

June 11, 2008

The Honorable Kevin J. Martin, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Martin:

We are deeply concerned that the Federal Communications Commission is taking steps to reimpose a set of regulations on broadcasters that were abolished during the Reagan Administration as burdensome, counterproductive, and harmful to consumers. Under the mantra of “localism,” your proposed regulations would, among other things, effectively compel broadcasters to air certain types of programming. The apparent theory is that letting market forces tell broadcasters what audiences want is not enough to make sure audiences get what is “good for them.” It was this same kind of paternalism that led the FCC to impose the so-called Fairness Doctrine.

Imposing rules which would require broadcasters to provide a certain amount of programming produced locally as well as establish politically correct advisory boards to assist with determining programming content, and fill out all kinds of burdensome paperwork for government regulators to police is bad public policy. It is also bad policy to reimpose the Main Studio Rule which would require that broadcasters undo years of efficient operations to relocate studios in their city of license whether that makes sense or not. That proposed rule and the proposal to require broadcasters to maintain a physical presence at every facility during all hours of operation, ignore the advances in technology and would force needless investments in additional facilities and personnel simply to continue serving the same listening audience.

The rationale offered by the FCC -- that radio and television broadcasters are out of touch with their communities and are failing to provide sufficient community responsive programming – is wrong. It sounds like you think that Washington knows better than local folks.

Such faulty thinking was rejected by the Reagan Administration in the early 80s. In 1984 when television regulations were cut back, the Commission observed,

“[T]he failure of some stations to provide programming in some categories is being offset by the compensatory performance of other stations. In this respect, market demand is determining the appropriate mix of each licensee's programming. For example, a licensee may find it competitively appropriate to emphasize one type of programming within the guidelines rather than presenting programming in all categories. At the same time, other stations in the market may elect to present other types of programming. The net result of this shifting in the programming mix is that overall performance will exceed the guidelines

even though individual stations are not presenting required amounts in all program categories.”

The market proved that the Reagan era deregulators were right.

Since the 1980s, when the FCC deregulated many aspects of television and radio, cable television has expanded to more than 500 channels, satellite TV and radio have come into existence, and the Internet and blogs have provided anyone with a computer and Internet access a vehicle to express opinion and influence others. While media choices are becoming more and more diverse through market forces and innovation; it is bizarre for the FCC to choose to exercise Soviet style management practices on one group in the media – TV and radio broadcasters – and put them at a distinct competitive disadvantage by tying them up with new regulatory red tape and unconstitutional content interference.

Your colleague, Rob McDowell recently and wisely observed: “Clearly, our ‘new media economy’ is a new world for consumers, and for traditional media networks and broadcasters as well. So why are policymakers like us at the FCC dusting off decades-old regulations to impose on broadcasters? Why are we considering placing these proverbial albatrosses around the necks of traditional media precisely at this ‘tipping point’ in history when they can least afford a regulatory disadvantage vis-à-vis unregulated platforms like the Internet?” As Commission McDowell highlighted, “localism is the market advantage that broadcast stations have over other programming competitors.” Commissioner McDowell is right and his thinking is in line with the traditional free market conservative philosophy that served us well when employed by the Reagan Administration.

Only those woefully out of touch with not only the actual practices of broadcasters across the country, but also with basic free market and First Amendment principles would take this path. An agency that tries to get into the media content business will not only end up doing their usual lousy job of picking winners and losers, it will run afoul of the First Amendment.

We trust that this will not be among your legacies in the closing days of your tenure. We strongly urge you not to reimpose localism rules on broadcasters.

Sincerely,

Grover Norquist, President  
Americans for Tax Reform

Derek Hunter, President  
Media Freedom Project

Wayne Crews, Vice President for Policy  
Competitive Enterprise Institute

Michelle Bernard, President  
Independent Women’s Forum

Patrick Toomey, President  
Club for Growth

Tim Phillips, President  
Americans for Prosperity

Matt Kibbe, President  
Freedom Works

Jim Martin, President  
60 Plus Association

David Keene, President  
American Conservative Union

Tom Schatz, President  
Citizens Against Government Waste

David Bossie, President  
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Jim Boulet, Jr., Executive Director  
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Tom McClusky, Vice President for  
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cc: Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Commissioner Deborah Taylor Tate  
Commissioner Robert M. McDowell