September 8, 2009

Federal Communications Commission
Media Bureau
445 12 St. SW
Washington DC 20554

RE: MB Docket No. 09-143

Dear Sir or Madam:

These comments are in reference to the petition by the MusicFIRST Coalition which asks the FCC to investigate the actions of certain broadcasters in opposition to a specific piece of legislation pending before Congress, the Performance Rights Act. MB Docket No. 09-143.

The Institute for Policy Innovation (IPI) is a 22 year-old public policy research organization located in Lewisville, Texas that seeks to educate the public and policy makers on public policy issues, including issues related to the communications industry.

The Institute for Policy Innovation (IPI) is troubled by two specific actions by broadcasters in this debate. In this letter our issue is not with regard to the merits of the performance rights debate, but rather whether or not broadcasters are acting within their public interest obligations when they 1) purposefully distort the public discussion of pending legislation before Congress, and when they 2) cut off access to media by those on the opposite side of an issue in which the broadcasters themselves have a specific pecuniary interest.

We're troubled by the fact that broadcasters, who have a distinct and unique pecuniary interest in this specific legislation, are denying access to those who take an opposing political view. We do not have a problem with the freedom of broadcasters to use their access to media to inform the public on policy issues, including upon issues where the broadcasters have a pecuniary interest. However, we believe it is an egregious violation of broadcasters' public interest obligations to deny even paid advertising access to those on the opposite side of an issue in which broadcasters have a pecuniary interest. At the very least this suggests to us a violation of broadcasters public interest obligations, when cut off advertising access to parties willing to pay market rates for advertising that could only be offensive to the broadcasters' own pecuniary interests.

In addition, we're troubled that the broadcasters are, in their communications with the public, mischaracterizing the performance royalty as a "tax." As a

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public policy think tank that has studied tax policy (among other issues) for over 22 years, it is clear to us that to call royalty payments a "tax" is purposefully misleading. Taxes are paid to governments, not to private property owners. To mischaracterize royalties as a "tax" is nothing less than a purposeful distortion of the facts, again designed to advance the pecuniary interests of the broadcasters at the expense of accurate information available to the public.

In our minds, the uniqueness of this issue is that the broadcasters have a unique and specific pecuniary interest in a specific legislative issue. Because of the uniqueness of this issue, IPI believes it calls for unique treatment by the FCC, and we do not call for or suggest the need for new underlying regulations. IPI would not endorse extrapolating these arguments to the larger issue of placing restrictions on broadcasters of the nature of past "Fairness Doctrine" obligations. Further, IPI would not seek to violate broadcasters' First Amendment rights by seeking to have broadcasters muted by regulation even upon issues where the broadcasters have a specific pecuniary interest.

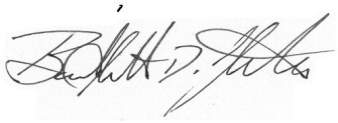
But denying access to legislative opponents and purposely mischaracterizing terms of a policy debate are egregious and should not be excused. The facts in this case are worthy of FCC inquiry.

The Institute for Policy Innovation (IPI) urges the FCC to investigate the facts in this matter, and to consider whether broadcasters are fulfilling their public interest obligations when they purposefully distort facts in order to suit their interests in a specific piece of legislation, and whether cutting off access to those who have an opposing view is a violation of the public interest obligations of broadcasters.

Thank you for your attention to these brief comments. Please do not hesitate to contact us if you have any questions related to these comments.

Sincerely,

Tom Giovanetti
President
Institute for Policy Innovation (IPI)



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