

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
KTRK Television, Inc. and	)	MB Docket No. 26-124
American Broadcasting Companies, Inc.	)	
	)	
Petition for Declaratory Ruling Under Section	)	
315(a) of the Communications Act of 1934,	)	
as Amended	)	

**COMMENTS OF FREE PRESS**

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## EXECUTIVE SUMMARY

In 2002 the FCC made a *Declaratory Ruling* that the ABC-produced daytime interview program *The View* met the qualifications to receive a *bona fide* news interview program exemption from the Equal Opportunities provisions contained in Section 315(a) of the Communications Act. Since then, the program has made thousands of broadcasts and interviewed dozens of candidates for political office, all without controversy.

That is until Chairman Carr, without justification, forced ABC to request a new exemption for *The View*, completely ignoring the *Declaratory Ruling*, the Commission's precedent implementing Section 315(a), as well as the existence of numerous other radio broadcast programs whose guest-booking decisions are indistinguishable from those of the producers of *The View*. This action, combined with the equally extraordinary FCC move to force ABC to file early renewal applications for its stations, comes after a months-long, sustained campaign by Carr and President Trump against ABC for continuing to employ Jimmy Kimmel, who tells jokes and makes political observations that anger Trump.

But in pursuing Carr's vendetta against ABC, the FCC Enforcement Bureau appears to have engaged in regulatory blackmail. According to the target of this proceeding, the FCC contacted other Texas ABC affiliates and directed them to submit Equal Opportunities notices in their stations' political files—notice that, like the ABC-owned affiliate KTRK, those stations apparently did not believe they were required to file. The Bureau even reportedly told those stations there would be no penalties for these late-filed notices the agency itself had extracted.

The Commission's actions have poisoned the well, depriving KTRK of a fair enforcement process, and depriving ABC of fair administration of Section 315(a) as it pertains to *The View*. Carr's agency's actions have been capricious, selective, and corrupt. The Commission is targeting KTRK and ABC with punitive action for its lawful speech, in order to chill ABC's and other broadcaster's First Amendment-protected speech.

The Commission therefore must rescind its March 26, 2026 request for KTRK to file the petition demanded in this proceeding, dismiss that petition as moot, and close this proceeding. It also should affirm that until such time as the Commission completes a review of its Section 315(a) policies, *The View*'s 2002 Declaratory Ruling remains undisturbed. In the alternative, the Commission should grant KTRK's petition, as *The View* clearly meets the Commission's established precedent as a *bona fide* news interview program under Section 315(a).

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## **I. The Commission’s Actions that Led to the *Notice* Were Capricious and Corrupt.**

Bad behavior does not need to be novel in order to shock the conscience. Yet the genesis of this proceeding<sup>1</sup> and the *Petition*<sup>2</sup> that the Enforcement Bureau directed KTRK to file are truly without precedent. And these events never would have arisen under any other FCC Chair, from any political party. Until Donald Trump elevated Brendan Carr, no other FCC Chair—not even the most political—would have even considered ignoring the law and their Constitutional duties like this, all in order to punish a licensee that did not fully capitulate to the demands of the President (even after that licensee literally paid tribute).<sup>3</sup>

But even before he took the gavel in January 2025, Chairman Carr has been using his power to threaten any media outlet that angers Donald Trump, and to cajole companies into taking actions they otherwise would not take in order to obtain favorable outcomes from Carr’s Commission. This includes a relentless drumbeat of threats, made against: public broadcasters like NPR and PBS<sup>4</sup>; late-night television hosts like Jimmy Kimmel,<sup>5</sup> Seth Meyers,<sup>6</sup> and Stephen

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<sup>1</sup> *FCC’s Media Bureau Seeks Comment on Petition by Disney’s ABC Asking the FCC to Declare that The View Qualifies as a Bona Fide News Interview Program and Thus Is Exempt from the Statutory Equal Opportunities Requirements*, MB Docket No. 26-124, Public Notice, DA 26-517 (rel. May 22, 2026) (“*Notice*”).

<sup>2</sup> *In the Matter of KTRK Television, Inc. and American Broadcasting Companies, Inc. Petition for Declaratory Ruling Under Section 315(a) of the Communications Act of 1934, as Amended*, MB Docket No. 26-124, Petition for Declaratory Ruling (filed May 7, 2026) (“*Petition*”).

<sup>3</sup> See Michael M. Grynbaum and Alan Feuer, “ABC to Pay \$15 Million to Settle a Defamation Suit Brought by Trump,” *New York Times* (Dec. 14, 2024).

<sup>4</sup> See, e.g., Benjamin Mullin and David McCabe, “F.C.C. Chair Orders Investigation Into NPR and PBS Sponsorships,” *New York Times* (Jan. 30, 2025).

<sup>5</sup> See, e.g., “A timeline of Trump’s fights with media, including Jimmy Kimmel,” *Associated Press* (Sept. 26, 2025).

<sup>6</sup> See, e.g., Shania Russell, “FCC Chairman backs Donald Trump’s demand that NBC fire Seth Meyers ‘immediately,’” *Entertainment Weekly* (Nov. 15, 2025).

Colbert;<sup>7</sup> national networks like ABC,<sup>8</sup> CBS<sup>9</sup> and NBC,<sup>10</sup> and the local affiliates that carry their programming<sup>11</sup>; and even against foreign media not subject to FCC oversight.<sup>12</sup> In many of these instances, Chairman Carr's actions were directly preceded by a Trump Truth Social rant about some imagined or trivial slight the president suffered at the hands of the media.<sup>13</sup>

But while an FCC Chairman making bellicose threats that please a felonious President is troubling in its own right, in this proceeding the Media Bureau ( under the direction of the Chairman) went a step further and engaged in highly unethical behavior. This Commission abused its authority over broadcast license holders in order to manufacture supposed evidence to use against KTRK.

Here are the facts. After being the butt of jokes told on late night interview programs during his 2016 campaign and early days as President, Mr. Trump began steadily lashing out at the hosts of those programs and the parent networks. He publicly mused about "Equal Time" (using all capital letters), and whether the policy could be used against the networks and the late

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<sup>7</sup> See, e.g., Katie Hawkinson, "FCC Chair Brendan Carr claps back at Stephen Colbert over 'Late Show' interview controversy," *The Independent* (Feb. 26, 2026).

<sup>8</sup> See, e.g., Brian Stelter, "How Brendan Carr, the attack-dog FCC chair, helped take down Jimmy Kimmel with words, not actions," *CNN* (Sept. 18, 2025).

<sup>9</sup> See, e.g., John Hendel, "'It's the threats that are the point': How Brendan Carr exerts his FCC power," *Politico* (Sept. 27, 2025).

<sup>10</sup> See Lisa de Moraes, "Donald Trump Vows To 'Revoke' Licenses Of 'Fake News' Networks In Latest Tweet," *Deadline* (Oct. 11, 2017).

<sup>11</sup> See Brent D. Griffiths, "Trump cites FCC equal time rule in dig at 'unfunny' late-night comedians," *Politico* (Oct. 7, 2017).

<sup>12</sup> Dominic Preston, "Brendan Carr's FCC launches probe into BBC's Trump edit," *The Verge* (Nov. 20, 2025).

<sup>13</sup> See Nikki McCann Ramirez and Ryan Bort, "A Timeline of Donald Trump and Jimmy Kimmel's Never-Ending Feud," *Rolling Stone* (Apr. 28, 2026).

night hosts. Though he did not initially dismiss this notion outright,<sup>14</sup> Chairman Pai had enough sense, independence, and integrity not to entertain the President’s grievances against late night hosts and their parent networks, beyond receiving and reviewing complaints.<sup>15</sup>

But Trump continued to look for ways he could use the power of the federal government to silence comedians and punish their employers. In 2018, Trump reportedly “directed his White House staff to call up one of Disney’s top executives in Washington, D.C., to complain and demand action” against Kimmel.<sup>16</sup> In 2019, reacting to a *Saturday Night Live* broadcast, Trump reportedly asked his advisors if the FCC or Department of Justice could “probe or mitigate” Kimmel, *Saturday Night Live*, and other broadcast TV voices.<sup>17</sup> Trump continued to rail against Kimmel during the 2024 election season, notably during the 2024 Academy Awards broadcast, which Kimmel hosted.<sup>18</sup> Trump’s rants continued throughout the 2024 campaign, including while he was on trial facing 34 felony counts for falsifying business records.<sup>19</sup>

Before and after the election, and long before Trump’s second inauguration happened and the new chairman was installed, Brendan Carr got to work facilitating the “revenge tour” that

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<sup>14</sup> See “Stephen Colbert investigated over ‘homophobic’ anti-Trump joke,” *BBC News* (May 7, 2017).

<sup>15</sup> See Ted Johnson, “FCC Won’t Take Action Over Stephen Colbert’s Trump Remarks,” *Variety* (May 23, 2017); see also Dade Hayes, “FCC Chairman Ajit Pai Finally Breaks Silence On Trump Media Attacks: ‘Fake News’ Label ‘Not In FCC’s Jurisdiction,’” *Deadline* (Oct. 17, 2017) (quoting Pai as saying “I believe in the First Amendment. The FCC under my leadership will stand for the First Amendment. And under the law, the FCC does not have the authority to revoke a license of a broadcast station based on the content of a particular newscast.”).

<sup>16</sup> Asawin Suebsaeng and Adam Rawsley, “Trump White House Pressured Disney to Censor ... Jimmy Kimmel,” *The Daily Beast* (Feb. 26, 2023).

<sup>17</sup> See Asawin Suebsaeng, “Trump Wanted His Justice Department to Stop ‘SNL’ From Teasing Him,” *The Daily Beast* (June 22, 2021).

<sup>18</sup> See Chris Murphy, “Donald Trump Thinks Jimmy Kimmel Was a ‘Lousy’ Oscar Host,” *Vanity Fair* (Mar. 18, 2024).

<sup>19</sup> See Kevin Dolak, “Jimmy Kimmel, Stephen Colbert Fire Back at Donald Trump Over Renewed Oscars Criticism,” *The Hollywood Reporter* (Apr. 18, 2024).

Trump said he was “entitled to.”<sup>20</sup> On November 19, 2024, Carr went on Fox News threatening to use his forthcoming authority as FCC Chair to block Paramount CBS’s merger with Skydance, based on a meritless lawsuit brought by Trump against Paramount for the contents of a *60 Minutes* broadcast.<sup>21</sup> Less than a month later, perhaps seeking to avoid unwarranted FCC attention, ABC settled a lawsuit brought by Trump over a statement made by the host of ABC’s *This Week*<sup>22</sup>—a suit many legal observers considered unwinnable for Trump.<sup>23</sup> This \$15 million capitulation in the form of a “donation” emboldened Trump to go after other media firms.

Indeed, eager to close her deal that was held up at the FCC, Paramount majority shareholder Shari Redstone settled Trump’s *60 Minutes* lawsuit and agreed to donate \$16 million to the Trump library project, and reportedly even made a “secret side deal” that included “PSA advertisements and other broadcast transmissions that support conservative causes supported by President Trump.”<sup>24</sup> Notably, the Commission’s approval of the Paramount-Skydance deal also came just days after CBS canceled *The Late Show with Stephen Colbert*.<sup>25</sup> Responding to this news, Trump wrote “I hear Jimmy Kimmel is next. Has even less talent than Colbert!”<sup>26</sup>

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<sup>20</sup> See Ryan Bort, “Trump Says He’s ‘Entitled’ to ‘Revenge Tour’ if He Wins in 2024,” *Rolling Stone* (Feb. 2, 2023).

<sup>21</sup> See Corbin Bolies, “Trump’s FCC Pick Threatens to Kill Skydance-Paramount Deal Over CBS,” *The Daily Beast* (Nov. 19, 2024).

<sup>22</sup> See Michael R. Sisak, “ABC agrees to give \$15 million to Donald Trump’s presidential library to settle defamation lawsuit,” *Associated Press* (Dec. 14, 2024).

<sup>23</sup> *Supra* note 3.

<sup>24</sup> See Charles Gasparino, “How secret ‘side deal’ helped seal Paramount’s \$16M settlement with Trump — and here’s who deserves the credit,” *California Post* (July 2, 2025).

<sup>25</sup> See Mahima Kapoor, “US greenlights Paramount-Skydance merger,” *Reuters* (July 24, 2024); see also Richard Connor, “CBS axes Colbert’s ‘The Late Show’ after Trump deal quip,” *Reuters* (July 18, 2025).

<sup>26</sup> See Todd Spangler, “Trump Says ‘I Absolutely Love’ That Stephen Colbert Got ‘Fired’ and ‘I Hear Jimmy Kimmel Is Next’,” *Deadline* (July 18, 2025).

Yet ABC’s capitulation did not prevent it from facing questionable and selective FCC attention. According to ABC, it “received a Letter of Inquiry from the Enforcement Bureau on June 5, 2025” investigating the company for supposed unlawful discrimination, stemming from its anodyne Diversity, Equity and Inclusion (“DEI”) policies.<sup>27</sup> ABC stated that it responded to this inquiry in cooperation with the Commission, and heard nothing from the agency on this matter until “the Enforcement Bureau issued an expansive Supplemental LOI on February 20, 2026.”<sup>28</sup> The company said it complied with that request by April 21, 2026. But on April 24, Jimmy Kimmel made more remarks that disturbed President Trump. And lo and behold, on April 28, the Commission issued its extraordinary *Early Renewal Order*, based on what Carr characterized as ABC not being “forthcoming” in its earlier investigation response.<sup>29</sup>

Meanwhile, in September 2025, Chairman Carr directly threatened ABC’s licenses over a comment Kimmel made on the September 15 broadcast of *Jimmy Kimmel Live*. The comment suggested that some politicians were eager to capitalize on the murder of right-wing commentator Charlie Kirk, whose murder Kimmel condemned. Hours later, Chairman Carr went on a podcast and threatened ABC’s licenses, stating “we can do this the easy way or the hard way. These companies can find ways to change conduct and take action, frankly, on Kimmel, or there’s going to be additional work for the FCC ahead.”<sup>30</sup> Days later, Carr did not back down. During an interview on CNBC, he asserted that he was not responding to offense over a joke, but

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<sup>27</sup> See *The Walt Disney Company et al.*, Order, DA 26-416 (Med. Bur. Apr. 28, 2026) (“*Early Renewal Order*”); WABC-TV, Objection to Unlawful Early Renewal, *In the Matter of Early License Renewal Applications of Disney's ABC Stations*, MB Docket No. 26-131, at 11 (2026).

<sup>28</sup> *Id.*

<sup>29</sup> Alex Weprin, “FCC Chairman Says ABC License Move ‘Unrelated’ to Jimmy Kimmel: ‘They Were Playing Rope a Dope’,” *Hollywood Reporter* (Apr. 30, 2026).

<sup>30</sup> Daniel Dale, “Fact check: Vance, rewriting last week’s history, claims FCC chair just made a ‘joke’ about Kimmel,” *CNN* (Sept. 25, 2025).

to Kimmel “mislead[ing] the American public about a significant fact.” Yet Carr himself proceeded to mislead the public on the extent of the FCC’s public interest authority. Chillingly, and portending his actions that culminated in this and the related early ABC license renewal proceeding, Carr stated later in the interview that the U.S. is “in the midst of a massive shift in dynamics in the media ecosystem for lots of reasons, again, including the permission structure that President Trump’s election has provided. And I would simply say we’re not done yet with seeing the consequences of that.”<sup>31</sup> The notion of an election providing “permission” for the federal government to police speech is shocking, but Carr persisted.

He was true to his word about more “consequences” for ABC. In addition to the previous DEI-related investigation, on February 11, 2026, the FCC Media Bureau sent a Letter of Inquiry (“LOI”) to ABC-owned KTRK about Texas Senatorial candidate James Talarico’s appearance on the February 2 episode of *The View*.<sup>32</sup> According to KTRK, the Bureau asked whether the station had placed a record of the Talarico appearance in its “political file” and whether KTRK took the position that *The View* qualified as a *bona fide* news interview program.<sup>33</sup> KTRK quickly responded, saying *The View* qualified as a *bona fide* news interview program and, accordingly, the station had not placed a record of the Talarico appearance in its political file.<sup>34</sup>

On March 26, 2026, the Commission sent KTRK a Supplemental LOI requesting more information.<sup>35</sup> According to KTRK, the FCC Enforcement Bureau stated in this letter that “19 ABC affiliates serving parts of Texas all filed a notice of Mr. Talarico’s February 2 appearance

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<sup>31</sup> See Meredith Kile, “FCC Chair Brendan Carr Warns ‘We’re Not Done Yet’ After Jimmy Kimmel Is Pulled Off the Air,” *People* (Sept. 18, 2025) (emphasis added).

<sup>32</sup> *Petition* at 2–3.

<sup>33</sup> *Id.* at 3.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

on *The View* pursuant to 47 CFR § 73.1943.”<sup>36</sup> The letter further stated that “the assertion by KTRK Television, Inc. that *The View* qualifies for the *bona fide* news interview exception is not a position uniformly held by broadcasters that air the program.”<sup>37</sup> Now, if it were the case that literally every other ABC affiliate in Texas that aired this episode of *The View* except KTRK had decided without prompting to make such a filing, despite the FCC’s 2002 *Declaratory Ruling* that *The View* met the qualifications of a *bona fide* news interview program,<sup>38</sup> that would be noteworthy. However, according to KTRK, “while certain ABC affiliates documented Talarico’s appearance in their online public inspection files, the filings were made more than two weeks after Talarico’s appearance and apparently at the request of the FCC, which reportedly promised to eschew enforcement for the late filing. KTRK Television received no such request and no such offer, despite the Bureau specifically contacting it about the Talarico appearance less than 10 days after it occurred.”<sup>39</sup>

If KTRK’s recounting is accurate, there is no escaping that the Commission specifically engaged in egregiously capricious behavior, pressuring other FCC licensees to make filings that they otherwise would not have made, in order to manufacture this proceeding against ABC-owned KTRK. The Enforcement Bureau’s March 26 letter asserted that KTRK’s opinion on *The View*’s qualification for the *bona fide* news interview exception is “not a position uniformly held by broadcasters that air the program.” But Chairman Carr’s bureau staff made that assertion fully knowing that none of the other 19 Texas-based ABC affiliates had filed a timely Equal Time notice in their political files. Manufacturing this discrepancy, in contravention

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Letter from Robert Baker, Chief, Office of Political Programming, Policy and Rules Division, Mass Media Bureau, FCC, to ABC, Inc. (Mar. 1, 2002) (“*Declaratory Ruling*”).

<sup>39</sup> *Id.* at 3–4 (emphasis added).

of the 2002 *Declaratory Ruling* and undeniably in the service of the Chairman's and the President's vendetta against ABC, is unquestionably corrupt. The Commission apparently contacted all 19 other affiliates, asked them to file political file notices, and promised they would not be sanctioned for these unnecessary but putatively late filings. This is especially egregious regulatory blackmail considering that most of these other stations are licensed to broadcasters who had at the time or still have pending deals before the Commission.<sup>40</sup>

There is only one conclusion to draw from this chain of events: Brendan Carr is running a rogue agency, and he has abused his power, all in order to attack the President's enemies and chill constitutionally protected speech.

## **II. The Commission is Selectively Applying the Law.**

Chairman Carr claims that he's simply looking out for the public's interest, and not carrying out a politically motivated vendetta against ABC and the President's enemies.<sup>41</sup> But this claim quickly falls apart when considering Carr's explicit efforts here to exclude right-wing talk radio broadcast programs from his review of the equal opportunities rule. Many of those programs are blatantly partisan, and they likewise interview qualified candidates for public office. These radio programs, unlike *The View*, do not have an explicit FCC declaratory ruling exempting them from Section 315(a)<sup>42</sup> of the Act.<sup>43</sup> Without any sense of irony, after saying "if you're fake news, you're not going to qualify as the bona fide news exception," Carr said "there

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<sup>40</sup> Among the 19 other Texas-based ABC affiliates, four are licensed to Sinclair, four are licensed to Tegna, three are licensed to Gray Media, two are licensed to Nexstar, and two are licensed to Scripps.

<sup>41</sup> See, e.g., "Klobuchar Questions Carr on Censorship and Free Speech at FCC Oversight Hearing," Press Release (Dec. 17, 2025).

<sup>42</sup> 47 U.S.C. § 315(a).

<sup>43</sup> *Petition* at 38.

wasn't a relevant precedent that we saw that was being misconstrued on the radio side."<sup>44</sup> It's as if the news exemption specifically granted to the ABC program somehow provides it with less protection and precedent, not more—an utterly illogical and upside-down reading of agency practice and precedent in order to serve Carr's naked political goals and his agenda to suppress dissent.

This all begs the question of what standards Carr is using to discern what he calls “fake news” from *bona fide* news interview programs? It certainly does not appear to be the standard that Congress had in mind when it amended Section 315(a).<sup>45</sup> When comparing Talarico's appearance on *The View* to candidate appearances on numerous right-wing radio broadcasts, the first two prongs of the Commission's criteria<sup>46</sup> are met by all of these programs: they are regularly scheduled, and the broadcaster or independent producer (as opposed to the candidate) controls the content of the program.

That then leaves only the third prong: “whether the broadcaster's or independent producer's decisions on format, content, and participants are based on newsworthiness rather than on an intention to advance or harm an individual's candidacy.”<sup>47</sup> After comparing the body

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<sup>44</sup> John Hendel, “Talk radio isn't a target of FCC's ‘equal time’ notice, Brendan Carr says,” *Politico* (Jan. 29, 2026).

<sup>45</sup> *Petition* at 14 (“While Congress did not attempt to specifically define the types of programs that would qualify as *bona fide* news interviews, the legislative history identified factors such as whether a program is ‘regularly scheduled,’ and whether its ‘content and format’ are ‘determined by the licensee’ or by the network ‘in the exercise of its “bona fide” news judgement and not for the political advantage of the candidate for public office.”) (internal citations omitted).

<sup>46</sup> *See, e.g., Hearst Television Inc., Declaratory Ruling*, 31 FCC Rcd 7191, 7192–93 (2016) (“The Commission considers the following factors when determining whether a program qualifies as a ‘bona fide news interview’: (1) whether the program is regularly scheduled; (2) whether the broadcaster or an independent producer controls the program; and (3) whether the broadcaster's or independent producer's decisions on format, content, and participants are based on newsworthiness rather than on an intention to advance or harm an individual's candidacy.”).

<sup>47</sup> *Id.*

of work of all of these programs and their hosts, producers, and parent networks, a rational observer could sensibly conclude that the right-wing radio shows are indistinguishable from so-called “homer” local sports radio team broadcasts.<sup>48</sup> These hosts clearly are rooting for their political “team.” Carr does not see it that way. He has concluded that *The View* is “fake news,” and that “there wasn’t a relevant precedent that we saw that was being misconstrued on the radio side.” Thus the existence of this extraordinary proceeding implies that Carr believes *The View*’s February 2 broadcast was intended to advance Talarico’s candidacy, or cause harm to the candidacy of his primary opponent, Rep. Jasmine Crockett (D-TX), who also appeared on *The View* less than one month prior. But there’s no evidence that *The View* or any of these right-wing radio broadcasts are operating based on anything other than the respective producer’s sense of “newsworthiness,” which for most for-profit ad-supported broadcasters equates to attracting and retaining a share of the public that is interested in politics. Certainly there’s no evidence that *The View* approached its interviews with the 2026 Texas Senate candidates any differently than various-right wing radio programs did. And because of that, the only rational conclusion in light of the full context is that Chairman Carr is selectively enforcing the law and the Commission’s rules, in an arbitrary and capricious manner that targets ABC because some of its First Amendment-protected speech offended the President.

### **III. The Commission is Purposefully Targeting KTRK with Punitive Action for Its Lawful Speech, with the Express Purpose of Chilling ABC’s and Other Broadcasters’ First Amendment-Protected Speech.**

Carr’s conduct and the agency actions he has orchestrated clearly constitute unlawful jawboning.<sup>49</sup> However, if a licensee makes the calculated decision to not fully protect its rights

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<sup>48</sup> “‘A Homer Broadcaster’,” *Stanford Magazine* (Dec. 2017).

<sup>49</sup> *See, e.g., National Rifle Association of America v. Vullo*, 144 S.Ct. 1316, 1328 (2024) (“[A] government official cannot do indirectly what she is barred from doing directly: A government official cannot coerce a private party to punish or suppress disfavored speech on her behalf.”).

against such actions, in order to not further anger this lawless Executive branch, the public has little recourse. Those harmed by such conduct include not only ABC and Jimmy Kimmel, but every single news organization, and the public itself, which is likely to be deprived of critical journalism stemming from the chilling effects of Carr’s bullying, corruption, and misstatements of the law.

Indeed, this unprecedented abuse of power and the impact it has on the public beyond ABC has managed to unite lawmakers who rarely agree on much of anything. Earlier this month, when introducing the bipartisan Justice Against Weaponized Bureaucratic Overreach to Networked Expression Act (or “JAWBONE Act”), Senator Ron Wyden (D-OR) noted that “regular Americans can’t count on [] companies to stand up to government jawboning, they need a way to level the playing field.”<sup>50</sup> Co-sponsor Senator Ted Cruz (R-TX) noted that “holding the government accountable and giving Americans the tools to fight back is essential.”<sup>51</sup> Chairman Carr should probably stop and reflect on how his conduct helped prompt two leaders from opposite ends of the political spectrum to unite, to codify an express private right of action (by an aggrieved party or state attorney general on the public’s behalf) to sue a government employee for jawboning and recover damages even after the official leaves their position.<sup>52</sup>

Carr seems to have grown fond of hiding behind his newly embraced fig leaf of protecting the “public interest” by dictating television content, which seems to equate in Carr’s mind to little more than advancing Donald Trump’s interests and protecting his ego. Yet this

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<sup>50</sup> “Cruz, Wyden Introduce Legislation to Guard First Amendment Speech Rights Against Government Jawboning,” U.S. Senate Committee on Commerce, Science & Transportation, Republican Press Release (June 11, 2026).

<sup>51</sup> *Id.*

<sup>52</sup> Justice Against Weaponized Bureaucratic Overreach to Networked Expression Act, S.\_\_\_\_, 119th Cong. § 2 (2026).

concept is one that is not explicitly defined in law,<sup>53</sup> but one that is built upon precedent. And prior to 2025 when he was given the power to make the kind of threats detailed above, Carr himself said the Commission had not properly defined the public interest standard.<sup>54</sup> The Commission has the authority to interpret the meaning of “the public interest,” but that interpretation cannot be arbitrary and capricious. It cannot be selectively interpreted, in a manner that is inconsistent with the Constitution and the Communications Act. And the Communications Act is unambiguous: “No regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.”<sup>55</sup> But all of Chairman Carr and the Bureau’s actions against ABC demonstrate that this Commission is conditioning the broadcaster’s ability to air certain types of programs and even its ability to hold FCC licenses on ABC’s decision to continue to air *Jimmy Kimmel Live*.

And it doesn’t stop with ABC. Chairman Carr has made it abundantly clear that broadcasters and other firms’ FCC licenses are conditionally granted based purely on whether or not those licensees successfully navigate the political “permission structure” he’s implemented on President Trump’s behalf.<sup>56</sup> This abhorrent speech-chilling behavior is befitting of an autocrat, not an erstwhile independent agency head who actually cares about the interest of all of the public and upholds the First Amendment.

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<sup>53</sup> See Comments of Free Press, MB Docket No. 17-318, at 27 n.74 (filed Aug. 4, 2025).

<sup>54</sup> “CNBC Transcript: Exclusive: FCC Commissioner & President-Elect Trump’s Pick for FCC Chairman Brendan Carr Speaks with CNBC’s ‘Squawk on the Street’ Today,” *CNBC* (Dec. 6, 2024).

<sup>55</sup> 47 U.S.C. § 326.

<sup>56</sup> *Supra* note 31.

**IV. The Commission Should Rescind its Original Request for KTRK to file the Petition for Declaratory Ruling, Dismiss the Petition as Moot, and Close this Proceeding. In the Alternative, the Commission Should Grant KTRK’s Petition, as *The View* Meets the Standard as a *Bona Fide* News Interview Program.**

Chairman Carr’s actions, and those of the Media and Enforcement Bureaus he directed in this matter, are beyond the pale. He has irreversibly rendered this Commission incapable of carrying out its duties to uphold and enforce Section 315(a). This is the case for ABC-produced programs, but also any other *bona fide* newscast or news interview broadcast. All FCC-licensed stations are now effectively under prior restraint, knowing that this FCC is willing to engage in unethical behavior that manufactures “evidence” against the President’s enemies, even if the licensee is in full compliance with the law, the Commission’s rules, and its past decisions too.

The Commission’s actions have poisoned the well, depriving KTRK of a fair enforcement process, and depriving ABC of fair administration of Section 315(a) as it pertains to *The View*. The Commission therefore must rescind its March 26, 2026 request for KTRK to file the *Petition*, dismiss the *Petition* as moot, and close this proceeding. It also should affirm that until such time as the Commission completes a review of its Section 315(a) policies, *The View*’s 2002 *Declaratory Ruling* remains undisturbed.

In the alternative, the Commission should grant KTRK’s *Petition*, as *The View* clearly meets the Commission’s established precedent as a *bona fide* news interview program under Section 315(a). *The View* is regularly scheduled;<sup>57</sup> ABC produces and controls the program,<sup>58</sup> and according to ABC, the “Executive Producer of *The View* bases all decisions related to the format, content, and participants, including interviews of political candidates and other newsmakers, on

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<sup>57</sup> *Petition* at 29-30.

<sup>58</sup> *Id.* at 30-31.

the good faith judgments of newsworthiness and audience interest and not for the purpose of supporting or opposing any particular candidate or for any other partisan purpose.”<sup>59</sup>

#### **V. Constitutional Questions About Section 315 Are Outside the Scope of this Proceeding.**

No serious person is buying the Chairman’s explanation that his actions against ABC are legitimate public interest enforcement exercises. Based on past statements, it is clear that Carr does not think any structural or functional regulations should be placed on broadcasters—certainly not ones that would reach, even indirectly, into the content of the programming.<sup>60</sup> And though this proceeding and the related early license renewal proceeding are transparently Carr’s gleeful attempt to enact retribution against Donald Trump’s perceived enemies, we’ve little doubt that the Chairman would be pleased to see the courts strike down Section 315(a) and overrule the cases underlying the statute.

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<sup>59</sup> *Id.* at 31.

<sup>60</sup> *See, e.g.*, “FCC Commissioner Carr Responds to Democrats’ Efforts to Censor Newsrooms,” Commissioner Brendan Carr Press Release (Feb. 22, 2021) (“Debate on matters of public interest should be robust, uninhibited, and wide open. More speech is better than less. Yet the concerted effort by Democrats to drive political dissent from the public square represents a marked departure from these First Amendment norms. A newsroom’s decision about what stories to cover and how to frame them should be beyond the reach of any government official, not targeted by them.”); *see also* “Democrats Pressure FCC to Deny Sale of Spanish-Language Radio Station in Florida Based on Political Viewpoints,” Commissioner Brendan Carr Press Release (Apr. 19, 2021) (“This is a deeply troubling transgression of free speech and the FCC’s status as an independent agency. I call on my FCC colleagues to join me in publicly rejecting this attempt to inject partisan politics into our licensing process.”); *Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements*, MB Docket No. 24-211, Notice of Proposed Rulemaking, 39 FCC Rcd 8943, 8982 (2024) (dissenting statement of Commissioner Carr) (“[I]n grasping for authority, the FCC breathes new life into sweeping, decades-old agency precedents that are far from limited to disclosure requirements. In particular, the agency’s decision reaches back to a policy statement from the 1960s that announced the FCC’s expectation for broadcasters to ‘take all reasonable measures to eliminate any false, misleading, or deceptive matter’ on penalty of license revocation. In other words, the authority the FCC claims today is one that, by its own terms, would empower the FCC to operate as the nation’s speech police.”).

However, this proceeding’s central question is easily answered. *The View* clearly meets the requirements for a *bona fide* news interview program. Therefore the Commission need not—and should not—engage with the constitutional questions raised in KTRK’s *Petition*. Any such Constitutional questions and questions about revising the *Donahue Decision* should only be addressed in a broader, broadcast industry-wide proceeding.<sup>61</sup> And unfortunately, that proceeding would be tainted from the start without Chairman Carr’s recusal.

## **VI. Conclusion**

There isn’t even any veneer in this proceeding of the Commission probing legitimate regulatory compliance. There is however enough evidence to demonstrate a clear nexus between the Enforcement Bureau’s request for KTRK to file the *Petition*, and the Chairman’s vendetta on behalf of the President against ABC because of the content of *Jimmy Kimmel Live*.

Chairman Carr mistakenly believes he has power to shake down media companies, censor broadcasters, and punish newsrooms that won’t twist their coverage to placate an erratic and image-obsessed president. He likes to pretend he’s the Minister of Truth when it comes to “correcting” news coverage about this administration. In reality, the law is crystal clear: The FCC is explicitly prohibited from dictating the editorial decisions of national news networks, late-night television programs, local newscasts, or any other media outlet. This proceeding never should have been opened, as *The View* has done nothing to warrant a rescission of the 2002 *Declaratory Ruling*, and remains a *bona fide* news interview program under existing law and Commission precedent. Therefore the Commission should rescind its original request for KTRK to file the *Petition*, dismiss the *Petition* as moot, and close this proceeding. In the alternative, the Commission should grant the *Petition*.

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<sup>61</sup> *Request by Multimedia Entertainment, Inc. for Declaratory Ruling*, Memorandum Opinion and Order, 56 Rad. Reg. 2d 143 (1984) (“*Donahue Decision*”).

Respectfully Submitted,

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