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Federal Communications Commission
Office of the Secretary

April 26, 2012

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Via Electronic Comment Filing System

Hon. Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: MB Docket Nos. 00-168; 00-44; FCC 11-162,
*In the Matter of Standardized and Enhanced Disclosure Requirements for Television
Broadcast Licensee Public Interest Obligations*

Dear Chairman Genachowski:

I write on behalf of the Brennan Center for Justice at N.Y.U. School of Law¹ to reiterate our strong support for making television broadcasters' paper political files publicly available online. Congress has unambiguously required that the information contained in broadcasters' political files be available to the public. Given the role the Internet plays in modern life, making information publicly available in 2012 means making it available online.

The public interest in readily accessible political file information is unquestionably strong. Access to political files allows researchers, journalists, and public interest organizations to monitor spending on the political advertisements that seek to influence elections—and thus to inform citizens about the groups and individuals trying to influence their votes. While filings with the Federal Elections Commission provide an overview of certain spending in federal elections, they do not give meaningful information about a wide range of political

¹ The Brennan Center is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. The Brennan Center's Money and Politics project works to reduce the real and perceived influence of special interest money on our democratic values. Project staff defend federal, state, and local campaign finance and disclosure laws in court around the country, and provide legal guidance to campaign finance reformers through counseling, testimony, and public education.

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spending. Indeed, it is only through meticulous, time-consuming, and costly examination of broadcasters' paper files that the public can gain information about spending on certain political advertisements that purport to be mere "issue advertisements," and about spending in state, local, and judicial elections.

While a small number of dedicated media and advocacy groups in certain communities have the resources to conduct the detailed analyses of public files that are necessary to compile this information, such resources are lacking in many communities. Making political file information accessible online—information which Congress has already mandated must be publicly available—will ensure that every American community has the tools to identify the individuals and groups spending substantial sums on electioneering advertising that aims to sway their votes.

Recent news reports have described broadcasters' attempts to convince the Commission to narrow the online reporting requirements. We understand that broadcasters have asked to redact certain details on pricing, and to conceal detailed information on how much stations charge for political advertising time, including details about the dates and times particular political advertising is aired. Broadcasters have reportedly also requested that they be excused from posting political file information regarding political and issue advertising purchased by non-profit groups and so-called 527 groups. The Brennan Center strongly urges the Commission to reject these attempts to water down its transparency rules.

The information that broadcasters reportedly wish to conceal is information that they are already required to make—and in practice do make—public. They are legally required to include this information in their public files, and permitting them to remove this information from publicly accessible online reports would thwart the Congressional mandate for transparency embodied in section 315(e) of the Communications Act. Allowing concealment of this information would also thwart detection of violations of the obligation to make political advertising available at the lowest broadcast rate.

Ironically, the broadcasters' request for permission to redact information in their public files before it is published online strongly undermines their arguments about the alleged burdens that online reporting would entail. Despite the fact that businesses across nearly every industry are moving operations online to take advantage of the efficiency gains and cost savings of paperless communication, broadcasters have claimed throughout this proceeding that putting their public files online will impose costly burdens. They have said making their public files available online may require hundreds of hours of labor, and may require hiring new staff. These claims appear outlandish and exaggerated on their face. But even if taken at face value, they cannot be reconciled with broadcasters' more recent requests.

Now, broadcasters are reportedly asking that they be permitted to redact portions of the paper public files from what is reported online. This would require creating new reports for online posting, and would mean that broadcasters had to maintain separate, parallel records of the same advertising sales in the paper and online files. Simply put, broadcasters who have long argued they cannot post already-public information online because doing so is too burdensome now argue that they would be better served by even more burdensome and unnecessarily duplicative disclosure rules. To state this argument is to show that it should be rejected.

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Transparency in political spending empowers voters to make informed choices in the political marketplace. Congress has mandated that information about broadcasters' sales of political advertising be available to the public. Publicly available information, in 2012, is available online. The Commission should adopt rules that further, and do not impede, the Congressional mandate. Accordingly, we urge the Commission to adopt rules under which all the information contained in the public file is fully accessible to the public online.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Adam Skaggs", with a long horizontal flourish extending to the right.

J. Adam Skaggs
Senior Counsel
Democracy Program