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February 20, 2011

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Via Electronic Filing

Re: Notice of Ex Parte Presentation in Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Dkt. 00-168

Dear Ms. Dortch,

Pursuant to section 1.1206(b) of the Commission's rules, Free Press submits this notice regarding an *ex parte* communication in the above referenced docket.

On Thursday, February 16, 2012, I spoke via telephone with Holly Saurer of the FCC Media Bureau. The subject of the conversation was a letter recently submitted by Barrington *et al.* putting forward an alternative to the Federal Communications Commission's proposal to require television stations to make their political files available online in lieu of maintaining such records in paper form. Specifically, Barrington *et al.* propose that TV stations should be allowed to continue to maintain their entire political files in paper form, but in addition, stations would also create and maintain a separate – but more limited – political record for submission online.¹

As an initial matter, I welcomed Barrington *et al.*'s efforts to offer constructive input in this proceeding and to further the Commission's goal of making political information more accessible to the public. That said, I relayed to Ms. Saurer a number of concerns regarding the Barrington *et al.* proposal.

First, I explained that the limited information Barrington *et al.* was proposing to put online was statutorily inadequate under section 315 of Communications Act. As a consequence, broadcasters would have to maintain two separate political records – one online and one offline – while diminishing the amount and types of information that members of the public could conveniently access via the internet. Given that broadcasters' primary rationale for seeking to exempt the political file from online posting has been the supposed burden of doing so, I was puzzled to see

¹ See Letter from Mary Jo Manning, Counsel to Barrington *et al.*, filed MM Dkts 00-168, 00-44, 11-189 (Feb. 15, 2012) <http://apps.fcc.gov/ecfs/document/view?id=7021860425>.

broadcasters advance a proposal that would, in effect, double their file maintenance burden. Conversely, the Commission proposal to replace entirely TV stations' paper files with an online file appears to be the far simpler and less onerous course of action.

Second, I explained that the limited data Barrington *et al* propose to make available online exempts a significant amount of important and statutorily-required political file information that citizens should be able to access readily and effectively through the internet. Barrington *et al* propose placing online limited information about advertisements purchased by or on behalf of candidates for elected office. But the proposal appears potentially to exclude from online posting the information that stations must by law collect about advertisements purchased by groups that are not affiliated with a candidate. For example, as submitted, Barrington's proposal could be construed to exclude information on political and issue advertising purchased by groups organized under sections 501(c)² and 527 of the internal revenue code, including independent expenditure committees (so-called "Super PACs"). These types of groups are playing increasingly prominent roles in political advocacy and excluding information on their advertising purchases would result in an incomplete and inadequate record of how the public airwaves are being used for partisan political purposes.

Additionally, while I commended Barrington *et al* for volunteering to take on the additional burden of aggregating the amount of money paid by buyers for candidate spots, their proposal does not provide online access to other important information that broadcasters must already collect and make available to the public. For example, the proposal would omit from online disclosure the cost of individual ads, whether a request to purchase broadcast time was accepted or rejected, the date and time on which the broadcast is aired, or the class of time purchased. This information, all of which currently is required by statute and FCC rules, provides the public with information about how often, to whom, and on what terms broadcasters have offered use of the public's airwaves for political purposes, and allows the public to verify that broadcasters are giving candidates equal access to their facilities and to assess whether stations are favoring certain groups or political messages over others. I reiterated that this information is neither confidential nor proprietary, but was intended and mandated by Congress to be made available to

² These include 501(c)(4) social welfare organizations, 501(c)(5) labor and agricultural organizations and 501(c)(6) business leagues and trade organizations. These groups can engage in certain political campaign activities provided that it is not their primary activity. They may also engage in other forms of advocacy on controversial issues of public importance that subject them to disclosure provisions of the FCC's rules. *See e.g.*, 47 C.F.R. § 73.1212(d)(e).

the public. Any member of the public has a right to view such data and make copies of it. For example, the New America Foundation has visited a number of stations to copy portions of their political files for purpose of posting those records online.³

I also stated that the time frame for updating their online file as proposed by Barrington does not comport with the purpose of the political file and unnecessarily delays access to information. Political records need to be updated daily or as immediately as possible during and election season, not weekly.

Finally, I explained that Barrington *et al's* proposal to allow stations to choose whether they want to submit political file information to the FCC or host it on their own website would defeat the significant benefits of having the data maintained in a single location. The FCC has offered to make these files available in a database hosted by the agency. This is the superior option as it would create central location for broadcasters' unified public files, thereby increasing the ease of locating the files and eliminating the burden on TV stations of maintaining such records on their own websites.

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above referenced docket. If you have any questions regarding this filing please do not hesitate to contact me.

Respectfully
submitted,
_____/s/_____
Corie Wright
Senior Policy Counsel
Free Press
202-265-1490

Cc:
Holly Saurer

³ See Tom Glaisyer, *Bringing Broadcaster Public Files into the 21st Century*, New America Foundation (Feb. 13, 2012)
http://mediapolicy.newamerica.net/blogposts/2012/bringing_broadcaster_public_files_into_the_21st_century-63637