

Congress of the United States
Washington, DC 20515

April 25, 2012

0536

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20515

Dear Chairman Genachowski:

The Federal Communications Commission (FCC) is considering a proposal to require television broadcasters to post all of their public records on the Internet, which includes their political files. In the current fiscal environment where both the President and Congressional leaders have prioritized the elimination of unnecessary government spending, a plan to transition to an online public file deserves careful scrutiny. To date, the FCC has not adequately assessed the costs or burdens associated with this proposal, nor articulated the need.

As drafted for comment, this proposal would require the FCC to develop and maintain a new online database that would host all of the public and political file records, often numbering in the thousands of pages, for the 1,776 television stations in the United States. Television broadcasters would bear the cost of uploading these files. This would be a tremendous undertaking.

We also understand that your draft order would lead to even greater costs than what was outlined in the notice of proposed rulemaking. For example, the draft asks for stations to provide the materials to the Commission in their native format rather than a .pdf and will require the FCC to upload this information onto a cloud system. Has the Commission assessed the station resources that will be required to man, monitor, and enforce these new provisions? It is imperative that the Commission and Congress understand the costs associated with these online files, as well as the planned sources of funding, before making any final determinations on this proposal.

The FCC's proposal fails to explain the need for an online public file. As FCC Commissioner Robert McDowell recently stated, the proposal for an online public file is fixing "what appears to be a nonexistent problem," since there is little evidence that the current hard copy file is not available to whoever needs it. The Commission must explain the need for this proposal before implementing such a costly endeavor.

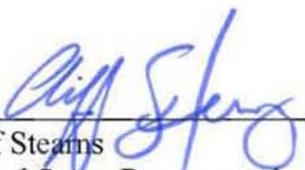
Moreover, the FCC's proposal does not adequately assess its impact on the 74 percent of television stations that, by FCC estimates, qualify as "small entities" subject to the Regulatory Flexibility Act. This problem is not alleviated by only requiring ABC, CBS, Fox, and NBC stations or affiliates in the top-50 U.S. markets to immediately put new data from political files online, since many of these stations are in fact small businesses. Given the economic impact of this proposal, the FCC should explore less burdensome alternatives.

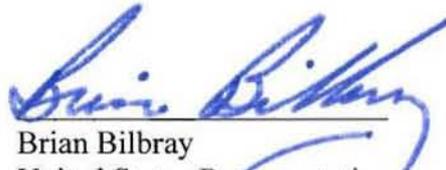
Finally, we find it troubling that the FCC will be requiring the political file to be put online, which includes proprietary and competitively sensitive information about all political advertising

requests, including Lowest Unit Charge or other price information in the case of issue advertisements. We would prefer you require stations to aggregate the spending of individual candidates and PACs rather than calling for the reporting of all political buys. There are significant competition issues at play here that warrant careful consideration.

It is critical that Congress better understand the costs and benefits of an online public file, particularly given the apparent, but unexplained, rush by the FCC to get this completed. As you are aware, the House recently passed H.R. 3309, the Federal Communications Commission Process Reform Act of 2012. As proud supporters of this bill we have advocated that agencies such as yours conduct a cost-benefit analysis before imposing new regulations. We are very concerned that such an analysis was not conducted here. We look forward to continuing to work with you as you consider this important issue.

Sincerely,


Cliff Stearns
United States Representative


Brian Bilbray
United States Representative


Marsha Blackburn
United States Representative

cc: Commissioner Robert McDowell
Commissioner Mignon Clyburn