

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

In the Matter of)	
)	
News Distortion Complaint Involving CBS)	
Broadcasting Inc., Licensee of WCBS, New)	MB Docket 25-73
York, NY)	
)	

COMMENTS OF PUBLIC KNOWLEDGE

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EXECUTIVE SUMMARY

In its October 16, 2024 complaint, the Center for American Rights (CAR) alleged that CBS Broadcasting Inc. engaged in news distortion by editing its “60 Minutes” interview of then-Vice President Kamala Harris. After thorough examination of the record evidence, including the full unedited interview footage and transcript, Public Knowledge urges the Federal Communications Commission to dismiss this complaint once again.

The Complainant has failed to satisfy the Commission's established evidentiary standard for news distortion investigations. Specifically, the Complainant provides no extrinsic evidence of deliberate distortion—a prerequisite established in *Hunger in America*¹ and consistently affirmed in subsequent Commission jurisprudence. The record conclusively demonstrates that CBS merely exercised legitimate editorial discretion, a practice that falls squarely within broadcasters’ First Amendment protections as recognized in *FCC v. League of Women Voters*.²

The timing and context of this proceeding—coinciding with President Trump's ongoing litigation against CBS for billions—raises concerns about potential weaponization of Commission processes for political ends. Even the appearance of misuse of regulatory authority could chill news and journalism, which the First Amendment aims to protect. Where the Commission has taken so many unusual steps—beginning with the reinstatement of the complaint following a well-grounded dismissal—makes this chilling effect even stronger.

Public Knowledge therefore urges the Commission to adhere to its well-established precedent and, again, dismiss this complaint, thereby upholding the constitutional protections essential to independent journalism and robust public discourse.

¹ In re *Complaints Covering CBS Program "Hunger in America"*, 20 F.C.C.2d 143

² *FCC v. League of Women Voters*, 468 U.S. 364 (1984)

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I. Introduction

The timing and unusual proceedings surrounding the reopening of WCBS News Distortion complaint raise questions about politically motivated selective enforcement. This reinstatement, occurring immediately after a change in FCC leadership, stands in direct contradiction to longstanding Commission precedent and lacks the evidentiary foundation required by established law. What makes this action particularly troubling is the complete absence of new evidence between the Enforcement Bureau's initial January 16, 2025 dismissal and the February 5 reopening of the docket. Instead of consistent application of regulatory standards, the Commission appears to be selectively enforcing its rules in a manner that suggests political influence—a suspicion reinforced by the striking parallels between this investigation and President Donald Trump's public condemnations of CBS and other broadcasters recently targeted by the FCC. This pattern suggests a concerning shift from independent regulatory oversight toward politically motivated enforcement.

The last major court case concerning News Distortion doctrine, *Serafyn v. FCC*, built upon the *Hunger in America* rationale while heightening the level of scrutiny required for these complaints. This case cemented the standard the Commission should follow today and generally linked such investigations to broadcast license proceedings—specifically issuance, renewal, or transfer of control.³ As demonstrated by more recent news distortion investigations, these investigations usually arise in the context of license renewals or transfers of control rather than from an ill-timed political pursuit.⁴ Notably, most such complaints fail to meet FCC standards

³ *Serafyn v. FCC*, 149 F.3d 1213, 1213-25 (D.C. Cir. 1998).

⁴ See *In re TVT License, Inc.*, 22 FCC Rcd. 13591 (2007) (dismissing a Petition to Deny a license renewal containing news distortion complaint following a lawsuit by petitioners; *In re Affiliated Media, Inc. FCC Trust & Denali Media Anchorage, Corp. et al.*, 28 FCC Rcd. 14873 (2013)

and rarely warrant full investigation, even when connected to other proceedings. Against this backdrop, CAR's complaint is doubly flawed — it not only fails to meet the legal thresholds established by precedent but also represents a procedural anomaly by operating outside any licensing proceeding.⁵

Further compounding this procedural irregularity is the unprecedented nature of this action as a *reopening* of an already-dismissed complaint. On January 16, 2025, the FCC's Enforcement Bureau declined to initiate the investigation.⁶ Only after Chairman Carr assumed leadership did the investigation resurface, now fueled by what appears to be a broader campaign against broadcasters disfavored by President Trump and his administration. The Enforcement Bureau's original dismissal was legally sound and properly protected the First Amendment rights

(declining to review a claim within a merger proceeding that GCI had made threats of news distortion); *In the Matter of Sinclair Broadcast Group*, Order, DA 16-856, Acct. No.: MB-201641420017 (July 29, 2016) (approving a consent decree pertaining to FCC investigations to include prior to a license renewal); *In re Entercom Communs. & CBS Radio*, 32 FCC Rcd 9380 (2017) (rejecting a Petition to Deny containing a news distortion complaint in the transfer of control application between Entercom and CBS). Yet rather than consider this in the context of an existing license transfer docket, *see* MB Docket No. 24-275, where Paramount could have filed the transcript pursuant to the extant protective order, and where precedent would clearly require the Commission to reject it, the Commission has opened a new docket.

⁵ If it were not inappropriate enough from a procedural standpoint, this “complaint” really is not a formal complaint requiring the opening of a separate docket for this proceeding. In the typical situation, any interested person may petition for the FCC to deny or to set for hearing any application for a broadcast license renewal. Such petitions, however must “contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent... [and] be supported by affidavit of a person or persons with personal knowledge thereof.” 47 U.S.C. § 309(d). Nor did CAR file this as an objection to the license transfer of Paramount's licenses to SkyDance, MB Docket No. 24-275. This would appear, at best, to be an informal complaint pursuant to 47 C.F.R. § 1.41. As that complaint was dismissed, this would appear to be an inquiry on the Commission's own motion. This unique initiative for such a complaint is further heightened by the fact that CAR has already received the relief it sought—release of the CBS transcript. *See* Complaint at 5. Finally, it is unclear why the complaint was not revived in the previous docket, GN Docket No. 25-11.

⁶ Letter to Daniel R. Suhn, Center for American Rights from Peter S. Hyun, Acting Bureau Chief, FCC Enforcement Bureau, dated January 16, 2025. *Preserving the First Amendment*, GN Docket No. 25-11

of broadcasters. That determination correctly applied over 50 years of legal precedent in recognizing CAR had failed to provide sufficient extrinsic evidence of distortion. Chairman Carr’s decision to reopen this investigation represents a stark departure from the Commission’s longstanding commitment to avoiding unwarranted censorship through distortion complaints. This action contradicts not only established policy but the law itself, raising serious concerns about regulatory overreach and potential First Amendment violations.

II. Reversing a Previously-Granted Dismissal of an Unfounded Complaint Raises Questions of Political Motivations

Vice President Kamala Harris was interviewed for the CBS News “60 Minutes” program, which aired on October 6, 2024 as part of the CBS’s special election coverage.⁷ Ten days later, Daniel R. Suhr of the Center for American Rights submitted a Complaint to the FCC claiming CBS” engaged in news distortion by editing its news program to such a great extent that the general public cannot know what answer the Vice President actually gave to a question of great importance on a matter of national security.”⁸

On January 16, 2025, Acting Bureau Chief of the FCC Enforcement Bureau Peter S. Hyun responded to Mr. Suhr denying the complaint, pointing to the protection the First Amendment provides to freedom of expression and the press. Hyun correctly asserted that the Complaint fails to provide the extrinsic evidence necessary for actionable enforcement in saying:

The Complaint makes conclusory statements regarding the backdrop and import of outtakes that it alleges amount to “significant and substantial news alteration, made in the

⁷ CBS News, Kamala Harris Discusses U.S.-Israel Relationship on “60 Minutes” Election Special (Oct. 6, 2024),

<https://www.cbs.com/video/kamala-harris-us-israel-relatioinship-60-minutes-video/>.

⁸ Complaint of Center for American Rights, CBS Accused of “Significant and Intentional News Distortion” in FCC Complaint Over “60 Minutes” Edit (Oct. 16, 2024),

<https://www.americanrights.org/news/fox-news-cbs-accused-of-significant-and-intentional-news-distortion-in-fcc-complaint-over-60-minutes-edit>.

middle of a heated presidential campaign.” But such conclusory statements standing alone do not serve as a sufficient foundation for an allegation of “intentional” or “deliberate” falsification versus editorial judgment, which appropriately belongs to the broadcaster (and are typically dismissed).⁹

Yet, just a week later, shortly after Brendan Carr assumed his role as the Chair of the FCC, the WCBS news distortion complaint was reinstated, following a determination that the initial dismissal was “issued prematurely based on an insufficient investigatory record for the station-specific conduct at issue.”¹⁰ However, Chairman Carr did not provide any new evidence justifying the reversal, nor did the Complainant appeal the Enforcement Bureau’s dismissal of the complaint. The only notable difference was the change in FCC leadership coinciding with the new Trump administration.

By February 3, the licensee WCBS released to the Commission the full transcript and unedited video of the “60 Minutes” interview, which the Commission made public on February 5 — the exact relief sought by CAR’s complaint.¹¹ Yet despite satisfying the Complainant’s requested relief, the FCC nevertheless opened a new docket for public comment on the CAR Complaint.¹² It is unclear, then, what is the purpose of seeking comment from the public.

⁹ Letter to Daniel R. Suhr of the Center for American Rights from Peter S. Hyun of the FCC Enforcement Bureau, dated January 16, 2025.

¹⁰ Reuters, FCC Launches Media Investigations, Reinstates Complaints (Feb. 05, 2025), <https://www.voanews.com/a/us-communications-agency-reinstates-complaints-starts-investigating-media/7964421.html>.

¹¹ Complaint of Center for American Rights, CBS Accused of “Significant and Intentional News Distortion” in FCC Complaint Over “60 Minutes” Edit (Oct. 16, 2024), <https://www.americanrights.org/news/fox-news-cbs-accused-of-significant-and-intentional-news-distortion-in-fcc-complaint-over-60-minutes-edit> (“RELIEF SOUGHT Direct CBS to release the complete transcript of the Vice President’s interview with ‘Sixty Minutes.’”).

¹² Federal Communications Commission, FCC Establishes MB Docket No. 25–73 and Comment Cycle for News Distortion Complaint Involving CBS Broadcasting Inc., Licensee of WCBS, New York, NY, DA 25–107, Public Notice (Feb. 5, 2025).

The reinstatement of the complaint also coincides with the ongoing Paramount Group (CBS's parent company) merger with Skydance Media. Chairman Carr has stated that looking into the "60 Minutes" interview will be part of its review of the merger.¹³ But if the purpose of reopening the complaint *sua sponte* is to consider its impact on the license transfer (which complainants did not do themselves, nor request the Commission do), then there should have been no new docket and no public release of what would properly be considered CBS's proprietary information.

Also pertinent to the complaint, President Donald Trump initiated a lawsuit against CBS on October 31, 2024.¹⁴ He claims the network engaged in "partisan and unlawful acts of election and voter interference through malicious, deceptive, and substantial news distortion."¹⁵ The evidence of CBS's alleged "deception" was the apparent act of "conceal[ing] embarrassing weaknesses, including her habit of utter "word salad."¹⁶ According to the complaint, because the "60 Minutes" answer to CBS Journalist Bill Whitaker's question about Israeli Prime Minister Benjamin Netanyahu was apparently more "succinct" in the Face the Nation clip, Harris's

¹³ Fox News, Trump FCC chair pick stresses need to 'restore' First Amendment rights (Nov. 19, 2024), <https://www.foxnews.com/video/6364907502112>. In an interview with Fox News' America's Newsroom, Carr said, "Broadcasters are differently situated to other speakers. They get free access to a valuable public resource, the airwaves, and they're licensed by the FCC. We take a look at that and we reinvigorate it. There's also a news distortion complaint at the FCC still, having to do with CBS, and CBS has a transaction before the FCC, and I'm pretty confident that that news distortion complaint over the 60 Minutes transcript is something that is likely to arise in the context of the FCC review of that transaction."

¹⁴ Reuters, Trump Sues CBS Over Kamala Harris "60 Minutes" Interview (Oct. 31, 2024), <https://www.reuters.com/legal/trump-sues-cbs-over-kamala-harris-interview-2024-10-31>.

¹⁵ Washington Times, Trump Sues CBS for \$10B, Alleging "Partisan and Unlawful Acts" of Election Interference Through Malicious, Deceptive, and Substantial News Distortion (Oct. 31, 2024), <https://www.washingtontimes.com/news/2024/oct/31/trump-sues-cbs-news-distortion/> (last visited Feb. 24, 2025).

¹⁶ Complaint of Donald J. Trump, in Trump v. CBS Broadcasting Inc, 2:24-cv-00236, (N.D. Tex. Oct. 31, 2024).

interview was intentionally “doctored” by replacing her “real answer” with another to “make her look better.”¹⁷ There is, however, no known evidence to confirm this accusation.

On February 7, President Trump amended his complaint and is now pursuing up to \$20 billion in compensatory damages, including \$10 billion attributed to the “Defendants’ profits arising out of the Preview, the Interview, and the Election Special, damages sustained by President Trump.”¹⁸ Given that the success of the President’s lawsuit will be greatly enhanced if CBS is found to have engaged in news distortion, the timing and contents of the lawsuit appear highly relevant to the motivation behind re-opening CAR’s FCC complaint upon the President assuming office on January 20th, 2025.¹⁹

The reinstatement of CAR’s complaint after the presidential transition — coupled with the striking parallels to President Trump’s personal lawsuit seeking billions in damages and the ability of the FCC investigation to influence that suit favorably for the President — raises legitimate concerns about whether the FCC is acting as the independent regulatory agency created by Congress — or at the pleasure of the President (and more concerning, in his capacity as a private citizen seeking a personal civil judgment). The CBS news distortion investigation resembles less a neutral application of broadcasting standards and more a concerning case of weaponizing government oversight tools to settle political scores or pursue personal vendettas. The timing and nature of these actions suggest that the technical machinery of media regulation

¹⁷ Washington Examiner, Complaint Alleges CBS “Doctored” Harris Interview to Enhance Her Image (Oct. 16, 2024),

<https://www.washingtonexaminer.com/news/complaint-claims-cbs-doctored-harris-interview>.

¹⁸ Trump v. CBS Broadcasting Inc, 2:24-cv-00236, (N.D. Tex. Feb 7, 2025) ECF No. 36

¹⁹ Trump’s CBS Lawsuit Ties Media Freedom to FCC’s Regulatory Power, Brookings Institution (n.d.) (Feb. 19, 2025),

<https://www.brookings.edu/articles/trumps-cbs-lawsuit-ties-media-freedom-to-fccs-regulatory-power/>.

might be transforming into something more problematic: a powerful lever that administrations can pull to intimidate media organizations they view as unfavorable — and thus undermine the very same democratic principles these independent agencies were designed to uphold.

III. The Complaint Fails to Satisfy Requirements for a News Distortion Investigation

The law provides no explicit rules on news distortion complaints, and the FCC has not codified specific regulations.²⁰ Instead, the Commission follows its own precedent-based policy. As the FCC explains,” the Commission generally will not intervene in [complaints concerning broadcast journalism] because it would be inconsistent with the First Amendment to replace the journalistic judgment of licensees with our own.”²¹

As such, scholars have developed the following standards, based on Commission precedent, to act on a news distortion complaint: (1) an allegation “of deliberate intent to distort the news or mislead the audience,” (2) extrinsic evidence (in addition to the broadcast itself) to support the allegation, (3) evidence “that the distortion was initiated by or known to the licensee” or management personnel, and (4) an implication of a “significant event, rather than an incidental part of the news.”²²

²⁰ Application for Renewal of License of WXYZ-TV Detroit, Michigan, 22 FCC Rcd 12744 (2007) (noting “The Commission has not codified its news distortion policy”).

²¹ Federal Communications Commission, *The Public and Broadcasting, “News Distortion”* (Rev. Sep. 2021), available at <https://www.fcc.gov/media/radio/public-and-broadcasting#DISTORT>: “The Commission will investigate a station for news distortion if it receives documented evidence of rigging or slanting, such as testimony or other documentation, from individuals with direct personal knowledge that a licensee or its management engaged in the intentional falsification of the news. Of particular concern would be evidence of the direction to employees from station management to falsify the news. However, absent such a compelling showing, the Commission will not intervene”

²² Charles L. Bonani, *Weapons of Mass Distortion: Applying the Principles of the FCC’s News Distortion Doctrine to Undisclosed Financial Conflicts of Interest in Corporate News Media the News Media’s Military Coverage*, WASH. & LEE J. CIV. RTS. & SOC. JUST. 231, 236-38 (2020) (citing *Complaints Covering CBS Program “Hunger in America,”* 20 F.C.C.2d 143, 150 (1969); *WPIX, Inc. (WPIX), New York, New York for Renewal of License*, 68 F.C.C.2d 381, 385 (1978).

The Commission does not initiate a distortion investigation based on a complaint unless the four factors mentioned above are demonstrated. This stringent requirement is designed to safeguard First Amendment rights and avert unjust censorship. The FCC’s dedication to maintaining this high threshold underscores the significance of presenting a *prima facie* case involving these four factors.

In an attempt to fulfill the extrinsic evidence requirement, the Complainant asserts they have “clear external evidence of outtakes necessary for the Commission to act” and provides two separate broadcasts of question-and-answer segments from the Harris interview.²³ The first aired as a clip on Sunday, October 5, during the CBS morning show “Face the Nation,” and the second aired the following day during the “60 Minutes” program.²⁴

CAR contends that CBS deliberately distorted the news by broadcasting what it considers two fundamentally inconsistent answers to the same question. To reiterate, to satisfy the extrinsic evidence requirement, CAR must provide proof *beyond the program content itself*. The Complainant points to CBS’s initial refusal to release the full interview transcript as additional justification, arguing that this refusal suggests the “60 Minutes” program was manipulative and deceitful.

The CAR complaint fundamentally fails to meet the Commission's long-established evidentiary threshold for news distortion investigations. Commission precedent requires “testimony from persons who have direct personal knowledge of an intentional falsification of the news” to substantiate such claims.²⁵ CAR provides no such extrinsic evidence to support its

²³ Center for American Rights, Complaint Alleging News Distortion in Harris “60 Minutes” Interview, MB Docket No. 25–73 (filed Oct. 16, 2024)

²⁴ *Id.*

²⁵ Federal Communications Commission, “Broadcast News Distortion” (July 18, 2024) <https://www.fcc.gov/broadcast-news-distortion>

allegation that CBS “transformed Harris’s answer such that the general public no longer has any confidence as to what the Vice President actually said.” This assertion represents mere opinion rather than the substantive evidence required under Commission standards.²⁶

More significantly, it is difficult to see how CAR’s evidence is evidence of news distortion. CBS broadcast both clips to the public. Any viewer—such as CAR—could judge whether Harris’s answers were inconsistent. Critics of Harris and supporters of Trump — such as CAR—were free to use both clips to make their case to the public that Harris provided inconsistent answers on matters of public importance. This would appear to be the opposite of “doctoring” the interview.

A. Editorial Discretion is Protected by the First Amendment

The First Amendment’s guarantee of press freedom constitutes a foundational principle of democratic governance that directly constrains the Commission’s regulatory reach. In *FCC v. League of Women Voters*, Justice Brennan’s majority opinion expressly established that editorial determinations—including decisions regarding content selection, exclusion, and emphasis—warrant substantial constitutional protection even within broadcasting’s more intensively regulated framework.²⁷

The unedited interview footage and transcript show that CBS merely selected a more concise portion of Harris’s complete answer—a standard editorial practice explicitly protected in *Galloway v. FCC*, which established that using editorial discretion will not, in itself, serve as evidence of intentional distortion.²⁸ The unedited interview, as published by the FCC on YouTube, is nearly 54 minutes long, while Harris’s segment needed to fit within a 21-minute

²⁶ Where such a claim is backed up by a mere allegation without evidence, the Commission will not initiate a news distortion investigation. *See Hunger in America*, 20 F.C.C.2d 143, 150.

²⁷ *FCC v. League of Women Voters*, 468 U.S. 364 (1984).

²⁸ *Galloway v. FCC*, 556 F.3d 1290 (6th Cir. 2007).

portion of the “60 Minutes” program. This necessitated editing to create a more succinct presentation that would allow coverage of multiple subjects, as CBS News explained.²⁹ As underscored in the decision to deny the complaint from *American Legal Foundation against CBS Inc.*, “[t]he very process of putting together a news program, which involves the selection and rejection of information, will not, in itself, serve as evidence of intentional distortion.”³⁰

This constitutional shield for editorial judgment was further reinforced in the Commission’s decision on CBS’s broadcast of *The Selling of the Pentagon*, which explicitly warned that Commission scrutiny of editorial decisions without requisite evidence of intentional distortion would “seriously threaten important First Amendment free speech rights of broadcasters.”³¹ CBS’s editing choices represent precisely the kind of editorial discretion that is the essence of First Amendment freedom.

B. There are Statutory, as well as Constitutional, Constraints on FCC Authority

Section 326 of the Communications Act expressly prohibits the Commission from exercising censorship powers over broadcast communications. The statute explicitly mandates that “no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of [over-the-air] broadcast communication.”³² This statutory firewall was designed to prevent precisely the type of intrusion into editorial functions that investigating the CAR complaint would entail.

²⁹ CBS News, “60 Minutes” Statement, (Oct. 20 2024), <https://www.cbsnews.com/news/60-minutes-statement>.

³⁰ Complaint of American Legal Foundation against CBS, 1985 FCC LEXIS 2662, *6 (July 12, 1985).

³¹ *Id.*

³² 47 U.S.C § 326.

The Commission's public interest mandate focuses on fostering diverse viewpoints through structural regulation rather than content-based interventions.³³ As the Supreme Court noted in *Red Lion Broadcasting Co. v. FCC*, the purpose of the First Amendment in this context is “to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.”³⁴ Regulatory action based on CAR's complaint would undermine rather than advance this foundational principle.

IV. The FCC’s Very Public Initiation of “Investigations” Against Broadcasters Critical of Trump Creates a Chilling Effect on Political Discourse

The Commission entertaining complaints like CAR's without substantial evidence of deliberate falsification creates a dangerous precedent with far-reaching implications for political journalism. If a licensee faced a news distortion probe every time it broadcasted an interview of a presidential candidate, it might be less inclined to conduct an interview in the first place — hamstringing the distribution of civic information to the public, and thus threatening political participation. As the Commission has recognized, the Supreme Court warned against such chilling effects in *The Selling of the Pentagon* case, explicitly cautioning that Commission scrutiny of editorial decisions without requisite evidence of intentional distortion would “be unwise and probably impossible” to “lay down some precise line of factual accuracy—dependent always on journalistic judgment—across which broadcasters must not stray.”³⁵ The potential harm to robust political discourse far outweighs any speculative benefit from investigating CBS’s legitimate editorial choices.

³³ The Supreme Court confirms the notion that FCC regulation under the public interest standard goes well beyond technical management. *Nat’l Broad. Co. v. United States*, 319 U.S. 190 (1943).

³⁴ *Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 390 (1969).

³⁵ *Complaint Concerning the CBS Program The ‘Selling of the Pentagon,’* 30 F.C.C.2d 150, 152 (1971).

Finally, the “60 Minutes” investigation at issue here occurs against a backdrop of very publicly, self-initiated “investigations” against broadcasters singled out by President Trump or accused of covering news in a manner critical of Administration policy. On January 29, Chairman Carr wrote to the Presidents of both PBS and NPR to inform them he intends to investigate whether their sponsorship identification practices (“underwriting announcements”) violate the rules against non-commercial educational licensees broadcasting commercials.³⁶ The Chairman also took the unusual (some might even say inappropriate) step of voicing in an official letter his personal opinion that Congress should stop funding public broadcasting. Only a few days later, the Chairman sent a lengthy letter to Comcast CEO Brian Roberts announcing his intent to investigate Comcast for “invidious discrimination” as a consequence of their public commitment to diversity, equality and inclusion (“DEI”).³⁷ On the same day, the Chairman announced an investigation into KQED-San Francisco’s coverage of an ICE raid. In an interview with the Chairman on the matter, Fox News consistently characterized KQED as a “Soros owned station” and linked KQED’s activities to statements by “high profile Democrats like Rep. Maxine D-CA to Trump critics to ‘take their fights to the streets.’”³⁸

These may be entirely unrelated. The FCC is certainly free to investigate whether NCE licensees are violating the rules on commercial advertising (although hardly appropriate – indeed bordering on intimidation – to use the investigation to announce in the same breath a personal

³⁶ Letter from Chairman Brendan Carr to Katherine Maher and Paula A. Kerger (Jan. 29, 2025), <https://www.capradio.org/media/12276790/chairman-carr-letter-to-npr-and-pbs.pdf>

³⁷ Letter from Chairman Brendan Carr to Brian Roberts (Feb. 11, 2025), <https://www.fcc.gov/sites/default/files/Chairman-Carr-Letter%20to-Comcast-02112025.pdf>

³⁸ Brian Flood, “FCC Chair Says It’s ‘Really Concerning’ That a Soros Backed Radio Station Exposed Undercover ICE Agents,” Fox News (Feb. 6, 2025), <https://www.foxnews.com/media/fcc-chair-says-its-really-concerning-soros-backed-radio-station-exposed-undercover-ice-agents>.

opinion that Public Broadcasting should be cut off from future federal funding and that the report will be further evidence to support that opinion in Congress). While hardly appropriate to investigate the business practices of a licensee to further the President’s anti-DEI agenda, the Comcast “investigation” is consistent with other such anti-DEI “investigations.”³⁹ But it strains credulity to argue that vigorous reporting on local events of national political importance is a *violation* of the public interest rather than the epitome of the public interest obligation to provide the public with news necessary for an informed democracy.

Additionally, it is difficult to ignore that all three investigations have one thing in common—they are investigations of entities personally attacked by President Trump. President Trump has publicly called for eliminating federal funding for public broadcasting due to a supposed liberal bias.⁴⁰ President Trump has been vociferous in criticism of Comcast NBCU programming such as MSNBC and “Saturday Night Live,” as well as personally calling out Comcast CEO Brian Roberts.⁴¹ And in addition to the unfavorable coverage of the ICE raids ordered by President Trump, Trump and the Conservative media generally have declared George Soros an arch-villain of almost comic book proportions.

Taking all these investigations together, beginning with the “60 Minutes” investigation at issue in this docket, it is hardly surprising that some have drawn the conclusion that this is part of

³⁹ Letter from Chairman Brendan Carr to Hans Vestberg (Feb. 27, 2025), <https://x.com/BrendanCarrFCC/status/1895211283089367318/photo/1>

⁴⁰ @realDonaldTrump on TruthSocial (April 20, 2024), <https://truthsocial.com/@realDonaldTrump/posts/112248653824267212> (“NO MORE FUNDING FOR NPR, A TOTAL SCAM! EDITOR SAID THEY HAVE NO REPUBLICANS, AND IS ONLY USED TO ‘DAMAGE TRUMP.’ THEY ARE A LIBERAL DISINFORMATION MACHINE. NOT ONE DOLLAR!!!”).

⁴¹ See Erik Hayden, “Trump Targets Comcast CEO Brian Roberts as MSNBC Plans New Lineup,” *Hollywood Reporter* (Feb. 24, 2025), <https://www.hollywoodreporter.com/business/business-news/trump-brian-roberts-msnbc-lineup-1236145334>.

a deliberate campaign to pursue vendettas against his Nixon-like “enemies list,” deter critics, and chill the vigorous reporting on which our democracy depends. For example, Commissioner Anna Gomez has warned with increasing urgency that these actions are “weaponizing” the FCC’s regulatory authority in service of President Trump.⁴² Senators Lujan, Markey and Peters have written to Chairman Carr and Commissioner Simington to express their concerns.⁴³

The Supreme Court’s recent ruling in *NRA v. Vullo* further underscores the press freedom concerns at play. In that case, the Court held that government officials cannot use their regulatory authority to censor or restrict protected speech, directly or indirectly. Justice Sotomayor’s majority opinion emphasized that “the First Amendment prohibits government officials from wielding their power selectively to punish or suppress speech.”⁴⁴ The FCC’s pattern of investigations targeting media outlets criticized by President Trump raises similar concerns about regulatory coercion aimed at suppressing protected editorial decisions and journalistic content.

As Chairman Carr stated in an interview on February 27th with Semafor’s Ben Smith, “the FCC is a place that operates by case law and by precedent.”⁴⁵ Yet precedent shows clear

⁴² See, e.g. Brian Flood, “FCC Chair Says It’s ‘Really Concerning’ That a Soros Backed Radio Station Exposed Undercover ICE Agents,” Fox News (Feb. 6, 2025), <https://www.foxnews.com/media/fcc-chair-says-its-really-concerning-soros-backed-radio-station-exposed-undercover-ice-agents>; Commissioner Gomez Statement on FCC Weaponization Against CBS,” (Jan. 31, 2025), <https://docs.fcc.gov/public/attachments/DOC-409255A1.pdf>.

⁴³ Letter from Edward J. Markey et al. to Chairman Brendan Carr and Commissioner Nathan Simington (Feb. 12, 2025), https://www.markey.senate.gov/imo/media/doc/letter_to_fcc_on_broadcasters.pdf.

⁴⁴ *Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 198 (2024).

⁴⁵ Ben Smith, Semafor, Interview with Chairman Brendan Carr (Feb. 27, 2025), <https://www.c-span.org/clip/public-affairs-event/user-clip-brendan-carr-and-ben-smith-full-conversation/5155312>. Carr continued to say, “And these cases and precedent that were developed over the last four years were apparently not controversial when the Democrats were in charge [...] I’m surprised that applying the same precedents is now considered controversial.” In fact, outgoing Chairwoman Rosenworcel followed FCC precedent by dismissing the complaints, rightly stating the complaints run afoul of First Amendment protections.

actions to minimize actions that could potentially even be *perceived* as politically motivated efforts “to curtail freedom of the press and undermine the First Amendment.”⁴⁶ If Chairman Carr truly wishes to uphold the standard of following precedent, he should dismiss the CAR complaint once again.

V. Conclusion

As a nonpartisan public interest nonprofit, we at Public Knowledge are deeply concerned about what appears to be a politically motivated action against CBS. It is well known that President Trump holds a personal vendetta against CBS and its journalists.⁴⁷ However, the President’s desire to dismantle a media organization for reporting he dislikes is exactly why the First Amendment protects freedom of the press. After all, if broadcasters face regulatory scrutiny every time they interview political candidates, they may be reluctant to conduct such interviews, thus restricting the flow of vital civic information to the public. Such FCC suppression of civic information would, categorically, *not* be in the public interest.

Legal precedent mandates that the complaint against WCBS warrants dismissal on two dispositive grounds: first, the absence of requisite extrinsic evidence of intentional falsification, and second, the broadcaster's protected right to editorial discretion. The full transcript and unedited footage submitted into the record affirmatively establish that no substantive distortion

⁴⁶ Statement of Chairwoman Jessica Rosenworcel, Re: Preserving the First Amendment, GN Docket No. 25-11 (Jan. 16, 2025) <https://docs.fcc.gov/public/attachments/DOC-408913A1.pdf>

⁴⁷ @realDonaldTrump on X (Oct. 10, 2024) <https://x.com/realDonaldTrump/status/1844349221673095258> (“A giant Fake News Scam by CBS & ‘60 Minutes’. Her REAL ANSWER WAS CRAZY, OR DUMB, so they actually REPLACED it with another answer in order to save her or, at least, make her look better. A FAKE NEWS SCAM, which is totally illegal. TAKE AWAY THE CBS LICENSE. Election Interference. She is a Moron, and the Fake News Media wants to hide that fact. An UNPRECEDENTED SCANDAL!!! The Dems got them to do this and should be forced to concede the Election? WOW!”).

of the subject interview occurred.⁴⁸ Rather, CBS employed precisely the type of editorial judgment consistently protected in Commission precedent as established in *Hunger in America*, which held that “the Commission is not the national arbiter of the truth,” and that “the FCC [has] made a crucial distinction between deliberate distortion and mere inaccuracy or difference of opinion.”⁴⁹

Even more critical is the precedent that the FCC must avoid actions that could potentially discourage robust reporting on national and local issues, thereby requiring prompt dismissal of such claims. The FCC has constantly stressed that only the extraordinarily high bar of news distortion makes it a friend, rather than a threat, to the First Amendment. News distortion is meant to prevent broadcasters from staging events and passing them off as real news,⁵⁰ not to second guess the editorial choices or political views of a licensee.

For the above reasons, Public Knowledge strongly opposes the FCC’s inquiry into CBS’s “60 Minutes” interview with Kamala Harris, and urges the Commission to dismiss the complaint.

Respectfully Submitted,

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⁴⁸ And, as noted above, have provided complainant CAR with the relief it sought, making this entire inquiry moot.

⁴⁹ *Hunger in America*, 20 F.C.C.2d 143, 150 (1969).

⁵⁰ Application for Renewal of License of WXYZ-TV Detroit, Michigan, 22 FCC Rcd 12744 (2007) (“News distortion involves the distortion or ‘staging’ of news” in addition to “deliberate distortion or falsification of the news involving the licensee, its top management, or its news management.”)