

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
)
Petition Seeking Expansion of Online Public) MB Dkt. 14-127
File Obligations to Cable and Satellite and)
also on Expanding Online Public File)
Obligations to Radio)
)

**COMMENTS OF CAMPAIGN LEGAL CENTER,
COMMON CAUSE, AND SUNLIGHT FOUNDATION**

Campaign Legal Center, Common Cause, and the Sunlight Foundation (“CLC, *et al.*”) are pleased to see that the Commission has quickly put out for public comment the above-referenced petition for rulemaking and that it seeks comment on requiring radio stations to file online.¹ CLC, *et al.* strongly support extending the online public file requirement to radio stations because it will bring about the same public benefits as the broadcast television, cable, and satellite online filing requirements.²

I. Candidates and issue advertisers are increasingly advertising on radio.

Radio advertising for political campaigns has grown substantially since 2008. Statistica, a leading statistics company that counts advertising groups as clients, has extensively studied political radio advertising between 2008 and 2012. During those years, Statistica found that total spending on political advertising on radio in 2012 ranked third behind broadcast television and cable television.³ Also, political advertising on radio grew by 48.3%, which was higher than the

¹ *Media Bureau Seeks Comment on Petition for Rulemaking Filed by the Campaign Legal Center, Common Cause and the Sunlight Foundation Seeking Expansion of Online Public File Obligations to Cable and Satellite TV Providers, Public Notice, DA 14-1119 (MB Aug. 7, 2014).*

² Appendix A is a list of organizations that support these comments.

³ *Political advertising expenditure in the United States in 2008 and 2012, by media (in million U.S. dollars), Statistica, <http://www.statista.com/statistics/234579/political-advertising-expenditure-in-the-us-by-media> (last visited Aug. 20, 2014) (Appendix B).*

increases in both broadcast television (30.6%) and newspapers (28.1%).⁴ Political advertising spending on radio grew from \$552.5 million in 2008 to \$819.2 million in 2012. In comparison, cable television political ad spending grew from \$468 million to \$938.8 million and broadcast television political ad spending grew from \$4.3 billion to \$5.6 billion.⁵

More recently, in the first quarter of 2014 radio political ad spending reached \$7.5 million.⁶ According to Leo Kivijarv, VP of Research at PQ Media, radio accounted for 5.5% of all political ad spending in 2012, and could reach as high as 7% in 2014.⁷

Radio provides a particularly attractive advertising platform for political campaigns. It reaches a high percentage of registered voters, including minorities. According to the Radio Advertising Bureau, radio reaches 90% of adults 18+ who have registered to vote, including 91% of registered African-Americans and 92% of registered Hispanics.⁸ It also reaches a high percentage of voters likely to vote in both national and local elections.⁹ Moreover, radio ads are increasingly used by local and less well-known candidates and issue advocates because of the ads' low cost.¹⁰

Politicians at the national level use radio as well. President Barack Obama's and 2012 Republican Presidential nominee Mitt Romney's campaigns relied heavily on radio advertising.

⁴ *Growth of political advertising expenditure in the United States between 2012 vs. 2008, by media*, Statista, <http://www.statista.com/statistics/234584/growth-of-political-advertising-expenditure-in-the-us-by-media> (last visited Aug 20, 2014) (Appendix C).

⁵ *Id.*

⁶ Press Release, *Communications, Insurance, Health Care, Home Improvement Are Spot Growth Stars*, Radio Advertising Bureau at 2, May 16, 2014, available at <http://www.rab.com/public/pr/RevenueReportQ12014Final.pdf>.

⁷ *Id.*

⁸ Why Radio Fact Sheet, Radio Advertising Bureau, <http://www.rab.com/public/marketingGuide/DataSheet.cfm?id=25> (last visited Aug. 20, 2014).

⁹ *Id.*

¹⁰ Radio Advertising Bureau Press Release, *supra* note 6, at 2.

Both candidates saw radio as more influential in the later stages of the campaigns especially “as the eyes of swing-state voters glaze over after months of near-constant television ads.”¹¹

Moreover,

[r]adio allows campaigns, super PACs and other players to tailor messages to specific audiences on issues that play to the base, such as gay marriage, mammograms and defense cuts. It also lets them roll out edgier ads at a relatively low cost, including a rap artist-backed spot about “disrespect” of Obama and one from a religious conservative group claiming that Obama denied America’s Christian heritage during a visit to a Muslim nation.¹²

Radio ads also benefit from less clutter.¹³ There are many more radio stations than television stations, and relatively fewer ads that run on radio stations. This helps to avoid the “crowded room problem.”¹⁴ Particularly in battleground states, the crowded room of broadcast television ads can be overwhelming: “In Las Vegas, there have been something like 73,000 political TV ads. That’s a very crowded room.”¹⁵

Because political advertising on radio is playing an increasingly important role in educating the electorate, the public should have online access to the public and political files.

II. Radio stations are already required to maintain paper public files, and should upload the public files online for the same reasons as broadcast television stations and cable and satellite providers.

Under current rules, radio stations must maintain a hard copy of their public file at their main studio.¹⁶ Radio stations and broadcast television stations alike are required to maintain the

¹¹ Josh Gerstein, *Radio: The Other Air War*, Politico (Nov. 1, 2012), <http://dyn.politico.com/printstory.cfm?uuid=7E94DE4E-C421-4A89-BEE8-655DDF51D454>.

¹² *Id.*

¹³ In some markets, however, there are no television stations, and therefore radio represents the most important political advertising platform. Radio Advertising Bureau Press Release, *supra* note 6, at 3.

¹⁴ Gerstein, *supra* note 11.

¹⁵ *Id.* (quoting Evan Tracey, founder of Campaign Media Analysis Group).

¹⁶ 47 CFR §73.3526(b)(1).

same content in their public files as a condition of being spectrum licensees. Those requirements, listed in 47 CFR §73.3526(e), include license applications, ownership reports, issues/programs lists, time brokerage agreements/joint sales agreements, and the political file as dictated by 47 CFR §73.1943 and the Bipartisan Campaign Reform Act.¹⁷

In the same way that online disclosure of television public files provides “unquestionably substantial” public benefits,¹⁸ online disclosure of radio public files will accomplish the same goal.¹⁹ The burdens imposed by accessing the physical file are even higher with radio stations than with television stations. With more stations in each market, the public would have to visit many more stations to find the information they are looking for or to get a complete picture of political ad spending in a market. This would impose a significant time and expense burden. Online filing is also easier for the radio stations because it is more efficient than the physical file.²⁰

Some radio stations already support the online filing requirement. The American Public Media Group and other public radio groups have already filed comments in support of the increased transparency from an online public filing requirement.²¹ In addition, Todd Gray, an attorney who represents noncommercial educational radio stations, said his clients would probably support the move to online files for radio, and that “[i]t’s a foregone conclusion that the whole world is moving online and it’s only a matter of time before radio gets pulled into the regime.”²²

¹⁷ Bipartisan Campaign Reform Act, P.L. 107-155 (2002) (codified as 47 USC §315).

¹⁸ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order*, 27 FCC Rcd 4535, 4542 (2012).

¹⁹ See Gerstein, *supra* note 11.

²⁰ PIPAC’s August 2013 comments described in detail the significant public benefits from online disclosure. Comments of PIPAC at 3-11, MB Dkt. 00-168 (filed Aug. 26, 2013).

²¹ Comments of American Public Media Group *et al.*, *Expanding Online Public File Obligations to Radio Licensees*, MB Dkt. 14-127 (Aug. 19, 2014).

²² Kamala Lane, MVPDs, *Radio Stations Gear Up for FCC Look Into Extending Online Filing*

Radio is growing at a fast rate and represents a substantial portion of total political ad spending. Thus, disclosure of this information would improve overall political spending transparency and give the public more information about political spending activity that is often difficult to track.

III. The online public file has worked well and it should be extended to other forms of media.

The online public file requirement has proven very beneficial to the public. The ease of online access to the political file has allowed numerous media outlets and groups in many communities to report on political spending and to track ad spending. The *Honolulu Civil Beat* devotes a section of its website to tracking political spending in Honolulu; it is called “The Public File.”²³ The group *PublicSource* uses the FCC’s online political file to track ad spending in Philadelphia.²⁴ Echelon Insights, an analytics startup founded by the former digital head of the Republican National Committee hopes to track ad spending in every market based on the FCC database.²⁵ Other media outlets have used the database as a source in political ad spending stories.²⁶

Obligations, Communications Daily (Aug. 11, 2014).

²³ The Public File, Honolulu Civil Beat, <http://www.civilbeat.com/projects/public-file>. This has been especially useful because of the contentious election happening currently.

²⁴ Eric Holmberg, *Corbett continues to outspend Wolf on TV, nearly 10,000 ads already aired*, Public Source (Aug. 21, 2014), <http://www.publicsource.org/from-the-source/corbett-continues-outspend-wolf-tv-nearly-10000-ads-already-ai>red

²⁵ *Republican Startup Hopes to Use FCC Database to Predict Ad Future*, Advertising Age (Aug. 27, 2014), <http://adage.com/article/campaign-trail/republican-analytics-startup-aims-modern-media-reports/294721>.

²⁶ See, e.g., Sandra Fish, *Pro-fracking group books at least \$299K in TV ads before November election*, Colorado Independent (Feb. 25, 2014), <http://www.coloradoindependent.com/146183/pro-fracking-group-books-at-least-299k-in-tv-ads-before-november-election>; *Independents dominate TV spending in statewide campaigns*, Michigan Campaign Finance Network (July 1, 2014), <http://www.mcfn.org/press.php?prId=199>; Laura Hancock, *Candidate and groups TV ad expenditures top \$69,000*, Casper Star Tribune (Aug. 23, 2014), http://trib.com/news/state-and-regional/govt-and-politics/candidate-and-groups-tv-ad-expenditures-top/article_73eaf11f-bdca-567a-8263-ac2ddc1859cd.html; Jonathan Cooper

Conclusion

Online access to radio stations' public and political files would benefit the public interest in the ways described above. Thus, the Commission should extend the online public file requirement to radio in addition to cable and satellite providers as requested in CLC, *et al.*'s petition for rulemaking.

Respectfully submitted

/s/

Eric G. Null
Angela J. Campbell
Andrew Jay Schwartzman
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Suite 312
Washington, DC 20001
(202) 662-9535

Dated: August 28, 2014

Counsel for Commenters

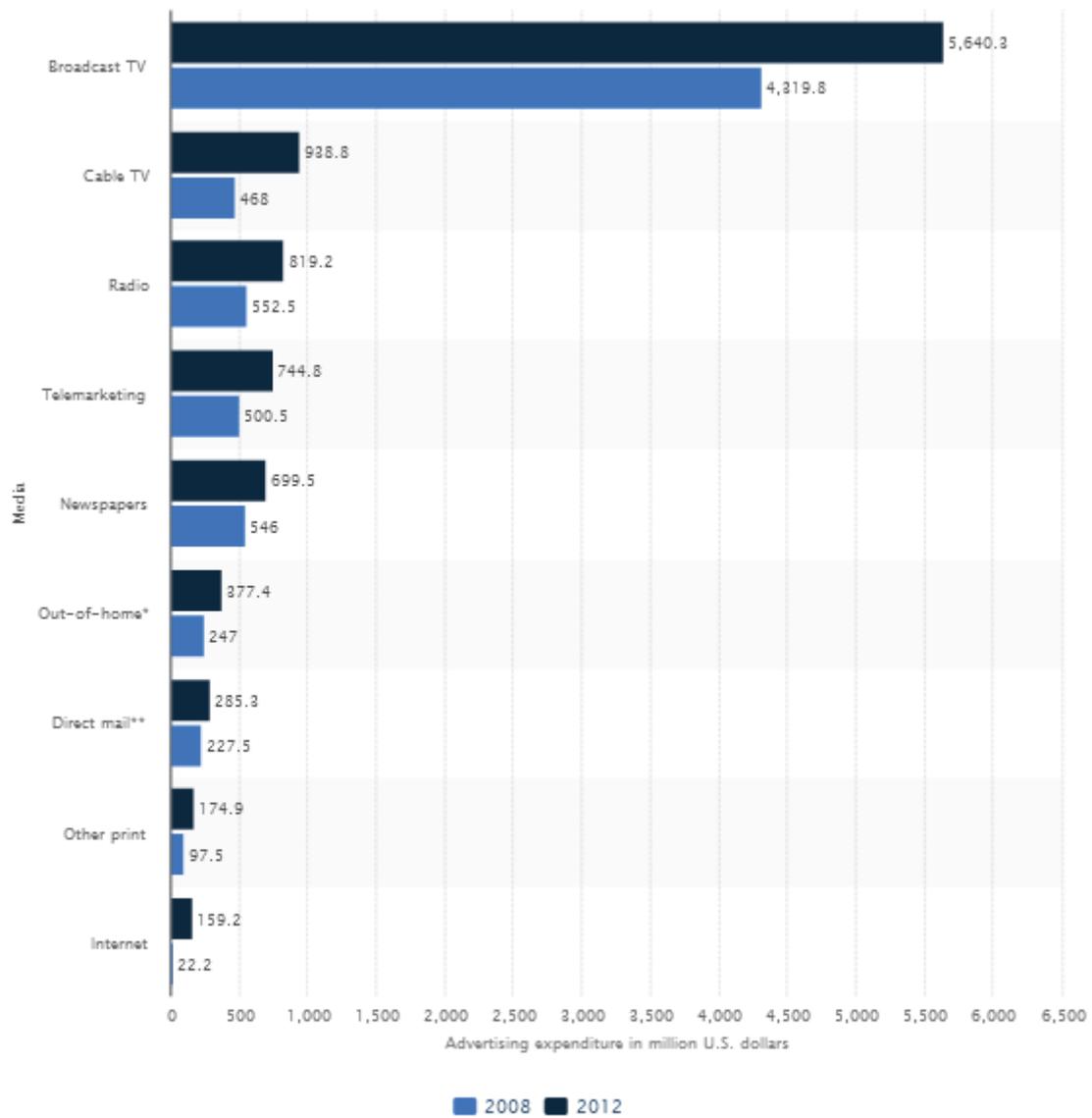
(Associated Press), *Campaign for legal pot announces \$2.3M in TV ads*, KIRO TV (Aug. 18, 2014), <http://www.kirotv.com/ap/ap/washington/campaign-for-legal-pot-announces-23m-in-tv-ads/ng5B2>.

APPENDIX A

Center for Effective Government
The Center for Responsive Politics
Citizens for Responsibility and Ethics in Washington
Democracy 21
Government Accountability Project
Project On Government Oversight
Prometheus Radio Project
Public Citizen

APPENDIX B

Political advertising expenditure in the United States in 2008 and 2012, by media (in million U.S. dollars)

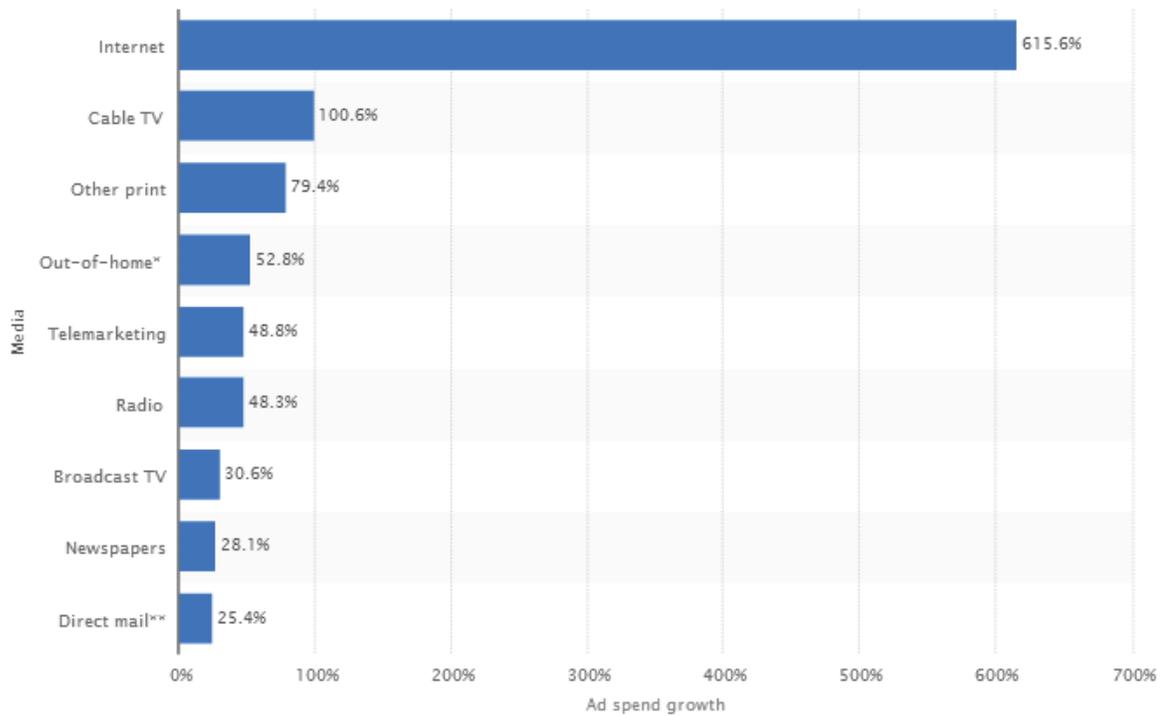


Additional Information
United States; Borrell Associates

Source:
Borrell Associates
© Statista 2014

APPENDIX C

Growth of political advertising expenditure in the United States between 2012 vs. 2008, by media



Additional Information
United States; Borrell Associates

Source:
Borrell Associates
© Statista 2014



Reading support

The graph above presents the growth of political advertising expenditure in the United States between 2008 and 2012, broken down by media. Political advertising expenditure on cable TV in the United States grew by more than a 100 percent between 2008 to 2012.