



September 21, 2025

Office of Disciplinary Counsel

District of Columbia Court of Appeals
515 5th Street NW, Building A, Suite 117
Washington, D.C. 20001

Re: Supplement to disciplinary complaint against Brendan T. Carr

Dear Disciplinary Counsel,

This letter supplements Freedom of the Press Foundation's complaint dated July 28, 2025 against attorney Brendan T. Carr. It addresses recent egregious conduct by Carr that continues his pattern of abusing the Federal Communications Commission's merger approval process to extract unlawful, politically motivated concessions from broadcasters and control their constitutionally protected speech.

This time, Carr wanted ABC and Nexstar, a major owner of ABC News local affiliates, to stop airing Jimmy Kimmel's late night comedy show after Kimmel made a comment the Trump administration took issue with about Charlie Kirk, the right wing activist who was tragically murdered in Utah on Sept. 10.¹

So he went on a podcast and said the licensees could address the situation "the easy way or the hard way." He added, "these companies can find ways to change conduct and take action, frankly, on Kimmel, or there's going to be additional work for the F.C.C. ahead."² Carr has plenty of leverage over Nexstar – Nexstar needs not only an approval but a significant change in ownership rules from Carr's FCC to complete its pending merger with Tegna.³ Sure enough, hours after Carr's remarks, Nexstar pulled Kimmel's show from its affiliates, leading to Kimmel's suspension.

Republican Senator (and member of the District of Columbia Bar) Ted Cruz called Carr's conduct "right out of 'Goodfellas,'" referring to the famous 1990 mob film. "That's right

¹ John Koplin et al., [ABC Pulls Jimmy Kimmel Off Air for Charlie Kirk Comments After F.C.C. Pressure](#), New York Times, Sept. 17, 2025.

² *Id.*

³ Al Tompkins, [Nexstar's takeover of Tegna would require an overhaul of FCC ownership rules](#), Poynter, August 19, 2025, ABC also has transactions that require regulatory approval, including with the National Football League. [See ESPN to acquire NFL Network in landmark agreement](#), ABC News, Aug. 12, 2025.

Freedom of the Press Foundation | 49 Flatbush Avenue, #1017 | Brooklyn, NY 11217

Website: <https://freedom.press> | **Twitter:** @FreedomOfPress | **Email:** info@freedom.press



out of a mafioso coming into a bar going, ‘Nice bar you have here, it’d be a shame if something happened to it,’” he said.⁴ Cruz is exactly right – Carr continues to behave like a member of the mob, not a member of the legal profession.⁵

By regulating through public threats and intimidation tactics, Carr avoids having to initiate formal regulatory actions which can be challenged in court and struck down for violating the Communications Act of 1934, which established the FCC, and First Amendment. Carr is so certain he will not face consequences for shaking down licensees that he’s doing it live on the air, and promising that more is to come.⁶

The Office of Disciplinary Counsel should ensure that attorneys serving in government do not share Carr’s misimpression that they’re no longer bound by their professional obligations as lawyers to conduct themselves ethically and follow the constitution.

Carr’s argument, that his censorial antics serve the requirement that FCC licensees operate in the public interest, is not made in good faith. Carr knows as well as anyone that the Communications Act expressly disclaims any construction that would invite the FCC to meddle in broadcasters’ content decisions.⁷ Here’s how Carr himself put it in 2019: “Should the government censor speech it doesn’t like? Of course not...The FCC does not have a roving mandate to police speech in the name of the ‘public interest.’”⁸

Worse, Carr’s shakedown appears politically coordinated. Carr, who has been known to wear a lapel pin featuring Trump’s face, remarked this month that his statutorily independent agency was “fully aligned with the agenda that President Trump is running.”⁹

⁴ Kevin Breuninger, [Ted Cruz compares FCC Chair Carr to Mafia boss in Jimmy Kimmel warnings](#), CNBC, Sept. 19, 2025. Cruz is [licensed](#) in the District of Columbia under his birth name, Rafael E. Cruz.

⁵ Cruz is far from the only lawmaker or conservative bothered by Carr’s conduct. See, e.g., Alleen Graef, [GOP lawmaker says Trump is wrong to threaten the media in wake of Kimmel controversy](#), CNN, Sept. 21, 2025.

Ashleigh Fields, [Top Oversight Dem launches probe into ABC’s Kimmel suspension](#), The Hill, Sept. 18, 2025; Press release, [Commerce Committee Democrats Decry Carr’s Censorship of Jimmy Kimmel](#), Sept. 18, 2025.

⁶ Carr ominously vowed that ABC’s suspension of Kimmel won’t be “the last shoe to drop.” Brian Stelter et al., [Why Jimmy Kimmel’s show was yanked off the air](#), CNN, Sept. 18, 2025.

⁷ 47 U.S.C. § 326.

⁸ Steve Benen, [Targeting media content, Brendan Carr, Trump’s FCC chair, is haunted by his own standards](#), MSNBC, Sept. 18, 2025.

⁹ Maggie Stevens, [Brendan Carr Channeling Trump’s Showman Instincts to Overhaul FCC](#), The Wall Street Journal, Sept. 8, 2025



Trump praised ABC and Nexstar's actions with respect to Kimmel, and said he believes networks that criticize him should lose their licenses. "It will be up to Brendan Carr," Trump said, calling "a patriot" and "a tough guy"¹⁰ After reiterating his belief that coverage he deems overly critical of himself is "not free speech" and should be "illegal," Trump said Carr "doesn't like to see the airwaves be used illegally and incorrectly."¹¹

Upon hearing that comment, an ethical FCC Chair would race to defend his agency's independence and make clear that he is not colluding with the president to censor his critics. Carr, however, shows no indication that he plans to disappoint his boss. He's already threatening further retaliation against ABC for airing *The View*, a daytime talk show that is sometimes critical of Trump that Trump has long disfavored.¹²

Of course, Carr is unconcerned with radio or television licensees that air programming that praises Trump and his policies or criticize Trump's adversaries. He has shown no curiosity as to the veracity of their reporting or whether they serve the "public interest."¹³ His unconstitutional effort to control the content of the public airwaves is entirely partisan and one-sided, which demonstrates exactly why it's unconstitutional in the first place. The drafters of the First Amendment, and of the Communications Act, both recognized that censorship powers are certain to be abused by political operatives.¹⁴

¹⁰ David Folkenflik, [Jimmy Kimmel's suspension shows power of FCC's Brendan Carr](#), NPR, Sept. 19, 2025. Trump has a longstanding public feud with Kimmel and other late night comedians, including Stephen Colbert, whose show CBS News cancelled soon after promising to monitor "bias" (in addition to paying Trump \$16 million) in order to gain Carr's approval for its merger. See Andrew Lawrence, [Why is Trump so obsessed with Jimmy Kimmel and US late-night TV shows?](#), The Guardian, Sept. 20, 2025.

¹¹ Irie Sentner, [Trump: 'It's no longer free speech'](#), Politico, Sept. 19, 2025.

¹² Faith Wardwell, [FCC chair puts 'The View' under the spotlight after Kimmel pressure](#), Politico Sept. 18, 2025.

¹³ Although not an FCC licensee, it is telling that Carr chose to threaten Kimmel on a show hosted by Benny Johnson, a right wing podcaster and close ally of Trump who is known for plagiarism and airing wild conspiracy theories. Ken Bensinger, [He Plagiarized and Promoted Falsehoods. The White House Embraces Him](#), New York Times, Aug. 30, 2025.

¹⁴ Carr's conduct mirrors what occurred earlier in the year with the Paramount–Skydance merger, which was discussed extensively in our original complaint. There, Carr abused his control over the fate of the merger to extract not only editorial concessions but a \$16 monetary payment to settle Trump's private and frivolous lawsuit against Paramount subsidiary CBS News. After our original complaint was filed, Carr further stated that he intends to monitor compliance with the commitment to police "bias" that he unconstitutionally extracted from Skydance during the merger talks. Skydance chose Trump ally Kenneth Weinstein as the "bias ombudsman" it agreed to hire to placate Carr. See David Folkenflik, [CBS shifts to appease the right under new owner](#), NPR,



Carr is wilfully and knowingly¹⁵ distorting the FCC's public interest requirement to empower himself to act not as an independent regulator with limited powers but as a henchman for Trump to bend the broadcast media to his will, using conduct that even the president's closest allies recognize as bordering on gangsterism.

Government officials may not impose “unconstitutional conditions” by tying the grant of a government benefit to the surrender of free speech rights. Nor may they engage in informal coercion to achieve indirectly what the Constitution prohibits them from doing directly. The Supreme Court's 2024 decision in *NRA v. Vullo* held a state regulator's campaign of pressure on regulated entities to cut ties with the NRA violated the First Amendment, even absent the kind of formal agency action that Carr openly threatens.¹⁶

The Rules of Professional Conduct – and the Oath of Admission that Carr swore in order to be admitted to the District of Columbia Bar – contemplates that attorneys will use their position to advance the Constitution, not to impose authoritarian censorship through threats of state retribution. The preposterous suggestion that the FCC is entitled to scrutinize and punish every word broadcast on the public airwaves, down to a single line uttered by a late night comedian, is antithetical to the First Amendment.

Rule violations

Rule 1.1 – Competence. By his own admission, Carr knows the FCC is prohibited from censoring licensees, let alone shaking them down with public

Sept. 12, 2025. This further exemplifies Carr's routine of abusing his merger-approval authority to coerce networks to cover Trump favorably. .

¹⁵ As discussed in the original complaint, Carr knows well that the FCC's mandate – including the requirement that licensees serve the public interest – does not extend to content policing. In 2019, Carr stated that “the FCC does not have a roving mandate to police speech in the name of the ‘public interest.’” In 2022, he publicly described political satire as “one of the oldest and most important forms of free speech” and warned against government efforts to suppress it. Andrew Kaczynski et al., [FCC chair once called government pressure on media a ‘chilling transgression of free speech.’ Now, he’s doing just that](#), CNN, Sept. 19, 2025; Steve Benen, [Targeting media content. Brendan Carr. Trump’s FCC chair is haunted by his own standards](#), MSNBC, Sept. 18, 2025. These past statements underscore the degree to which his current reflects not just ignorance of the law or some novel legal theory, but disregard for his own articulated understanding of the FCC's limited authority and the First Amendment.

¹⁶ *National Rifle Association of America v. Vullo*, 602 U.S. 175 (2024), *See also Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013); Eugene Volokh, [Jimmy Kimmel, the NRA, and the First Amendment](#), Reason, Sept. 18, 2025.

Freedom of the Press Foundation | 49 Flatbush Avenue, #1017 | Brooklyn, NY 11217

Website: <https://freedom.press> | Twitter: @FreedomOfPress | Email: info@freedom.press



ultimatums. If he claims ignorance of principles so fundamental to the mission of the agency he chairs, he is not competent to practice law.¹⁷

Rule 8.4(b) — Criminal acts. As discussed below, Carr’s conduct (both with respect to ABC and with respect to the Paramount-Skydance merger discussed in the original complaint) potentially violates laws including against extortion and conspiring to deprive others of constitutional rights. This conduct, whether or not it is deemed criminal, certainly “reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.”

Rule 8.4(c) – Misrepresentation. Carr misrepresented the FCC’s authority by claiming power to punish a licensee for a comment made by a late night comedian. He put licensees on notice of his willingness to abuse his office to pressure them to make content decisions that will please him and Trump.

Rule 8.4(e) – Implying Improper Influence. By suggesting that Kimmel’s remark could subject ABC (or Nexstar) to regulatory action, and using the FCC’s powers to help Trump achieve political aims and settle scores with Kimmel and ABC, Carr implies an improper ability to influence Trump and vice versa.

Other legal violations

The foregoing ethical violations are also in contravention of 47 U.S.C. § 326 which, as discussed, bars the FCC from engaging in censorship or interfering with First Amendment-protected free speech by broadcasters.¹⁸

Carr’s conduct also constitutes deprivation of rights under color of law by seeking to deprive licensees of First Amendment rights through threats to unlawfully investigate and punish them for constitutionally protected editorial and content decisions.¹⁹ It could also

¹⁷ *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974); 47 U.S.C. § 326; Federal Communications Commission, [The FCC and Speech](#), last viewed on July 25, 2025; [FCC Commissioner Carr Responds to Democrats’ Efforts to Censor Newsrooms](#), Feb. 22, 2021; 47 U.S.C. § 326; Federal Communications Commission Consumer and Governmental Affairs Bureau, [Broadcast News Distortion](#), Federal Communications Commission (Jul. 18, 2024).

¹⁸ Section 326 of the Communications Act, 47 U.S.C. § 326, which established the FCC, declares that nothing in the statute “shall be understood or construed to give the Commission the power of censorship over the [broadcast] communications or signals transmitted by any [broadcast] station, and 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.”

¹⁹ 18 U.S.C. § 242.



violate laws against extortion – which are not limited to extortion for monetary gain – and against conspiring to deprive others of constitutional rights.²⁰

Moreover, in addition to violating ethics rules for lawyers, Carr’s conduct also violates rules regarding Ethical Conduct for Employees of the Executive Branch, under which government officials may not use their official position to secure private or political gain for themselves or others (i.e., Trump).²¹

Carr’s law license affords him credibility to execute his strong-arm tactics in the short term but will undermine the credibility of all lawyers in the long term.

Conclusion

Viewed in combination with the Paramount–Skydance episode and other misconduct described in our original complaint, Carr’s actions suggest a modus operandi of using merger and licensing power to control the editorial direction of broadcasters in alignment with partisan political goals. That practice, if left unchecked, will continue to chill speech and force self-censorship by broadcasters fearful of Carr’s retribution. As an attorney and officer of the court, Carr has a heightened duty to respect constitutional constraints and to avoid misuse of the law. His conduct is plainly at odds with his professional and ethical obligations and the rule of law. He should be disbarred.

Sincerely,

Seth A. Stern, Esq.
Director of Advocacy
Freedom of the Press Foundation

²⁰ See, e.g. 18 U.S.C. § 201(b), 18 U.S.C. § 241, 18 U.S.C. §§ 1346, 18 U.S.C. § 201(b).

²¹ 5 C.F.R. § 2635.702