

President Moves To Supervise FCC

After being sworn in on January 20, President Trump has issued an Executive Order to bring what he described as “so-called independent agencies” within the scope of presidential supervision and control. The agencies in question include the Federal Communications Commission, the Federal Trade Commission, the Federal Elections Commission, and the Securities and Exchange Commission, among others.

These agencies are not organized within any cabinet-level department of the executive branch of the federal government, and hence are often referred to as “independent agencies.” Subject to confirmation by the Senate, the President appoints the commissioners in these agencies to terms for a fixed period of time that may extend beyond the term of the President who appoints them. They are otherwise designed by statute to be largely independent of the other branches of government. Their decisions are subject to review only by the courts. The Communications Act of 1934, which is the

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Copyright Office Inquires About PROs

The United States Copyright Office has issued a *Notice of Inquiry* (90 FR 9253) in Docket 2025-1 to gather information about the fragmentation of the system for collecting copyright royalties for the public performance of musical works. The Judiciary Committee of the U.S. House of Representatives has asked the Copyright Office to conduct this inquiry, especially with a view toward two concerns: (1) the increase in the number of Performing Rights Organizations (“PROs”), and (2) assessing how efficiently PROs are distributing general licensing revenue.

PROs act as intermediaries between copyright owners and parties that conduct public performances of those owners’ copyrighted works. A PRO contracts with songwriters and publishers for the authority to license the public performance rights in their musical works. The PRO then provides collective public performance licenses for those rights to users for the works in its repertoire. The licensees for these

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FCC To Consider ‘60 Minutes’ News Distortion Complaint

The FCC’s Enforcement Bureau has launched a proceeding to consider a complaint lodged against WCBS(TV), New York, concerning news distortion. The Center for American Rights (“CAR”) submitted the complaint in which it alleged that CBS distorted Vice President Kamala Harris’s response to questions in a news interview broadcast as part of the “60 Minutes” program on October 6, 2024. The Bureau has released a *Public Notice* (DA 25-107) to invite public comment on the matter in Docket 25-73.

According to CAR’s account, the Vice President appeared on the CBS program “Face the Nation” on October 5, 2024. She was interviewed by CBS journalist Bill Whitaker. He posed a comment about Israeli Prime Minister Benjamin Netanyahu, concluding, “But it seems that Prime Minister Netanyahu is not listening.” In the recording of that interview, Harris is shown as responding, “Well, Bill, the work that we have done has resulted in a number of movements in that region by Israel that were very much prompted by or a result

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Chairman Carr Launches DEI Inquiry About Comcast

FCC Chairman Brandan Carr has initiated an investigation of Comcast and its subsidiary, NBCUniversal, concerning those companies' DEI [diversity, equity, inclusion] practices and policies. Chairman Carr has informed Comcast CEO Brian Roberts that the Commission's Enforcement Bureau will be conducting the investigation and thanked him in advance for his cooperation. In an unpublished letter to Roberts, Carr wrote, "I want to ensure that your companies are not promoting invidious forms of discrimination in violation of FCC regulations and civil rights laws."

Chairman Carr continued: "As you know, the Communications Act and Commission rules prohibit regulated entities – like Comcast and NBCUniversal – from discriminating on the basis of race, color, religion, and national origin, age, or gender. Indeed, the FCC's longstanding Equal Employment Opportunity or EEO rules set forth specific requirements that both Comcast and NBCUniversal must adhere to.

"Nonetheless, I am concerned that Comcast and NBCUniversal may be promoting invidious forms of DEI in a manner that does not comply with FCC regulations. For instance, Comcast states on its website that promoting DEI is 'a core value of our business' and public reports state

that Comcast has an entire 'DEI infrastructure' that includes annual 'DEI day[s],' 'DEI training for company leaders,' and similar initiatives. NBCUniversal has similar DEI initiatives including executives specifically dedicated to promoting DEI across the TV and programming side of the business.

"But promoting invidious forms of discrimination cannot be squared with any reasonable interpretation of federal law. It can only deprive Americans of their rights to fair and equal treatment under the law."

Carr referred to the actions he has taken in recent weeks to end the promotion of DEI by the FCC. He then committed to take action to ensure that every entity the FCC regulates complies with the civil rights protections afforded by the Communications Act and the agency's EEO rules. He said that in his role as Chairman of the FCC, it is important to him that the entities the Commission regulates fully adhere to the agency's rules and regulations.

Carr directed Roberts to provide to the Enforcement Bureau an accounting of Comcast's and NBCUniversal's DEI initiatives, preferences, mandates, policies, programs and activities, including DEI activities that may be operating under different labels. He told Roberts to expect a follow-up communication from the Enforcement Bureau.

Data Requested About Loud Commercials

The number of complaints about the loudness of television commercials received by the FCC has increased significantly in the last year. The Commission makes this observation in a *Notice of Proposed Rulemaking* (FCC 25-16) in Docket 25-72. The agency has launched this proceeding to investigate the incidence of loud commercials and to determine what remedies there may be for the problem.

The Commercial Advertisement Loudness Mitigation Act, or CALM Act, was enacted by Congress in 2010 in response to consumer complaints about commercials in television programming that were noticeably louder than the programming they accompanied. This legislation directed the FCC to adopt a technical standard that had been developed by the television industry to prevent commercials from being transmitted more loudly than the adjacent programming. In 2011, the Commission adopted rules implementing the statute that require television stations and multichannel video programming distributors ("MVPDs") to ensure that all commercials are transmitted to consumers at the appropriately compliant loudness level. The standard requires that the average loudness of a commercial not exceed the average loudness of the

surrounding programming.

If the Commission becomes aware of a pattern or trend of complaints about a station or MVPD, it will require a 24-hour spot check of the programming being transmitted on the channel or program stream to verify compliance with the rule. Stations and MVPDs will be deemed to be in compliance if they demonstrate that in the ordinary course of business they are using mitigation equipment that meets the standard for commercials that they insert into their program streams. The rules establish safe harbors for programmers and third parties based on certifications and periodic testing for commercials that they insert.

The Commission says that in 2024, it "saw a significant uptick in complaints about loud commercials on broadcast television, cable, and satellite." The agency has therefore decided to develop a record in this proceeding to help it and the public to better comprehend the outstanding issues in this area.

The FCC asks commenters whether there are times of the day, specific channels, or particular advertisements that are consistent sources of irritation for consumers. The

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Station-Sponsored Music Event Investigated for Payola Violations

Senator Marsha Blackburn (R-TN) has asked the FCC to investigate whether radio stations may be pressuring or enticing artists to perform at the stations' sponsored concerts and/or promotional events by connecting such appearances to the number of broadcasts of the performers' songs. She suggests that a station offering air time for an artist's songs if the performer appears for free at a station event might be a form of payola. Payola occurs when a station or station personnel receive money or anything else of value as consideration in exchange for broadcasting certain content without disclosing to the audience that the content was selected for airplay because of the valuable consideration.

Payola is a violation of the United States Criminal Code, the Communications Act, and the FCC's Rules. The perpetrator of a criminal payola violation can be subject to a fine of up to \$10,000 and/or a prison term of up to one year.

FCC Chairman Brendan Carr committed to having the Enforcement Bureau look into this issue. Shortly thereafter, the Bureau released an FCC Enforcement Advisory entitled *Covert Manipulation of Radio Airplay Based on Artist Participation in Promotions or Events Violates FCC Payola Rules* (DA 25-104). The Advisory explains that Section 507 of the Communications Act requires persons who have paid, accepted, or agreed to pay or accept payments in exchange for airplay to report that fact to the station licensee before the content in question is broadcast. In turn, Section 317 of the Communication Act requires the licensee to announce that the content in question is paid for, and to disclose the identity of the person furnishing the money or other valuable consideration.

The Advisory further recounts that each broadcast licensee is required to "exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals" information to enable it to comply with

the sponsorship identification obligations of the law. The Advisory noted that the "reasonable diligence" standard may require a higher duty of care by stations whose formats or other circumstances make them more vulnerable to payola. The Bureau said, for example, that it would expect a station that reports to record charting services to demonstrate greater diligence to prevent improper conduct by its staff than would an all news/talk station. The Advisory counsels that a music reporting station may fall short of the "reasonable diligence" standard if it requires its employees to do nothing more than execute affidavits that they will comply with the payola laws. The Advisory intones that stations that host promotions or events that include artists (whether or not the artists are compensated for their appearance) must take appropriate steps to ensure that all such events comply with the payola rules. The Advisory does clarify that a performer's decision to appear at an event without compensation is permissible, provided that nothing about the situation would violate the payola rules.

Eighteen days after the Enforcement Advisory was issued, FCC Chairman Carr sent an unpublished letter to Robert Pittman, the CEO of iHeartMedia, demanding a detailed explanation of the company's plans and preparations for the iHeartCountry Festival '25, to be held in Austin, Texas, on May 3. Carr said that he wanted to ensure that as iHeart finalizes its plans for this music Festival, it does so in "a way that complies with federal payola requirements." The Chairman wrote that "It would be particularly concerning to me, . . . if iHeart is proceeding in a manner that does not comply with federal payola requirements. . . I want to know whether iHeart is effectively and secretly forcing musicians to choose between, one, receiving the usual, ordinary, and full scale compensation for performing or, two, receiving less

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FinCEN BOI Reporting Is On Again, Off Again

The new requirement for most corporations and companies to file a Beneficial Ownership Interest ("BOI") report with the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") has been paused again. The deadline for entities formed before January 1, 2024, had been December 31, 2024. Enforcement of the rule had been enjoined by a federal district court in Texas. That injunction was dissolved and a new deadline was set for March 21, 2025. However, FinCEN has now paused enforcement again, pending adoption of an "interim final rule" which the agency said will be issued no later than March 21. In a Public Notice,

FinCEN stated its intention to solicit public comment on potential revisions to existing rules for BOI reporting. Those comments will be sought in connection with a notice of proposed rulemaking to be issued later this year with a view toward minimizing the burden on small businesses for BOI reports, while ensuring the usefulness of BOI for national security, intelligence, and law enforcement.

In a subsequent public notice, the Treasury Department has announced that it expects the upcoming rulemaking will narrow the scope of the BOI reporting requirement to foreign companies.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

April 1	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas.	April 1	Mid-Term EEO review begins for certain radio stations in Texas and certain television stations in Indiana, Kentucky, and Tennessee.
April 1	Deadline for all broadcast licensees and permittees of stations in Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).	April 10	Deadline to place quarterly Issues and Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.
		April 10	Deadline for noncommercial stations to place quarterly report regarding third-party fundraising in Public Inspection File.
		April 10	Deadline for Class A TV stations to place certification of continuing eligibility for Class A status in Public Inspection File.

Proposed Amendments to the Television Table of Allotments

The FCC is considering petitions to amend the digital television Table of Allotments by changing the channels allotted to the communities identified below. The deadlines for submitting comments and reply comments are shown.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Monroe, LA	KLTM	*13	*29	Mar. 17	Mar. 31
Silver City, NM	KKAB	12	--	Mar. 24	Apr. 7
Truth or Consequences, NM	KKAB	--	12	Mar. 24	Apr. 7
Price, UT	KCBU	11	15	Apr. 2	Apr. 17

* The channel is reserved exclusively for noncommercial broadcasting.

Paperwork Reduction Act Proceedings

The FCC is required by the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications, and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
EEO Policy, Section 73.2080	Mar. 17
Application to participate in an auction, Form 175	Mar. 24
TV station blackout reporting requirements	Mar. 24
Digital audio broadcasting notifications, Form 2100, Schedules FM-335, AM-335	Mar. 28
Emergency Alert System, Part 11, FCC Order 21-77	Apr. 3
Station identification, Sections 73.1201, 74.783, 74.1283	Apr. 3
TV white-space bands, Sections 15.709, 15.713, 15.714, 15.715, 15.717, 27.1320	Apr. 4
FM booster program origination notification, Form 2100, Schedule 336	Apr. 28
Broadcast station experimental authorizations, Section 5.203	Apr. 28
Earth station applications, Forms 312, 312-EZ, 312-R	May 5



DEADLINES TO WATCH



Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

(All proceedings are before the FCC unless otherwise noted.)

Docket 25-73; Public Notice (DA 25-107) CBS news distortion	March 7	March 2
United States Copyright Office Docket 2025-1; NOI (90 FR 9253) PROs operations	April 11	May 27
Docket 25-72; NPRM (FCC 25-16) CALM Act rules	FR+30	FR+45

FR+N means that the filing deadline is N days after publication of notice of the proceeding in the Federal Register.

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **April 25, 2025**. Informal objections may be filed any time prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Opp, AL	Claton, AL	WAPC (AM)	N/A	880
Ontario, CA	Colton, CA	KSPA(AM)	N/A	1510
Peoria, IL	Tremont, IL	WOAM(AM)	N/A	1350
Batesville, TX	Pearsall, TX	KQSA	250	97.9
Port Isabel, TX	Los Fresnos, TX	KRIX	237	93.3

**DEADLINE FOR
QUALIFIED LOW POWER TV STATIONS
TO APPLY FOR CLASS A STATUS
MAY 30, 2025**

FM Allotments Reinstated

The FCC's Media Bureau has released an *Order* (DA 25-120) to reinstate FM allotments listed below in the Table of FM Allotments. These allotments were previously occupied by authorizations that have expired or applications that were not granted. These allotments are now considered to be vacant and will be available for new applications in future FM auctions.

COMMUNITY	CHANNEL
Loleta, California	254C1
Adamsville, Texas	285A
Fabens, Texas	276A
Pearsall, Texas	227A
Basin City, Washington	248C1

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rights typically are broadcasters, internet streaming services, satellite music providers, and public venues where music may be the primary entertainment, or an accompaniment or background feature, such as restaurants, night clubs, bars, roller skating rinks, laser shows, and similar businesses.

For many decades, music users in the United States have been accustomed to dealing with and acquiring performance licenses from only three PROs: the American Society of Composers, Authors, and Publishers (“ASCAP”); Broadcast Music, Inc. (“BMI”); and the Society of European Stage Authors and Composers (“SESAC”). More recently, three more PROs have appeared on the scene: Global Music Rights (“GMR”); PRO Music Rights; and AllTrack. The Congressional request that gave rise to this proceeding came with the observation that the development of the new PROs has sometimes caused confusion among music users when a PRO demands payment for licenses without transparent clarification as to what works it might control. Small businesses often find it expensive but expedient to pay the new PROs’ claimed royalty fees rather than engage in ruinous litigation.

To prepare its response to Congress, the Copyright Office requests public comment on the following topics:

(1) To what extent, if any, have there been increased financial and administrative costs imposed on music licensees associated with paying royalties to the new PROs?

(2) What factors may be contributing to the formation of new PROs?

(3) What recommendations are there as to improving clarity and certainty for entities seeking to obtain performance licenses from PROs?

(4) How do PROs currently gather information concerning musical works publicly performed at live venues, by music services, and by other general licensees?

(5) Does the manner in which PROs gather information about public performances adversely impact lesser-known artists and smaller publishers?

(6) What information do PROs currently provide to the public with respect to: (a) repertoire information and metadata, and (b) royalty distribution practices and policies?

(7) What discrepancies occur in royalty distributions, including in circumstances where it is likely for performance data to be unavailable or incomplete, or where PROs must rely on proxy or survey data?

(8) What technological and business practices exist or could be developed to improve the current systems for usage tracking and royalty distribution?

(9) Are current PRO royalty distribution practices the result of existing legal and regulatory constraints?

(10) What recommendations can be made to Congress to address these issues?

Information gathered in this proceeding and relayed to Congress might well form the basis for future legislation. Comments are to be submitted in Copyright Office Docket 2025-1 by April 11. May 27 is the deadline to file reply comments.

President Moves To Supervise FCC continued from page 1

statute that created and authorized the FCC, does not give the President an advisory role in or veto power over the agency’s decisions.

The Order opines that “these agencies have been permitted to promulgate significant regulations without review by the President. These practices undermine such regulatory agencies’ accountability to the American people and prevent a unified and coherent execution of Federal law.”

The Order directs the “so-called independent agencies” to submit for review all proposed and final significant regulatory actions to the Office of Information and Regulatory Affairs within the Executive Office of the President before publication in the Federal Register.

The Order establishes a performance review process for agency heads, including the Chairman of the FCC. The Director of the Office of Management and Budget (“OMB”) is to develop performance standards and management objectives for independent agency heads, and to report periodically to the President on their performance and efficiency in attaining such standards and objectives.

The Director of OMB is also tasked (a) to review independent regulatory agencies’ obligations for consistency with the President’s policies and priorities, and (b) to consult with independent regulatory agency chairmen and adjust agencies’ apportionments by activity, function, project,

and object, as necessary and appropriate, to advance the President’s policies and priorities. Such adjustments to apportionments may prohibit independent regulatory agencies from expending appropriations on particular activities, functions, projects, or objects, so long as such restrictions are consistent with law.

Agency heads are directed to regularly consult with and coordinate policies and priorities with the Directors of OMB, the White House Domestic Policy Council, and the White House National Economic Council. Agency chairman must submit their strategic plans to the OMB Director for clearance prior to being finalized.

Finally, the Order sets out rules of conduct for federal employees’ interpretation of law. The President or the Attorney General, subject to the President’s supervision and control, shall provide authoritative interpretations of law. These opinions are controlling on all executive branch employees. No employee of the executive branch acting in their official capacity may advance an interpretation of the law as the position of the United States that contravenes the President’s or the Attorney General’s opinion on a matter of law, including but not limited to the issuance of regulations, guidance, and positions advanced in litigation, unless authorized to do so by the President or the Attorney General in writing.

Data Requested About Loud Commercials continued from page 2

Advanced Television Systems Committee Recommended Practice incorporated into the Commission's rules addresses the average loudness of commercials rather than the maximum loudness. The Commission says it has received anecdotal reports that some advertisers may be attempting to "game" the system by using very loud sounds at the beginning of an advertisement and then reducing the loudness to achieve a technically compliant spot that is nonetheless disruptive to viewers. To address this issue, the Commission asks whether the standard should consider an approach other than averaging the noise level.

The Commission also seeks input about whether it is easy for consumers to file complaints about loud commercials. The rules presently require complainants to include details about potential violations in order for the Commission to compile data to show trends or patterns. The agency asks whether the complaint form could be improved and made easier to use.

Complaints received by the FCC also reflect a growing concern about the loud commercials on streaming services and online platforms. The problem of commercial loudness and the degradation of audio may be endemic to streaming

services. The Commission solicits comments about the causes of this degradation, and asks whether there is a need for industry-wide audio standards to address this problem. The agency also requests comment about whether it currently has authority to regulate in this area. The Commission explains that it requests this input only to gather information, and that it is not proposing to adopt new regulations for streamers at this time.

The Commission solicits comment from industry stakeholders about whether the agency's CALM Act rules are serving their intended purpose. Commenters are asked to address any updates to the rules that they believe are needed. Currently a station or MVPD is only notified by the Commission if the agency detects a pattern of complaints from the public. The Commission asks whether there are other ways in which consumer concerns could be conveyed to stations and MVPDs. Finally, the agency requests data about the extent to which stations and MVPDs receive feedback about loud commercials directly from their viewers.

Comments in this proceeding will be due to be filed within 30 days of publication of notice of this proceeding in the Federal Register. Reply comments must be filed within 45 days of that publication.

Station-Sponsored Music Event Investigated for Payola Violations continued from page 3

favorable airplay on iHeart stations."

Carr asked Pittman to respond to the following requests for information with respect to the upcoming music Festival.

1. Provide a list of all performers scheduled to appear at the Festival, and indicate the compensation (financial or otherwise) that each will receive for participating in the event.
2. For each performer identified in the response to item #1, indicate what their ordinary, typical, or full scale compensation would be for a performance.
3. Indicate whether or not any performer will receive better or worse airplay on iHeart stations based on their participation in the Festival or the compensation they receive for appearing in the Festival. Explain how iHeart's position has been conveyed to performers and how iHeart plans to ensure the relevant outcome.
4. Explain why iHeart believes that performers perform for free or for reduced fees at the Festival and at similar iHeart events.
5. Provide a list of performers who were invited to appear at the Festival but declined to do so. To the extent you know, indicate why they declined to appear.
6. Discuss iHeartMedia's corporate policy regarding payola and its sponsorship identification obligations, including

how such policies are conveyed to individual stations and station employees.

7. Discuss the extent to which iHeartMedia shared the Enforcement Advisory with its stations and company personnel prior to the date of this letter, including any special trainings that were conducted in response to the Enforcement Advisory.
8. Discuss any specific training given to any iHeartMedia employees that are involved in the Festival concerning compliance with the Commission's rules, including all procedures and policies in the Festival to ensure compliance with the sponsorship identification requirements and to avoid the covert manipulation of radio airplay as discussed in the Advisory.

The Chairman said that the iHeart Festival presents the Commission with a real-world example of how such events are put together, including artist solicitation and compensation, and the procedures that are in place to ensure compliance with relevant statutes and rules, and to ensure that concerns raised in the Enforcement Advisory are being addressed. Carr asked for a response to these questions within 10 days, and said that "Doing so will help the FCC ensure that licensees operate in compliance with their federal obligations."

FCC To Consider '60 Minutes' News Distortion Complaint continued from page 1

of many things, including our advocacy of what needs to happen in the region.”

CAR continues to recount that the same Harris interview was also aired the following day, October 6, during “60 Minutes.” Whitaker’s question is repeated. The Harris reply in that recording was: “We are not gonna stop pursuing what is necessary for the United States to be clear about where we stand on the need for this war to end.”

CAR acknowledges that CBS has the right to exercise its own news judgement when editing content for a program like “60 Minutes,” and concedes that such editing is the norm for a news magazine program. However, CAR accuses CBS of crossing a line when its production reaches the point of so transforming an interviewee’s answer that it is a fundamentally different answer. CAR asserts that the transformation in this case is so substantial that the public no longer has any confidence as to what Harris actually said in response to Whitaker’s question. CAR argues that the continued refusal of CBS to release the full unedited transcript or recording of the interview is a “huge scandal.” It leads to the inference that the entire finished production was manipulative and deceitful.

CAR states that a duty to avoid distorting news falls within the Communication Act’s public interest standard for

broadcasters. The CBS programming at issue was broadcast on WCBS(TV), a station owned by the network and subject to the FCC’s jurisdiction. CAR asks the Commission to require CBS to release the complete unedited Harris interview so that the public can know what the former Vice President actually said. Citing the Supreme Court, CAR claims that the FCC’s review of a licensee’s past conduct under the public-interest standard does not violate the prohibition on censorship. Rather, the public-interest value in fostering an informed public requires periodic accountability of those entrusted with the use of broadcast frequencies.

The Bureau says that the FCC has determined that the public interest would be served by making the transcript and video of the Harris interview available and opening a docket for public comment. It has provided links to pertinent video materials: <https://youtu.be/vEu8hSGDKJA>; and https://youtu.be/iO_pai9kwZc. A transcript can be found at <https://www.fcc.gov/sites/default/files/Transcript-Transcribed-Unedited-Interview-Footage-6-of-14.pdf>.

The Bureau has not proposed or suggested what action it might take in response to CAR’s complaint. Comments can be filed in Docket 25-73 until March 7. The deadline for reply comments is March 24.