

United States Senate
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Enhanced Disclosure

April 4, 2012

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

Dear Chairman Genachowski:

I write to express my concerns regarding the Federal Communications Commission's (FCC) proposed rule to require stations to place their public inspection file on a new government website. I am particularly concerned by the imposition of burdensome new rules on broadcasters in a rushed attempt by the agency to inject itself into the 2012 political season.

I recently enjoyed the opportunity to discuss the proposed rule with a group of Kentucky broadcasters who were visiting our nation's capital. During our meeting, they shared their concerns that the proposal requiring stations to immediately report any inquiry from a candidate about the availability of broadcast time to the FCC. In their view, this could require stations to repurpose scarce resources from other priorities, including local programming. This requirement would grow exponentially during campaign seasons in which multiple candidates for multiple federal, state, and local offices are making multiple inquiries and purchases. It is my understanding that the FCC considered placing the political file online in 2007, but it explicitly rejected this idea after concluding that the burdens outweighed the benefits to the public. I have also heard from broadcasters expressing concerns about the requirement to post proprietary pricing information on a new government website. As you know, the law requires stations to provide candidates with the opportunity to purchase advertising at the lowest unit rate. Stations are understandably concerned that providing data on the availability and pricing of airtime will provide their competitors with real time access to proprietary information and could potentially lead to anticompetitive practices.

I would be remiss if I did not note my serious concern about attempts by this administration and its allies to coordinate a multi-prong assault on the exercise of free speech rights by individuals and organizations. It appears that this proposal is part of a disturbing trend to expand regulation of political speech in the wake of the *Citizens United* decision and intimidate citizens from participating the political process. Further, the request for comment on adding additional burdens and more expansive requirements during an election year is a thinly veiled attempt to achieve indirectly what the administration has failed to achieve directly through the legislative process. Protecting political speech and ensuring the right to petition the government free from harassment is at the core of the First Amendment and I am deeply troubled by any proposals to

Page 2
April 4, 2012

expand new federal regulatory schemes that could have the effect of stifling any citizen's right to engage in constitutionally protected speech.

Thank you in advance for your attention in this matter.

Sincerely,

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

MITCH McCONNELL
REPUBLICAN LEADER

MM/rf



FEDERAL COMMUNICATIONS COMMISSION

June 14, 2012

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Mitch McConnell, Jr.
Minority Leader
United States Senate
S-221 The Capitol
Washington, D.C. 20510

Dear Senator McConnell:

Thank you for your letter expressing concern about the Commission's efforts to require television broadcasters to post their public files online – including their political files. Your letter will be included in the record for the proceeding.

Congress has mandated through the Communications Act that broadcasters have unique public interest obligations, including the public availability of a broadcast station's political file. Transparency, accessibility and equal access are essential to serving the public interest goals of the Communications Act. The question that the Commission recently addressed was whether, in the 21st century, the broadcasters' obligations to make certain files available for public inspection continued to mean tucked in their local office filing cabinets, or available online. The Commission acted to ensure that television broadcasters' public files, including the political files, be accessible not just in hard-to-access physical filing cabinets, but online.

Before adopting the online filing requirement, the Commission carefully analyzed potential costs to broadcasters. As with all paper-to-paperless conversions, the broadcasters will experience some one-time upfront costs. Based on the record, the Commission estimated these costs at an average of \$80 - \$400 per station, spread over a six month period.

This requirement not only promotes transparency and accessibility, but based on the record in this proceeding will result in long-term efficiencies and cost savings for broadcasters. Moving the file online will minimize disruptions in the daily operation of a station, and reduce the burdens placed on station staff that currently field phone calls and chaperone in-person requests to inspect files. Also, broadcasters will no longer need to maintain paper copies of eight routine items that they already file with the Commission. These items compose about a third of all items in the public file. Instead, the Commission will take responsibility for filing the material online. Even for those elements of the file still managed by the broadcasters, the online file should be less burdensome than a local file, because uploading a file will be easier and more efficient than photocopying it, walking it to the local paper file, finding the appropriate folder and inserting it in the proper order.

In order to assist smaller stations in preparing for any additional costs, the conversion to electronic files will be completed in phases. Stations affiliated with the major networks in the top 50 DMAs, roughly 200 stations out of approximately 2000 stations nationwide, must post new political

Page 2—The Honorable Mitch McConnell, Jr.

file materials online when the rules become effective, with the rest of the industry complying by July 2014.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small dot at the end.

Julius Genachowski