanent control of broadcast spectrum from the public, ABC’s opposition mischaracterizes MRC’s legal arguments and fails to address most of the evidence. The Commission should focus on the issues actually presented, rather than on ABC’s references to the inapposite fairness doctrine or its misstatements of governing law or its mischaracterizations of MRC’s arguments.

ABC has conducted an extensive lobby campaign to rally its political allies (including former Commission employees, outside activists and the politicians who have benefitted most from ABC’s misuse of the public airwaves) to file companion submissions. But those filings do not alter the core issue: whether the record demonstrates that ABC and the relevant licensees failed to satisfy their legal

obligations. The First Amendment is fundamental, but it does not excuse unlawful misuse of publicly licensed spectrum.

First, contrary to ABC's characterization, MRC's petition does not concern mere ideological bias. It documents a repeated pattern of conduct relevant to renewal, including direct partisan electioneering, dissemination of misinformation, and broadcasts minimizing or appearing to justify political violence. Second, ABC's First Amendment arguments rest on a mistaken characterization of both the petition and the governing law. Third, ABC's standing objection fails because MRC and the individual signatories are interested parties under the applicable standard. Fourth, commenters' predictions that nonrenewal would eliminate local programming in New York and Connecticut are meritless and assume that no other broadcast news organization would be interested in the market.

ABC promised to uphold the public interest, but then refused to do so. On this record, the Commission should conclude that renewal is not warranted and should permit a qualified successor licensee to serve the public.

Argument

I. MRC's Petition Concerns Conduct Relevant to Renewal, Not Mere Ideological Bias

ABC and certain former Commission employees mischaracterize MRC's petition as a complaint about mere "bias." They are incorrect. The petition identifies repeated conduct bearing on the public-interest standard, including direct partisan

electioneering, repeated misinformation, and broadcasts minimizing or appearing to excuse political violence.

A. ABC Has Become A Partisan Operation That Broadcasts Electioneering Content

The record shows that ABC is not simply a biased news organization: It is now a political operation that continually uses licensed broadcast facilities for direct partisan electioneering in a manner relevant to the Commission's renewal inquiry.

In addition to the general requirement that its use of public spectrum serve the public interest,¹ federal law explicitly prohibits broadcasters from using the spectrum to electioneer.² MRC's petition highlighted several instances of ABC's hosts using the public spectrum to urge viewers to vote for a particular party and for particular candidates.³ For example, MRC cited the following statement, broadcast only weeks ago:

[A]s long as Republicans are in power in the majority there will never be accountability, there will never be checks and balances, there will never be oversight. And so, if Americans want this to end, want the abuses of power checked, they have got to vote Democrats [sic] in November, period.⁴

Or this one, also broadcast in the past few weeks:

"It's time for Democrats to stop that nonsense, put emotions on the side, let's be strategic, let's get some power, let's take over

¹ 47 U.S. Code § 307–08.

² 47 U.S. Code § 315(a).

³ See Petition to Deny of Media Research Center et al., In re Early Renewal Applications of Walt Disney Company's ABC Licenses, MB Docket No. 26-131, File Nos. 0000298318 et al., at 6–12 (FCC June 29, 2026), https://cdn.newsbusters.org/blog_attachment/Petition%20to%20Deny%20ABC%20Renewal.pdf.

⁴ Nicholas Fondacaro, The View Demands Votes for Democrats "If Americans Want This to End", NewsBusters (May 18, 2026, 2:20 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2026/05/18/view-demands-votes-democrats-if-americans-want-end>.

the Senate and let's take over the House and let's right the ship!
Let's get our country back!"⁵

MRC also supplemented these examples with broader evidence of recurring, one-sided partisan electioneering, including extensive data showing that ABC's premier shows, such as *The View*, routinely exclude Republicans while highlighting Democratic candidates for office.⁶ MRC also provided several specific examples of ABC abandoning the pretext of journalism in favor of helping Democratic candidates, such as when an ABC host interrupted a presidential debate to make verifiably inaccurate claims that benefited the Democrat.⁷

ABC argues that the Commission may not consider MRC's data or examples because doing so would amount to evaluating whether a broadcaster gave sufficient airtime to particular viewpoints or featured particular guests.⁸ That response misses the point.

The issue here is not viewpoint balancing. It is whether repeated, explicit exhortations to vote for a particular party, viewed alongside the broader programming pattern, are relevant to the public-interest inquiry. When ABC's hosts give viewers unambiguous instructions on which party to vote

⁵ Nicholas Fondacaro, 'Stop That Nonsense': Hostin Urges Dems to Abandon Morals, Vote for Platner, NewsBusters (June 10, 2026, 5:51 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2026/06/10/stop-nonsense-hostin-urges-dems-abandon-morals-vote-platner>.

⁶ MRC Petition, *supra*, at 8–9.

⁷ See MRC Petition, *supra*, at 5–6.

⁸ Opposition to Petitions to Deny of The Walt Disney Company et al., In re Early Renewal Applications of Walt Disney Company's ABC Licenses, MB Docket No. 26-131, File Nos. 0000298318 et al., at 20 (FCC July 29, 2026), <https://www.fcc.gov/ecfs/document/26110068342/1>.

for, the Commission should recognize the consistent pattern of electioneering.⁹

MRC notes that Democratic House Leader Hakeem Jeffries and several other high-ranking Democratic Representatives submitted a comment expressing concern that granting the petition would “affect the way the news is reported.”¹⁰ But that comment does not address the actual legal question before the Commission: whether the record demonstrates conduct relevant to the renewal applicants’ public-interest qualifications. While cloaked in supposed concern for “regulatory retaliation,” Leader Jeffries’ letter instead suggests that ABC’s “daily editorial decisions” serve just one political party.¹¹

B. ABC Has Repeatedly Broadcast Misinformation To Serve Its Partisan Agenda

ABC is obligated to operate consistently in the public interest.¹² Yet the petition identified numerous examples of misinformation and fake news aired over ABC’s broadcast platforms, always in service to a particular political agenda. Rather than meaningfully address those examples, ABC and the former employees attempt to minimize the misconduct without rebutting the underlying record.

⁹ See 47 U.S. Code § 307–08; FCC’s Media Bureau Establishes Pleading Cycle and Ex Parte Procedures for the Early Renewal Applications of The Walt Disney Company’s ABC Licenses, Public Notice, DA 26-541, MB Docket No. 26-131, at 2 (Media Bur. May 29, 2026) (detailing ABC’s public interest obligations).

¹⁰ Letter from Leader Hakeem Jeffries to Marlene H. Dortch, Secretary, FCC, In re The Walt Disney Company, American Broadcasting Company, MB Docket No. 26-131 at 2 (FCC July 29, 2026), <https://www.fcc.gov/ecfs/document/26110067735/1>.

¹¹ *Id.* at 1.

¹² 47 U.S. Code § 307.

Though ABC insists that it has only broadcast a handful of “isolated inaccuracies,”¹³ MRC produced a detailed list of some of ABC’s documented falsehoods,¹⁴ including claims by ABC hosts that the 2018 Georgia gubernatorial election was “stolen” and “illegitimate;”¹⁵ that the 2020 New York nursing home deaths never occurred;¹⁶ that the 2024 presidential election was rigged to guarantee President Trump victory;¹⁷ that free speech advocate Elon Musk was “pro-apartheid”¹⁸ and responsible for the death of “300,000 [people], mostly children;”¹⁹ that First Daughter Ivanka Trump²⁰ and Supreme Court Justice Clarence Thomas’s wife Ginni Thomas participated in the January 6 U.S. Capitol riot;²¹ and that the Holocaust (Nazi Germany’s systematic genocide of Jewish,

¹³ ABC Opposition, *supra*, at 11.

¹⁴ MRC Petition, *supra*, at 11–12.

¹⁵ Nicholas Fondacaro, Bringing Receipts! Cruz DOMINATES The View, Liberal Audience on Dem Election Denial, NewsBusters (Oct. 24, 2022, 3:26 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2022/10/24/bringing-receipts-cruz-dominates-view-liberal-audience-dem>.

¹⁶ See Kristine Marsh, Ted Cruz Triggers Joy Behar by Bringing Up Cuomo’s Disastrous Nursing Home Policy, NewsBusters (Sept. 28, 2020, 2:13 PM), <https://www.newsbusters.org/blogs/nb/kristine-marsh/2020/09/28/ted-cruz-triggers-joy-behar-bringing-cuomo-s-disastrous-nursing>.

¹⁷ See Nicholas Fondacaro, ABC News Host Suggests Trump RIGGED 2024 Presidential Election, NewsBusters (May 1, 2025, 2:36 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2025/05/01/abc-news-host-suggests-trump-rigged-2024-presidential>;

¹⁸ Nicholas Fondacaro, Joy Behar Accuses Musk of Being “Pro-Apartheid,” Begs Not to Be Sued, NewsBusters (Feb. 27, 2025, 3:07 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2025/02/27/joy-behar-accuses-musk-being-pro-apartheid-begs-not-be-sued>.

¹⁹ Nicholas Fondacaro, ABC News: Musk Killed 300,000 Kids, Knows How Trump Stole Election, NewsBusters (June 4, 2025, 3:07 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2025/06/04/abc-news-musk-killed-300000-kids-knows-how-trump-stole>.

²⁰ See Kelly Jane Torrance, “The View” Is the Biggest Source of Misinformation in America, N.Y. Post (Jan. 4, 2023, 8:06 PM), <https://nypost.com/2023/01/04/the-view-is-the-biggest-source-of-misinformation-in-america/>.

²¹ Nicholas Fondacaro, The View LIES About Justice Thomas’s Wife Being “Part of the Insurrection”, NewsBusters (Feb. 22, 2022, 3:56 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2022/02/22/view-lies-about-justice-thomass-wife-being-part-insurrection>.

Roma, and Slavic people) was “not about race.”²² Since the petition was filed, ABC has doubled down on spreading misinformation, airing a thoroughly debunked claim about the September 11, 2001, terror attacks.²³

The former employees argue that ABC should only be held accountable if it engages in “deliberate distortion,” as distinct from “mere inaccuracy or difference of opinion.”²⁴ But the record reflects more than isolated mistakes. The repeated nature of the false claims identified in the petition, their alignment with a consistent partisan narrative, and ABC’s failure to issue meaningful on-air corrections²⁵ leads to one conclusion: that these were not simply random errors or sloppy reporting.

The former employees argue that only “deliberate distortion,” as opposed to “mere inaccuracy or difference of opinion,” could be relevant here. But if that were so, there would be examples of ABC correcting falsehoods after being publicly challenged.

In short, ABC and the former employees do not meaningfully engage the scope of the misinformation and false claims documented in the petition, and they offer no

²² Landon Mion, Whoopi Goldberg Apologizes Again for Claiming Holocaust Was “Not About Race”, Fox News (Dec. 28, 2022, 1:12 AM), <https://www.foxnews.com/media/whoopi-goldberg-apologizes-again-claiming-holocaust-not-about-race>.

²³ See Nicholas Fondacaro, The View Claims Trump Is Being Bribed By Saudis to Let Them Nuke U.S., NewsBusters (July 23, 2026, 3:17 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2026/07/23/view-claims-trump-being-bribed-saudis-let-them-nuke-us>.

²⁴ Opposition of Former Chairs, Commissioners, Chiefs of Staff, General Counsels, and Bureau Chiefs to Petitions to Deny of Center for American Rights & Media Research Center, In re The Walt Disney Company, American Broadcasting Company, MB Docket No. 26-131 (FCC July 28, 2026).

²⁵ See Scott Whitlock, STUDY: After Hying Fake Smollett Attack as ‘MAGA’ Terror, Nets BURY Actor’s Hoax Trial, NewsBusters (Dec. 6, 2021, 10:00 AM), <https://newsbusters.org/blogs/nb/scott-whitlock/2021/12/06/study-after-hying-fake-smollett-attack-maga-t-error-nets-bury>.

persuasive reason why the Commission must ignore that pattern in evaluating renewal.

C. ABC Programming Minimizes, Excuses, and Even Justifies Political Violence

ABC and the former employees largely fail to address one of the petition’s most serious points: that ABC programming routinely minimizes—and sometimes justifies—political violence.

The petition identified multiple examples. It described ABC broadcasts that spread falsehoods concerning Turning Point USA and then responded to the murder of its founder in a manner that blamed him and his movement for his death.²⁶ It also cited broadcasts aired after the attempted assassination of President Donald J. Trump in which an ABC host joked about how the President might die,²⁷ just as ABC hosts had joked about the assassination attempt on House Majority Leader Steve Scalise.²⁸ It explained how ABC used the spectrum to encourage doctors to deny medical treatment to their political opponents.²⁹ And it highlighted how an ABC host encouraged firebombings of Tesla dealerships.³⁰

Neither ABC nor the former employees address any of these examples.³¹ Instead, ABC insists that “[t]he record is undisputed that the Stations have served the

²⁶ MRC Petition, *supra*, at 17–18.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 18.

³¹ See ABC Opposition, *supra*; Former Commissioners’ Opposition, *supra*.

public interest in their local communities with distinction.”³² MRC squarely disputes that proposition. Airing programming that minimizes or appears to excuse political violence is relevant to whether those stations have, in fact, served the public interest.

II. ABC’s First Amendment Arguments Mischaracterize Both The Petition and The Governing Law

ABC and the former employees devote substantial attention to the argument that nonrenewal would violate the First Amendment. But that argument rests on a mischaracterization of both MRC’s petition and the relevant law. ABC does not possess an unconditional First Amendment right to continued use of public spectrum or to disregard civil rights law. Nor has ABC shown that application of the statutory renewal standard here would constitute unlawful retaliation.

A. The First Amendment Does Not Obligate The Government And The American People To Subsidize ABC’s Electioneering, Misinformation, And Justification Of Political Violence

ABC and its stations use publicly licensed spectrum as a conditional privilege, not as a perpetual entitlement. They do not have, and never had, a First Amendment right to this government subsidy. That privilege has always been subject to the Communications Act’s public-interest standard.

“The First Amendment prohibits government from ‘abridging the freedom of speech’; it does not confer an affirmative right to use government payroll

³² ABC Opposition, *supra*, at 1.

mechanisms for the purpose of obtaining funds for expression.”³³ Time and again, the Supreme Court has explained that the government may subsidize “one activity to the exclusion of another” without violating the First Amendment, even if it makes a content-based distinction while doing so.³⁴ It held that the government could subsidize reproductive healthcare without subsidizing consultations that discuss abortion.³⁵ It held that the government could subsidize private universities without subsidizing private universities that exclude military recruiters.³⁶ It held that the government could subsidize public libraries without subsidizing public libraries that did not include child-safety software on their computers.³⁷ It held that the government could subsidize union activities without subsidizing union political activities.³⁸ It held that the government could subsidize art without subsidizing art it found demeaning.³⁹ And it repeatedly held that the Commission could license spectrum for the “public interest” while prohibiting licensees from using the public airwaves to advance their partisan agenda.⁴⁰

ABC’s reliance on *Red Lion Broadcasting Co. v. FCC* is misplaced. The precedent upholding the fairness doctrine (ensuring roughly equal time to rival candidates), only to say that it “left open whether the First Amendment” would allow the Commission to engage in “censorship of a particular program.”⁴¹ That is true, but

³³ *Ysura v. Pocatello Educ. Ass’n*, 555 U.S. 353, 355 (2009) (quoting U.S. Const. amend. I).

³⁴ *Rust v. Sullivan*, 500 U.S. 173, 192–193 (1991).

³⁵ *Id.* at 179; see also *Maher v. Roe*, 432 U.S. 464, 475 (1977).

³⁶ *Rumsfeld v. Forum for Acad. & Inst. Rights, Inc.*, 547 U.S. 47, 59 (2006)

³⁷ *United States v. Am. Library Ass’n*, 539 U.S. 194, 199 (2003).

³⁸ *Ysura*, 555 U.S. at 359.

³⁹ *Nat’l Endowment for the Arts v. Finley*, 524 U.S. 569, 585–586 (1998).

⁴⁰ See *FCC v. Pacifica Found.*, 438 U.S. 726, 742–743 (1978); *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 400–01.

⁴¹ ABC Opposition, *supra*, at 22; see also *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 400–01.

irrelevant, as MRC's petition does not seek to censor a particular program: instead, it demonstrates how, across-the-board, ABC programming fails to uphold the public interest.⁴²

ABC tries to insist that *FCC v. Pacifica* only applies to the narrow category of “indecent material,” but that is not accurate.⁴³ *Pacifica* held that broadcasts which were “unquestionably ‘speech’ within the meaning of the First Amendment[‘s]” protections could still lead to license revocation if they did not serve the public interest.⁴⁴

The former employees never even attempt to confront *Pacifica* or *Red Lion*, instead comparing ABC to the plaintiffs in *Miami Herald Publishing Company v. Tornillo*.⁴⁵ This is a deceptive choice, as the Supreme Court *explicitly rejected* this argument in *Pacifica*. Noting that the Commission regulates the use of the government property, *Pacifica* stated: “[A]lthough the First Amendment protects newspaper publishers from being required to print the replies of those whom they criticize, *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, it affords no such protection to broadcasters” (citation in original).⁴⁶

Similarly, ABC overreads *MPAA v. FCC*. ABC argues that “while the Communications Act requires the Commission to consider whether the ‘public interest’ supports granting a broadcast license, courts have ‘avoid[ed] potential First Amendment issues’ by construing that general requirement not ‘to go so far as to

⁴² See MRC Petition, *supra*.

⁴³ ABC Opposition, *supra*, at 22 (quoting *FCC v. Pacifica Found.*, 438 U.S. 726, 743 (1978)).

⁴⁴ *Pacifica*, 438 U.S. at 744.

⁴⁵ Former Commissioners' Opposition, *supra*, at 10.

⁴⁶ *Pacifica*, 438 U.S. at 748.

authorize the FCC to regulate program content,” with each quote snipped from *MPAA*.⁴⁷ But *MPAA* actually states that “counsel for the FCC acknowledged that it was not self-evident from the statute that the FCC is authorized to regulate program content *pursuant to § 1*” (emphasis added) of what was then 47 U.S.C. § 151—an antidiscrimination statute not in dispute here.⁴⁸ The part of that opinion that dealt with the “public interest” requirement merely held that it did not entitle the Commission to compel a licensee to produce expensive “video description” content.⁴⁹

MRC does not ask the Commission to compel ABC to air any message or produce any program; it asks the Commission to find that ABC’s record of electioneering, broadcasting of misinformation, and its justification of political violence must no longer be tolerated.⁵⁰

ABC has a First Amendment right to express its views through private channels. That is not the issue here. The relevant question is whether ABC has an unconditional right to continue using publicly licensed spectrum despite a record that is inconsistent with the public-interest standard. It does not.

B. The First Amendment Does Not Exempt ABC from Antidiscrimination Laws

On page 37 of its brief, ABC for the first time advances the argument that “the First Amendment independently bars treating the Inclusion Standards as grounds

⁴⁷ ABC Opposition, *supra*, at 21 (quoting *Motion Picture Ass’n of Am. v. FCC*, 309 F.3d 796, 805 (D.C. Cir. 2002)).

⁴⁸ *MPAA*, 309 F.3d at 804.

⁴⁹ *Id.*

⁵⁰ See 47 U.S. Code § 307–08; 315(a).

for sanction.”⁵¹ That contention is incorrect and unsupported by the authorities ABC cites. Not even the former employees back up this profoundly wrong assertion.⁵²

ABC asserts that because “[c]ourts uniformly refuse to allow anti-discrimination statutes—Title VII, the ADA, or Section 1981 of the First Amendment’s protection of [news media’s] editorial choices,” these protections should also be extended to the employment practices of ABC’s studios, such as the choice of “hiring a casting director.”⁵³ But ABC points to no case law suggesting that major multinational media companies’ hiring practices are immune from antidiscrimination law, because no such case law exists.⁵⁴ The Supreme Court long ago rejected the assertion that the Constitution enshrines a right to discriminate in commerce.⁵⁵ Just two terms ago, in *Moody v. NetChoice*—a case ABC cites in its own brief⁵⁶—the Court unanimously rejected the assertion that because the content moderation policies of a tech platform is sometimes protected speech that tech platform was categorically permitted to discriminate in who it gave access to.⁵⁷ Instead, the Court held the antidiscrimination laws extended only so far as to a company’s “expressive product”—not all of its business choices.⁵⁸ Similarly, ABC’s First Amendment protections go only so far as to the content it produces: not its hiring decisions.

⁵¹ ABC Opposition, *supra*, at 37.

⁵² See Former Commissioners’ Opposition, *supra*.

⁵³ ABC Opposition, *supra*, at 37.

⁵⁴ See *id.*

⁵⁵ *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 243–45 (1964)

⁵⁶ ABC Opposition, *supra*, at 27.

⁵⁷ See *Moody v. NetChoice, LLC*, 603 U.S. 707, 717–18 (2024).

⁵⁸ *Id.* at 718.

It is black-letter law that the First Amendment does not give a right to discriminate in hiring practices. ABC remains subject to those laws , even though it wishes otherwise.

C. Requiring ABC To Adhere to Its Contract Is Not Retaliation

ABC and the former employees argue that criticism of ABC by President Trump and other administration officials shows that this proceeding is retaliatory. That does not follow. Official criticism, without more, does not establish unlawful retaliation.

To be sure, the Commission may not penalize ABC for protected private speech unrelated to its statutory licensing obligations.⁵⁹ If this proceeding were based on such protected private expression, serious constitutional concerns would arise. But that is not what MRC’s petition presents. If the Commission revokes ABC’s license for its failure to perform its “professional duties,” that is not retaliation.⁶⁰

ABC and its former employees point to examples of President Trump and other administration officials criticizing ABC broadcasts.⁶¹ But each of those instances are of officials criticizing ABC for *not upholding the public interest*. President Trump and his subordinates have taken an oath of office that they will ensure federal laws are “faithfully executed.”⁶² Not only do they have a right to call for ABC to be held

⁵⁹ See *Perry v. Sindermann*, 408 U.S. 593, 597 (1972).

⁶⁰ See *Garcetti v. Ceballos*, 547 U.S. 410, 426 (2006).

⁶¹ See ABC Opposition, *supra*; Former Commissioners’ Opposition, *supra*.

⁶² U.S. Const. Art. III § 3.

accountable for not upholding the public interest: doing so is their obligation under the Constitution.⁶³

If the government were seeking to punish ABC for speech occurring outside the scope of its broadcast licenses, materially different issues would be presented. But ABC offers no evidence that this proceeding rests on such a basis.⁶⁴ On the contrary, ABC acknowledges that Trump’s comments, such as that ABC’s debate “was a rigged deal,” *are* directly about how the company (mis)manages public spectrum.⁶⁵ The record instead concerns the use of licensed broadcast facilities and whether that use satisfied the governing statutory standard.

If ABC and the former commissioners want an actual example of the Commission engaging in unlawful retaliation, they should look to what happened under the leadership of the previous Commission chair. After tech entrepreneur Elon Musk implemented free speech-friendly policies on the X platform and resisted the administration’s entreaties that he censor conservatives, the Commission “revoked an \$885 million award it had given to Starlink, which is owned by Musk’s SpaceX.”⁶⁶ A dissent highlighted that the purpose of the revocation was to punish Musk for not censoring, noting that the Commission “[made] up an entirely new

⁶³ See *id.*

⁶⁴ See ABC Opposition, *supra*.

⁶⁵ *Id.* at 3 (quoting Brett Samuels, Trump Bashes ABC, Says He’s ‘Less Inclined’ To Another Debate, The Hill (Sept. 11, 2024, 8:02 AM ET), <https://thehill.com/homenews/campaign/4873681-donald-trumpkamala-harris-debate-abc-news>).

⁶⁶ Tim Kilcullen, Four Times Biden Admin Waged Lawfare on Elon Musk for Supporting Free Speech, MRC Free Speech America (Mar. 7, 2025), <https://mrcfreespeechamerica.org/blogs/free-speech/tim-kilcullen/2025/03/07/four-times-biden-admin-waged-lawfare-elon-musk>.

standard of review that no entity could ever pass and then applying that novel standard to only one entity.”⁶⁷

In contrast, ABC voluntarily contracted to use the public spectrum for the public interest, and when it failed to uphold its bargain, President Trump and the new commissioner said the licenses should be reviewed. That is not retaliation, and ABC has failed to show otherwise.

D. The Former Employees Misread 47 U.S.C. § 326

The former employees’ reading of 47 U.S.C. § 326 is inconsistent with Supreme Court precedent.

Quoting 47 U.S.C. § 326, the former employees state that “Congress has specified that nothing should be ‘construed to give the Commission the power of censorship,’” and thus the Commission’s ability to prevent “news distortion” must be “narrowly circumscribed.”⁶⁸ But *Pacifica* already explained what § 326’s “prohibition against censorship” actually means:

The prohibition against censorship unequivocally denies the Commission any power to edit proposed broadcasts in advance and to excise material considered inappropriate for the airwaves. The prohibition, however, has never been construed to deny the Commission the power to review the content of completed broadcasts in the performance of its regulatory duties.⁶⁹

⁶⁷ *In re Application of Space Exploration Technologies Corp. for Authority to Provide a Space-Based V-Band Non-Geostationary Orbit Fixed-Satellite Service System*, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-105 (2023) (Carr, Comm’r, dissenting), <https://docs.fcc.gov/public/attachments/FCC-23-105A2.pdf>.

⁶⁸ Former Commissioners’ Opposition, *supra*, at 11, 12 (quoting 47 U.S.C. § 326).

⁶⁹ *Pacifica*, 438 U.S. at 735.

The *Pacifica* ruling is the only logical way to interpret § 326's meaning. 47 U.S.C. § 307 requires broadcasters to uphold the public interest, but the First Amendment undoubtedly includes speech that is not in the public interest.⁷⁰ Therefore, § 326's reference to censorship cannot logically mean that the Commission must allow public spectrum to include all lawful speech; rather, it means that the Commission's only recourse is to *pull a license*, not to seize content control from the broadcaster.

The statute therefore distinguishes between prohibited censorship in the form of advance editorial control and permissible post-broadcast review in connection with licensing decisions. MRC seeks only the latter.

E. ABC Grossly Overreads Justice Gorsuch's Concurrence

ABC repeatedly invokes Justice Gorsuch's concurrence as though it condemned this proceeding.⁷¹ It did not. The concurrence addressed broader structural concerns about administrative power, not the merits of this renewal dispute. In fact, the change in law suggested by Justice Gorsuch would potentially make it even *harder* for ABC to renew its licenses.

ABC cites Justice Gorsuch's concurring opinion in *Trump v. Slaughter*,⁷² a recent Supreme Court decision holding that the president has the constitutional power to fire independent agency heads.⁷³ Justice Gorsuch argued that the case highlighted

⁷⁰ See *id.* at 744.

⁷¹ ABC Opposition, *supra*, at iii, 10.

⁷² *Id.*

⁷³ *Trump v. Slaughter*, 225 L. Ed. 2d 664, 675–76 (2026).

the need to check Congress’s delegation of its powers to administrative agencies.⁷⁴ As one example of what was potentially unlawful delegation, Justice Gorsuch noted that “[t]he Federal Communications Commission (FCC) has ‘exclusive authority to grant licenses’ to broadcasters ‘based on ‘public convenience, interest, or necessity.’”⁷⁵ Justice Gorsuch noted that this authority had led to public controversy, such as when “the Chairman of the FCC suggested there would be ‘additional work . . . ahead’ for the agency if broadcasting companies did not ‘find ways to . . . take action.’”⁷⁶ As a solution, Justice Gorsuch suggested that Congress or the Supreme Court should unwind the delegation of authority to independent agencies; in the case of the Commission, that would presumably mean it would no longer be able to grant or rescind licenses.⁷⁷

ABC is missing the point. Justice Gorsuch did not accuse the Commission of abusing its power—he criticized Congress for how much power it had delegated to the Commission.

If the law were amended to reflect Justice Gorsuch’s view, spectrum licenses would either be granted by Congress directly or granted based on a statute with much clearer parameters than the current law provides.⁷⁸ In both of these circumstances, it might be *harder* for ABC to renew its licenses: instead of trying to convince a sufficient number of FCC commissioners to turn a blind eye to its

⁷⁴ *Id.* at 697 (Gorsuch, J., concurring)

⁷⁵ *Id.* at 701 (quoting *Metro Broadcasting, Inc. v. FCC*, 497 U. S. 547, 553 (1990)).

⁷⁶ *Slaughter*, 225 L. Ed. 2d at 702 (Gorsuch, J., concurring) (quoting *The Benny Show*, Sept. 17, 2025).

⁷⁷ *Id.* at 704–05.

⁷⁸ *Id.*

misconduct, ABC would have to convince the majority of both houses of Congress *and President Trump himself* to renew its licenses.⁷⁹

ABC is grasping at straws. Justice Gorsuch did not condemn this proceeding—he condemned the flawed system that allowed ABC to amass so much power in the first place.

III. MRC And The Individual Signatories Qualify As Interested Parties

ABC’s objection to MRC’s status as an interested party fails. MRC qualifies under the applicable standard, and in any event the individual signatories to the petition independently do as well.

The Media Research Center is an interested party because, as the nation’s premier media watchdog,⁸⁰ it represents Americans in all fifty states who have an interest in balanced and reliable news reporting, news analysis, and news commentary—interests that are undermined by ABC’s abuse of the public spectrum to misinform viewers and engage in electioneering.⁸¹ Its petition was also joined by some of its officers and the Americans it represents who watch broadcast news in the Connecticut/New York City, Los Angeles, Chicago, Philadelphia, and Houston media markets.

⁷⁹ See MRC Petition, *supra*, at 18 (ABC comments that might make President Trump reluctant to sign a law giving them a new license.).

⁸⁰ Exhibit 11, Declaration of David Bozell, ¶ 1.

⁸¹ *Id.* at ¶ 3.

ABC objects that MRC did not specifically name a regular viewer in the KFSN (Fresno), KGO (Bay Area), or WTVD (Raleigh-Durham) license areas.⁸² But this proceeding is docketed as a single matter, and ABC cites no authority requiring MRC to present a separate declarant for each station where the petition otherwise identifies interested parties with cognizable interests in the proceeding. In any event, the petition included viewers from multiple relevant markets.⁸³

ABC is likewise wrong to treat MRC's co-petitioners as mere declarants. While the declarations of Dan Schneider (a vice president at the MRC), Seymour Fein (a board member of the MRC), Kristi Knoke, Daniel Kinghorn, Melissa Hancock, and John Woodhouse are all evidence for MRC's associational standing, each of those people is *a petitioner* as well. Accordingly, even if the Commission concluded that MRC itself did not qualify as an interested party, the petition would remain properly before the Commission based on the individual petitioners.

In short, ABC's objection fails. MRC qualifies as an interested party, and so do the individual petitioners.

IV. Nonrenewal Would Not Eliminate Local Programming In New York Or Connecticut

Contrary to ABC's suggestion and the comment submitted by Leader Jeffries and others, nonrenewal would not result in the loss of local programming in New York or Connecticut.

⁸² ABC Opposition, *supra*, at 56.

⁸³ See FCC's Media Bureau Establishes Pleading Cycle and Ex Parte Procedures for the Early Renewal Applications of The Walt Disney Company's ABC Licenses, Public Notice, DA 26-541, MB Docket No. 26-131, at 1 (Media Bur. May 29, 2026).

ABC emphasizes the local programming provided by WABC-TV in the New York metropolitan area,⁸⁴ and Leader Jeffries' comment similarly asserts that "[a]n adverse outcome" would "threaten the continuation of the critical local coverage that millions of Tri-State families rely on."⁸⁵ But that prediction does not follow from the relief MRC seeks.

Nonrenewal would not remove the spectrum from service. It would allow the Commission to consider a successor applicant prepared to operate the station in the public interest.⁸⁶ If, as ABC and its supporters suggest, demand for broadcast service in the New York metropolitan area remains strong, that only reinforces the likelihood of qualified replacement applicants.⁸⁷ A successor licensee could choose to continue existing local programming or to provide comparable local coverage tailored to community needs.⁸⁸ Indeed, a successor not tied to ABC's network schedule might have greater flexibility to expand locally focused content.

Accordingly, the prediction that nonrenewal would eliminate local programming in New York or Connecticut is not supported by the facts and is devoid of all logic.

Conclusion

In exchange for the privilege of using publicly licensed spectrum, ABC and its stations assumed an obligation to operate in the public interest. MRC's petition and this reply show that ABC's opposition does not adequately answer the evidence that

⁸⁴ ABC Opposition, *supra*, at A12–A13.

⁸⁵ Jeffries Letter, *supra*, at 2.

⁸⁶ See 47 U.S. Code § 307–08.

⁸⁷ Jeffries Letter, *supra*, at 1.

⁸⁸ See *id.* at 1.

the stations engaged in repeated partisan electioneering, trafficked in misinformation, and justified political violence. Because continued use of public spectrum is not an unconditional entitlement, and because the First Amendment does not bar the Commission from enforcing the law, the Commission should grant the petition.

/s/ David Bozell

David Bozell

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/s/ Daniel Schneider

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