

United States Senate

February 12, 2025

The Honorable Brendan Carr
Chairman
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

The Honorable Nathan Simington
Commissioner
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Dear Chairman Carr and Commissioner Simington,

We write to express our serious concern about the recent actions taken by the Federal Communications Commission (FCC) under Chairman Carr to open or reopen investigations into broadcasting companies without any evidence of wrongdoing in what appears to be an attempt to intimidate broadcasters for political purposes. Specifically, we are concerned by both of your recent assertions that broadcast stations could be investigated over their editorial decision-making, which raises concerns under the First Amendment. Additionally, we are deeply concerned that in just the first two weeks under Chairman Carr, the Commission has reinstated three previously closed complaints against ABC, CBS, and NBC — absent any new evidence — without also reinstating a similar complaint against a Fox broadcasting station. Finally, we are troubled by your announced investigation into PBS and National Public Radio (NPR) member stations without any evidence that these news sources have departed from decades-long practices for sponsorship disclosures. Taken together, these efforts appear politically motivated and designed to punish, censor or intimidate members of the free press based on political disagreement with editorial choices. This weaponization of the FCC is unacceptable. We urge you to immediately cease such conduct and respect the First Amendment.

In the heat of the presidential election last fall, you both made statements that appeared to threaten the independence of CBS-affiliated broadcasters. In October 2024, after CBS aired excerpts from an interview of then-Vice President Kamala Harris on its programs *60 Minutes* and *Face the Nation*, you both said that such action could violate the Commission's little-used news distortion policy, suggested that an ensuing complaint against CBS could be legitimate, and

pressured CBS to release a transcript of the interview.¹ In November, Chairman-designee Carr suggested that this complaint would be a factor in the Commission’s review of the proposed merger of Skydance Media and Paramount Global, CBS’ parent company.² And two weeks into office, after Chairman Carr requested and publicly released the full transcript of the *60 Minutes* interview, the FCC opened a docket to accept comments on the complaint.³ These actions are inappropriate because the FCC’s news distortion policy states that the Commission will only intervene in a news distortion complaint if the complainant provides “documented evidence” — such as “testimony from persons who have direct personal knowledge of an intentional falsification of the news” — that the broadcaster deliberately intended to mislead viewers or listeners.⁴ No evidence exists with respect to the *60 Minutes* interview. In fact, the transcript shows that the different excerpts were answers to the same question — a quintessential example of editorial decision-making. Without any evidence of wrongdoing, these statements and actions are nothing more than a fishing expedition, creating a veneer of government legitimacy for a pressure campaign against independent journalism.

More recently, you both have continued to make comments and suggest that the FCC, under the Trump administration, will wield its authority to target broadcasters. For example, in a CNBC interview in December, Chairman Carr was asked about stripping stations of their broadcast licenses over their supposed liberal bias. We are concerned that in his response, Chairman Carr did not reaffirm broadcasters’ first amendment rights, but rather said that broadcast licenses are “not sacred cows.”⁵ In late January, after a California radio station reported on an Immigration and Customs Enforcement raid, Commissioner Simington said that the FCC “does care about the knowing broadcasting of information that’s likely to incite imminent lawless activity”⁶ — even though the FCC’s own policy states that regulation of the incitement of imminent lawless action “is generally performed by the appropriate criminal law enforcement authorities, not by the FCC.”⁷ Such statements suggest that the Commission will use the veneer of its public interest authority to punish broadcasters for their editorial decision-making and represent a serious threat to independent journalism and free speech.

¹ See Kristen Altus, *FCC commissioner urges CBS to release the transcript from Harris’ ‘60 Minutes’ interview*, N.Y. Post (Oct. 23, 2024), <https://nypost.com/2024/10/23/media/fcc-commissioner-brendan-carr-urges-cbs-release-kamala-harris-60-minutes-interview-transcript/>; Fox News, *FCC Commissioner says complaint against CBS over its ‘60 Minutes’ editing controversy isn’t ‘ridiculous’* (Oct. 17, 2024), <https://www.foxnews.com/video/6363393596112>.

² Ted Johnson *Incoming FCC Chairman Brendan Carr Says ‘60 Minutes’ Complaint “Likely To Arise” As Part Of Agency Review Of Skydance-Paramount Merger*, Deadline (Nov. 19, 2024), <https://deadline.com/2024/11/fcc-brendan-carr-60-minutes-cbs-paramount-1236181250/>.

³ Press Release, Federal Communications Commission, *FCC Seeks Comment on WCBS News Distortion Complaint* (Feb. 5, 2025), <https://docs.fcc.gov/public/attachments/DA-25-107A1.pdf>.

⁴ Federal Communications Commission, *Broadcast News Distortion* (last updated July 18, 2024), <https://www.fcc.gov/broadcast-news-distortion>.

⁵ CNBC, *Tech’s actions on censorship will matter more than words, says Trump’s FCC pick Brendan Carr* (Dec. 6, 2024), <https://www.cnbc.com/video/2024/12/06/techs-actions-on-censorship-will-matter-more-than-words-says-trumps-fcc-pick-brendan-carr.html>.

⁶ Gabby Miller, *We spoke with the Senate ‘AI Gang.’ Here’s what they want from Congress.*, POLITICO (Jan. 29, 2025).

⁷ Federal Communications Commission, *The Public and Broadcasting* (last revised Sept. 2021), <https://www.fcc.gov/media/radio/public-and-broadcasting>.

Finally, in two of Chairman Carr's first acts as head of the Commission, he seemingly attempted to use the Commission's authority over broadcasters in a politically motivated manner. First, he reinstated three complaints against ABC-, CBS-, and NBC-affiliated stations — brought by a right-wing advocacy organization — without reinstating a similar challenge against a Fox-affiliated station.⁸ All four challenges related to editorial decision-making with respect to either the 2024 (ABC, CBS, NBC) or 2020 (Fox) presidential elections, and all four were dismissed on the same day by Chairman Carr's predecessor, Chairwoman Jessica Rosenworcel. Chairman Carr took this action even though the complaints against the ABC, CBS, and NBC affiliates lack any evidence of wrongdoing, while a federal court previously determined that Fox News — the cable network under common control of the Fox affiliate — intentionally spread false news about the 2020 presidential election.⁹ While we take no position on the Fox challenge, the reinstatement of the ABC, CBS, and NBC complaints without the reinstatement of the Fox challenge appears to be a naked attempt to target networks upon baseless allegations of bias or personal or political disagreement with editorial choices.

Second, Chairman Carr directed the Enforcement Bureau to open an investigation into PBS and NPR member stations over their underwriting practices.¹⁰ Yet, Chairman Carr's letter cites no complaint or evidence motivating this investigation. After baselessly stating that he will open an investigation into the practices of roughly 1,500-member stations, Chairman Carr goes out of his way to encourage Congress to defund NPR and PBS, a partisan political goal of congressional Republicans that is outside the FCC's jurisdiction.¹¹ Rather than pursuing an objective, evidence-based investigation, this Carr-driven FCC inquiry seems designed to intimidate public broadcasters that our communities have relied on for decades to provide essential education, public safety, civic leadership, news, information and community programming to all Americans. This abuse of the FCC's enforcement tools for partisan political ends — less than two weeks into Chairman Carr's tenure as head of the Commission — is deeply alarming.

Taken together, your statements and actions over the past few months appear politically motivated and intended to attack independent media at the behest of President Donald Trump. This weaponization of the FCC runs counter to its history and, coming from two government officials, represents a serious threat to freedom of the press under the First Amendment. Furthermore, these threats will create a serious chilling effect: media organizations have already succumbed to pressure from Donald Trump by settling lawsuits to avoid any retribution,¹² and

⁸ David Shepardson, *FCC reinstates complaints against ABC, CBS and NBC for 2024 election coverage*, Reuters (Jan. 23, 2025), <https://www.reuters.com/business/media-telecom/fcc-reinstates-complaints-over-abc-presidential-debate-harris-tv-appearances-2025-01-22/>.

⁹ *US Dominion, Inc. v. Fox News Network, LLC*, 2023 WL 2730567, *21 (Del. Super. Ct. 2023) (“The evidence developed in this civil proceeding demonstrates . . . that none of the Statements relating to Dominion about the 2020 election are true. Therefore, the Court will grant summary judgment in favor of Dominion on the element of falsity.”).

¹⁰ Letter from FCC Chairman Brendan Carr to Katherine Maher, President and Chief Executive Officer, National Public Radio, and Paula A. Kerger, President and Chief Executive Officer, PBS (Jan. 29, 2025).

¹¹ *Id.* at 2 (“For my own part, I do not see a reason why Congress should continue sending taxpayer dollars to NPR and PBS given the changes in the media marketplace since the passage of the Public Broadcasting Act of 1967.”).

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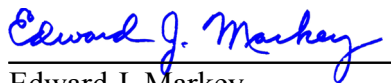
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more are considering doing so.¹³ In fact, just a couple years ago, then-Commissioner Carr stated, “A newsroom’s decision about what stories to cover and how to frame them should be beyond the reach of any government official, not targeted by them.”¹⁴ We are concerned that the recent actions of the FCC have abandoned that principle.

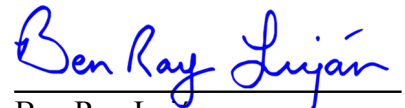
We urge you both to follow the Constitution, immediately cease abusing the FCC’s legal authority, and return to the evidence-based decision-making that has been a staple of the Commission’s long and storied history.

Thank you for your prompt consideration of this serious issue.

Sincerely,



Edward J. Markey
United States Senator



Ben Ray Lujan
United States Senator



Gary C. Peters
United States Senator

cc.

The Honorable Geoffrey Starks
Commissioner
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

The Honorable Anna M. Gomez
Commissioner
Federal Communications Commission

¹² Ryan Smith, *Disney Bows to Donald Trump*, Newsweek (Dec. 19, 2024), <https://www.newsweek.com/donald-trump-abc-news-settlement-george-stephanopoulos-lawsuit-2003308>.

¹³ Lauren Hirsch et al, *Paramount in Settlement Talks With Trump Over ‘60 Minutes’ Lawsuit*, N.Y. Times (Jan. 30, 2025), <https://www.nytimes.com/2025/01/30/business/media/paramount-trump-cbs-news-settlement.html> (“[M]any executives at CBS’s parent company, Paramount, believe that settling the lawsuit would increase the odds that the Trump administration does not block or delay their planned multibillion-dollar merger with another company, according to several people with knowledge of the matter.”).

¹⁴ FCC Commissioner Carr Responds to Democrats’ Efforts to Censor Newsrooms, Federal Communications Commission (Feb. 22, 2021), <https://docs.fcc.gov/public/attachments/DOC-370165A1.pdf>.

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