

ALERT

FCC Releases Orders Eliminating FRN/RUFRN Requirement for NCEs and Allowing NCEs More Flexibility to Conduct Third Party Fundraising

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On April 20, 2017, the Federal Communications Commission released the final text of two items adopted at the Commission's April Open Meeting that reduce regulatory burdens on noncommercial educational (NCE) broadcasters. The first item is an Order on Reconsideration (Recon Order) that allows NCE filers to utilize so-called "Special Use" FRNs (SUFRNs) when filling out ownership reports. Unlike FRNs or Restricted Use FRNs, SUFRNs do not require disclosure of personal information. The second item is a Report and Order that revises the FCC's rules to allow NCE stations that do not receive CPB funding to conduct limited on-air fundraising activities that interrupt regular programming to benefit third-party non-profit organizations.

The text of each item is largely the same as the proposed text released by the Commission on March 30, 2017, which we summarized here. However, in the final Recon Order, the Commission added a sentence affirming that its "prior decision to collect data on the race, ethnicity, and gender of individuals holding attributable interests in NCE licensees remains undisturbed, and this data will be available to the Commission and researchers for purposes of evaluating ownership diversity issues." Meanwhile, in the final Report and Order, the Commission appears to have narrowed the scope of the waiver available to CPB-funded stations seeking to conduct third party fundraising. Because all but one CPB-funded station submitted comments in opposition to more permissive third-party fundraising, the Commission exempted CPB-funded stations from the new rule.

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However, in the draft Report and Order, the Commission specified that individual CPB-funded stations could request a waiver of the exemption generally (so as to be able to conduct fundraising for any third-party non-profit) via the long-standing waiver process used under the old rules. In the final Report and Order, that language is deleted and replaced by language suggesting that waivers under the long-standing process will be available to CPB-funded stations only in the context of disaster relief efforts or catastrophic events.