Congress of the United States
Washington, DC 20515

March 20, 2012

The Honorable Julius Genachowski
Chairman
U.S. Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

We write in reference to MM Docket 00-168, in which the Commission has proposed to require that television broadcast stations post their political files on the Commission's Web site. We commend the Commission's efforts to improve disclosure requirements for candidates' political advertising purchases. Moreover, we wholeheartedly support increased disclosure requirements meant to achieve greater transparency in our country's political system.

As we understand the Commission's proposed rule, however, it would apply only to television broadcast stations. This puzzles us because we believe uniform and fair disclosure requirements will best serve the public interest. To help us understand why the Commission has proceeded as it has in this matter, we respectfully request your responses to the following questions:

1. Why has the Commission chosen to revise its political file disclosure requirements with respect only to television broadcasters?

2. Does the Commission intend to apply similar such requirements to multichannel video programming distributors, such as cable and satellite providers, in the future? If so, please explain when the Commission will issue a Notice of Inquiry and Notice of Proposed Rulemaking to that effect. If not, please explain why.

3. Has the Commission considered the misleading effect that the partial disclosure of candidates' political advertising purchases may have on the public? Please explain your response.

4. Similarly, please explain to us the public good that is achieved by the partial disclosure of candidates' political advertising purchases.

5. Further, does the Commission believe that centralizing information about political advertising purchases in a readily searchable online database will stimulate campaign spending instead of curtailing it? Please explain your response.

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6. Lastly, does the Commission believe it has the necessary resources (*i.e.*, sufficient number of employees, funding, and technological capacity) with which to carry out the proposed rule? We are aware of reports that the Commission's systems were unable to cope with prior substantial uploads of information and are concerned that such alleged technological limitations may delay the prompt disclosure of political advertising purchases.

To be certain, we applaud the Commission's effort to uphold its view of what is in the public interest. As our questions above indicate, we are nevertheless somewhat skeptical that the Commission's proposal will result in uniform and equitable disclosure requirements. We furthermore fear that the adoption of the proposed rule may very well encourage more campaign spending at a time when the public and many in Congress believe such spending has gotten out of control.

Please submit your responses to our questions and supporting materials no later than Friday, March 30, 2012. Thank you in advance for helping us gain greater insight into this most topical of issues. Should you require further information, please feel free to contact us or have a member of your staff contact Nathaniel Tipton with Congressman Gene Green at 202-225-1688 or Andrew Woelfling with Congressman Dingell at 202-225-4071.

Sincerely,

Gene Green
Member of Congress

John D. Dingell
Member of Congress

cc: The Honorable Fred Upton, Chairman
Committee on Energy and Commerce

The Honorable Henry Waxman, Ranking Member
Committee on Energy and Commerce

The Honorable Greg Walden, Chairman
Committee on Energy and Commerce
Subcommittee on Communications and Technology

The Honorable Anna Eshoo, Ranking Member
Committee on Energy and Commerce
Subcommittee on Communications and Technology

The Honorable Robert McDowell, Commissioner
U.S. Federal Communications Commission

The Honorable Mignon Clyburn, Commissioner
U.S. Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI
CHAIRMAN

April 26, 2012

The Honorable John D. Dingell
U.S. House of Representatives
2328 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Dingell:

Thank you for your letter regarding the Commission's proposal to update for the 21st century broadcasters' disclosure of their public files. You will find responses to your questions attached. Please let me know if I can be of any further assistance.

Sincerely,

Julius Genachowski

Enclosure

445 12TH STREET S.W. WASHINGTON, D.C. 20554 • 202-418-1000

1. **Why has the Commission chosen to revise its political file disclosure requirements with respect only to television broadcasters?**

   Congress has specifically required television broadcasters to disclose their political file.[1] The Further Notice of Proposed Rulemaking (FNPRM) that proposes to transition television broadcasters' public file from paper to digital is part of the larger DTV Public Interest Obligation proceeding that has focused on television broadcast stations since its inception in 1999. As our record in this proceeding indicates, approximately 60% of all political advertising dollars have been spent to date in the 2012 election cycle on affiliates of four largest networks in the top 50 markets.[2] Another proceeding at the Commission has sought comment on whether to require online disclosure of public file information for radio licensees.[3]

2. **Does the Commission intend to apply similar such requirements to multichannel video programming distributors, such as cable and satellite providers, in the future? If so, please explain when the Commission will issue a Notice of Inquiry and Notice of Proposed Rulemaking to that effect. If not, please explain why.**

   As noted above, there is a separate proceeding that has sought comment on transitioning radio licensees' public file from paper to digital, and the FNPRM noted that the Commission "will consider at a later date whether to apply similar reforms to radio licensees." Others in the proceeding have suggested that the Commission require cable systems to maintain an online public file.[4] The Commission and its staff is considering this issue.

3. **Has the Commission considered the misleading effect that the partial disclosure of candidates' political advertising purchases may have on the public? Please explain your response.**

   The FNPRM proposal is an update of existing requirements, converting paper-based disclosures to online disclosures for television station licensees, and will not result in a

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[1] The statutory requirement for television broadcasters to maintain a political file was added to the Communications Act of 1934 by Section 504 of the Bipartisan Campaign Reform Act of 2002, Pub. L. No 107-155, 116 Stat. 81 (2002).

[2] Letter from Kenneth M Goldstein, President, Kantar Media Campaign Media Analysis Group, to William Lake, Chief of the Media Bureau, FCC, MM Docket No. 00-168 at 1 (Apr. 5, 2012).

[3] *See Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service,* Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344, 10391 (2007).

[4] LUC Media Comments in MB Docket No. 00-168 at 2.

partial disclosure of political advertising purchases. Other entities will continue to maintain political advertising disclosures in their existing public files for public inspection.

4. **Similarly, please explain to us the public good that is achieved by the partial disclosure of candidates' political advertising purchases.**

   As many in the record have demonstrated, there are many public benefits to having broadcast television stations' public file records available online. The public will no longer have to physically travel to the station's main studio during regular business hours, request documents and wait for copies to be made. Materials in the file will be more easily accessible by candidates, as well as the general public.

   There is not a partial disclosure of political advertising purchases as the public will still have access to the political files of radio stations and cable operators.

5. **Further, does the Commission believe that centralizing information about political advertising purchases in a readily searchable online database will stimulate campaign spending instead of curtailing it? Please explain your response.**

   Congress explicitly mandated that FCC licensees "maintain, and make available for public inspection, a complete record of a request to purchase broadcast time" with the passage of Section 504 of the Bipartisan Campaign Reform Act of 2002, Public Law 107-155, 116 Stat. 81. The purpose of the public file is to make information concerning broadcasters' services more accessible to the public thereby improving communication between broadcast licensees and the public. We are proposing to update an existing record-keeping requirement to allow for easier public access to that information.

6. **Lastly, does the Commission believe it has the necessary resources (i.e. sufficient number of employees, funding, and technological capacity) with which to carry out the proposed rule? We are aware of reports that the Commission's systems were unable to cope with prior substantial uploads of information and are concerned that such alleged technological limitations may delay the prompt disclosure of political advertising purchases.**

   Yes, the Commission has sufficient resources to implement the proposed update. It was the suggestion of the Named State Broadcasters Associations (in their 2007 Petition for Reconsideration) that the Commission host the online public files itself. In the FNPRM, the Commission agreed that such a proposal would lessen the burdens on broadcasters, and provide a simple, easy-to-use portal on FCC.gov

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JULIUS GENACHOWSKI
CHAIRMAN

April 26, 2012

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