Campaign Finance Reform -GW

THE WHITE HOUSE

WASHINGTON

April 6, 1998

The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

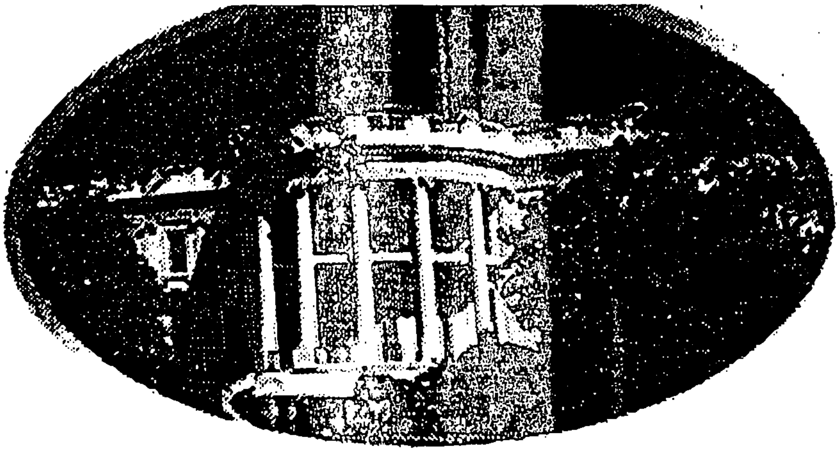
Dear Chairman Kennard:

I am writing to commend you for your efforts to establish a system of free television time for federal candidates. As you know, I believe that free television is critical to reforming our campaign finance system.

I share your determination to achieve a workable system of free and reduced broadcast time. I commend you for your plan to work with the Congress, broadcasters, reform groups, and the American people to develop a consensus on this difficult but important issue. The ideas that will evolve from this process will build a better democracy for all our citizens.

Sincerely,

Bill Clinton



Campaign Finance Reform Gen

Office of the Vice President

National Performance Review
Room 271
Old Executive Office Building
Washington, DC 20501
(202) 456-6429 (fax)
(202)456-2816 (voice)

TO: Thomas Friedman

FROM: Lisa Malloy

DATE:

Number of pages including cover: 6

COMMENTS:

January 23, 1998

To: Campaign Finance Group

Fr: Bill Marshall
Lisa Brown
Janis Crum

Re: Issue Advocacy and Independent Expenditure Regulatory Options

ISSUE ADVOCACY

I. Definition

Issue advocacy is the most highly protected form of political speech under the First Amendment. It is defined as a communication which does not "in express terms advocate the election or defeat of a clearly identified candidate."

Only communications that contain such express advocacy are currently regulated under the Federal Election Campaign Act.

II. Current Regulation of Issue Advocacy

None. Issue ads are subject to neither disclosure nor contribution limitations under the current regulatory scheme.

III. Regulatory Options

A. *Narrow the Definition of Communications Which Qualify as Issue Advocacy By Expanding the Definition of Express Advocacy.*

- Redefine express advocacy to include communications which, "when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as advocating the election or defeat of one or more clearly identified candidate(s)." (11 CFR 100.22; FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987.)

- Redefine express advocacy to include communications which: (1) contain the name of a candidate and (2) are printed or broadcast within 30 days of an election.

- Include communications that contain the name of a candidate for elective office and are printed or broadcast within 30 days of an election, where the "intent is to advocate the election or defeat of the named candidate, as shown by one or more factors such as a statement or action by the person making the communication, the targeting or placement of the communication, or other devices intended to influence the outcome of an election." (H.R. 493, 104th Congress Reps. Shays/Meehan bill)

  Constitutional Appraisal: Circuit courts are split as to the constitutionality of expansive definitions of express advocacy. (See, Furgatch, supra; ME Right to Life Cmtee v. FEC, 98 F.3d 1 (1st Cir. 1996.) The Supreme Court has not resolved the issue. Because of the core First Amendment interests at stake, the Court may be reluctant to uphold broad language.

B. *Mandate Disclosure for Broadcast Communications of Issue Ads*

- Require disclosure of the source(s) of funding for the communication.

- Where an issue ad is funded by an organization, association, for-profit or non-profit corporation, require disclosure of the five [or more] largest contributors to that organization, association or corporation.

- Where an issue ad is funded by contributions to an organization specifically earmarked for issue ads, require disclosure of the names of the five [or more] individuals making the largest monetary contributions for funding the ad.

- Where an issue ad is funded by an organization, require disclosure of major contributors to that organization who donated [$500] or more (i.e., set a threshold dollar amount for persons whose contributions must be disclosed).

<u>Constitutional Appraisal</u>: <u>McIntyre v. OH Elections Commission</u>, 514 U.S. 334 (1995) held that a state could not require disclosure of the author of a leaflet. The Court left open the question of whether disclosure would be permitted in the broadcast context. The First Amendment will require an exception from disclosure for unpopular organizations which can demonstrate that disclosure of contributors will threaten the organization's existence. <u>Brown v. Socialist Worker's Party</u>, 459 U.S. 87 (1982) (holding that the Socialist Workers Party was exempt from campaign disclosure requirements).

C. *Require Disclaimers for Broadcast Issue Ads*

- Require a continuous printed disclaimer stating that the advertisement is not authorized by a candidate and naming the group responsible for it

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<u>INDEPENDENT EXPENDITURES</u>

I. <u>Definition</u>

An independent expenditure is a communication that expressly advocates the election or defeat of a clearly identified candidate, but which is made independently of any candidate's campaign.

Independent expenditures cannot be "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." 2 U.S.C. 431(17); 11 CFR 109.1(a).

Expenditures found to be "coordinated" with a candidate's campaign are considered contributions to that candidate, and are subjected to candidate contribution limits.

II. <u>Current Regulation of Independent Expenditures</u>

- Individuals who make contributions to political committees (i.e., PACs) are limited to giving $5,000, regardless of whether the committee makes independent expenditures.

- However, current law imposes no limits on <u>individuals</u> who make independent expenditures, even if an individual has contributed the maximum amount to a political committee allowed under the statute.

- FECA requires PACs, multi-candidate committees,

political parties and candidate committees to disclose independent expenditures that aggregate over $200 a year.

- Any independent expenditure of $1,000 or more which is made after the 20th day, but more than 24 hours before the day of an election must be reported within 24 hours after the independent expenditure is made. Individuals who spend $250 on independent expenditures must disclose to the FEC at the end of the reporting period.

III. Regulatory Options

A. *Expand the Definition of "Coordinated Expenditure"*

- Create a presumption that any express advocacy expenditure by a past or present donor is conclusively deemed "coordinated." Such coordinated expenditures would be subject to applicable candidate contribution limits. NO

- Impose this "presumption of coordination" on organizations and individuals registered as lobbyists; or, more specifically, on individuals and organizations that have lobbied a particular officeholder in the past.

- Impose the "presumption of coordination" on volunteers who are integrally linked (and who have direct knowledge of message and strategy) to the candidate's campaign.

- McCain/Feingold (S.25) provision: Defines "in coordination with a candidate" as: "A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made."

  The bill also defines "coordinated" to include payments made by a person who has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or policymaking discussion in the same election cycle in which the payment is made.

Constitutional Appraisal: Limits on independent expenditures have been rejected by the Supreme Court, albeit in very fact-specific circumstances. See, Colorado Republican Federal Campaign Committee v. FEC, 518 U.S. --, 135 L.Ed.2d 795, 801-803 (1996) (noting that the case represented an as-applied challenge to

the FEC's factual interpretation of "independent" versus "coordinated" expenditures). Nevertheless, unless the Colorado case is overturned or limited, the constitutionality of broad definitions of "coordinated expenditure" will be suspect.

B. *Limit Contributions To Organizations That Make Independent Expenditures for Broadcast Communications*

- Require individuals and organizations who are not currently registered as a political committee to register as an "independent expenditure committee" when they spend or receive $1,000 for the purpose of making independent expenditures.

- For an independent expenditure committee that makes broadcast expenditures of $10,000 [or some other threshold amount] in support of or opposition to any candidate, impose a limit of $1,000 (the maximum amount applicable to candidates) on contributions to the independent expenditure committee.

Constitutional Appraisal: Although Buckley v. Valeo, 424 U.S. 1 (1976) rejected a monetary cap on independent expenditures, the Court upheld contribution limits as constitutionally valid. Accordingly, this proposal might survive Buckley v. Valeo.

C. *Require More Stringent Disclosure*

- Any expenditure for an express advocacy communication made within 30 days of an election must be reported within 72 hours of the broadcast or public dissemination of the communication.
  (See similar provision of S.25/McCain-Feingold, requiring 24 hour disclosure within 20 days of an election for independent expenditures of $10,000 or more.)

- Require the FEC to notify a candidate mentioned in an independent expenditure when the total spent on the communication reaches a certain dollar amount. (See Clean Congress Act, 104th Congress) triggering amount is $25,000.)

Constitutional Appraisal: Under Buckley, these disclosure requirements should be upheld.

SNOWE-JEFFORDS PROPOSAL

Summary

The following is a summary outline of the current proposal brought forward by Senators Snowe and Jeffords as a possible substitute for the "paycheck protection" amendment that Senator Lott has offered in the past to the McCain-Feingold campaign finance reform bill, S. 25. The Snowe-Jeffords amendment would not change any current provisions of S. 25, including the *Beck* codification (§ 501), other than to revise the definition of "express advocacy" (§ 201). The Snowe-Jeffords provision would:

1. Define a new category of "electioneering communication" that:

   a. refers to clearly identified candidate(s);
   b. appears within 30 days of of a primary or 60 days of a general election; and
   c. is broadcast on TV (including cable or satellite) or radio to the candidate's electorate.

   This definition would NOT include any printed communication, direct mail, voter guides or the Internet.

2. Prohibit unions and for-profit corporations from directly or indirectly making electioneering communications using treasury funds. Only voluntarily contributed PAC money could be used for these types of communications.

3. Require anyone making or contracting to make electioneering communications aggregating $10,000 or more to disclose to the FEC within 24 hours:

   a. the sponsor of the communication, any connected or affiliated person or group, and the custodian of records and accounts;
   b. the amount of the disbursement;
   c. the name(s) of candidate(s) mentioned, or if that information is not known, the election to which the communication will pertain; and
   d. either:
   (1) the names and addresses of all contributors of $500 or more to the sponsor in the last two years; or
   (2) the names and addresses of all contributors of $500 or more to a segregated bank account of the sponsor, to which only individuals can contribute.

4. Prevent unions or corporations from laundering funds through non-profits to make electioneering communications:

   a. Electioneering communications are treated as made by a corporation or a union if they are made by an organization or political party committee that has received anything of value from a corporation or union, unless the expenses are paid for from a segregated bank account that accepts only individual contributions.

b. Non-profits that have income from business activities or from corporations or unions are considered to have paid for electioneering communications out of such income unless they have paid for them out of a segregated bank account.

5. Make clear that electioneering communications that are coordinated with a Federal candidate or a political party committee are contributions to that candidate or party committee.

Discussion and Analysis

The Snowe-Jeffords proposal is intended to break the current logjam over the McCain-Feingold bill caused by the Republican leadership's Paycheck Protection Act, which tries to defund unions by setting up barriers to their obtaining union dues that can be spent on political activities. The Snowe-Jeffords proposal would move the focus off union dues to union spending, and would broaden the focus by imposing even-handed rules on unions and for-profit corporations regarding how they can spend funds for broadcast advertisements that name specific candidates close in time to an election.

The Snowe-Jeffords proposal essentially duplicates the bright-line test of the current McCain-Feingold bill, but limits it to unions and for-profit corporations. It would, in essence, require unions and corporations to use hard money from their PACs to run broadcast ads mentioning candidates within 60 days of a general election (or 30 days of a primary). Advertisements that do not expressly advocate the election or defeat of a candidate and which do not meet the definition of "electioneering communications" -- either because they run outside of the 30/60-day pre-election window or do not refer to a clearly identified candidate -- would be unaffected, and unions and corporations could pay for those ads with treasury funds. Thus, the Snowe-Jeffords proposal proposes essentially the same limits on union and for-profit corporate spending as S. 25, but takes the added step of specifically naming unions and corporations as the target of those limitations.

Ads that named candidates close in time to an election, but which were alleged not to be candidate ads subject to federal election laws, were a major new development in the 1996 elections. The Annenberg School of Public Policy has estimated that spending on these ads totaled $135-150 million, with parties spending about $78 million on these ads in the 1996 cycle. The AFL-CIO spent about $25 million. Business groups including The Coalition, Coalition for Change, and Coalition for Our Children's Future, the Nuclear Energy Institute, and the Chamber of Commerce spent nearly $10 million. Nonprofits paid for the rest. These figures are not comprehensive, given the lack of reporting requirements for ads paid for by nonparty sponsors. The potential obviously exists for greatly increased corporate spending in the future. How much more labor could or would want to devote to these types of communications is not clear.

One potential concern with the Snowe-Jeffords proposal is that it only affects ads paid for by unions and for-profit corporations, but does not reach ads paid for by nonprofits. However, nonprofit spending on electioneering advertisements would be affected in other ways by the Snowe-Jeffords proposal and by the McCain-Feingold bill as currently drafted.

First, the Snowe-Jeffords proposal would prohibit nonprofits from using union or for-profit corporation donations to pay for advertisements that name candidates close in time to an election. It would also require disclosure of all donors of $500 or more within 24 hours of a group's spending $10,000 or more on such advertisements.

Second, the McCain-Feingold bill already prohibits national, state, and local political parties from soliciting funds for or making donations to 501(c) organizations. This prohibition would stop parties from funneling money to nonprofits to pay for campaign activity, such as the $4.5 million given by the RNC to Americans for Tax Reform in October 1996. The bill would also prohibit elected officials and candidates from directing money to non-profits for use in advertisements that mention candidates.

Third, both the bill and the Snowe-Jeffords proposal would make it clear that electioneering communications cannot be coordinated with candidates or parties.

Finally, and most important, the McCain-Feingold bill would prohibit national political parties from raising or spending soft money. This would prevent, for example, parties from using unlimited soft money donations to pay for state party ads attacking candidates like the $800,000 spent by the Republican Party in the recent NY-13 special election.[1]

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[1] Amendments suggested by other Senators directly restricting the participation of tax-exempt organizations in campaign activity would be another way of reducing the role of nonprofits in federal elections.

L-1570

O:\FRA\FRA98.043 S.L.C.

AMENDMENT NO. ____ Calendar No. ____

Purpose: Relating to electioneering communications.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

S.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. SNOWE

Viz:

Strike section 201 and insert:

Subtitle A—Electioneering Communications

SEC. 200. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL STATEMENTS ON ELECTIONEERING COMMUNICATIONS.—

"(1) STATEMENT REQUIRED.—Every person who makes a disbursement for electioneering communications in an aggregate amount in excess of

$10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any connected or affiliated person (and their relationship), and of the custodian of the books and accounts of the person making the disbursement.

"(B) The State of incorporation and the principal place of business of the person making the disbursement.

"(C) The amount of the disbursements during the period covered by the statement.

"(D) The election (s) to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated account to which only individuals could contribute, the names and addresses of all contributors who contributed an aggregate amount of $500 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $500 or more to the organization or any related entity during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(G) Whether or not any electioneering communication is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee, any political party or committee, or any agent of the candidate, political party, or committee and if so, the identification of any candidate, party, committee, or agent involved.

"(3) DISCLOSURE DATE.—For purposes of this subsection, the term 'disclosure date' means—

"(A) the first date during any calendar year by which a person has made disbursements for electioneering communications aggregating in excess of $10,000, and

"(B) any other date during such calendar year by which a person has made disbursements for electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(4) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has contracted to make the disbursement."

(b) ELECTIONEERING COMMUNICATIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(20)(A) The term 'electioneering communication' means any broadcast from a television or radio broadcast station which—

"(i) refers to a clearly identified candidate for Federal office;

"(ii) is made (or scheduled to be made) within—

"(I) 60 days before a general, special, or runoff election for such Federal office, or

"(II) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for such Federal office, and

"(iii) is primarily intended to be broadcast to the electorate for such election, convention, or caucus.

"(B) Such term shall not include—

"(i) communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate, or

"(ii) communications required to be reported as expenditures or independent expenditures under section 304."

SEC. 200A. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended by inserting after clause (ii) the following new clause:

"(iii) if—

"(I) any person makes, or contracts to make, any payment for any electioneering communication (within the meaning of section 301(20)), and

"(II) such payment is coordinated with a candidate for Federal office or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee,

such payment or contracting shall be treated as a contribution to such candidate and as an expenditure by such candidate; and".

SEC. 200B. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION.—Section 316 of such Act is amended by adding at the end the following new subsection:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

"(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 301(20)) which is made by—

"(A) any entity to which subsection (a) applies other than a section 501(c)(4) organization, or

"(B) a section 501(c)(4) organization from amounts derived by it from the conduct of a trade or business or from an entity described in subparagraph (A).

"(2) SPECIAL OPERATING RULES.—For purposes of paragraph (1), the following rules shall apply:

"(A) An electioneering communication shall be treated as made by an entity described in paragraph (1)(A) if—

"(i) the entity directly or indirectly disburses any amount for any of the costs of the communication; or

"(ii) any amount is disbursed for the communication by a corporation or organization or a State or local political party or committee thereof that receives anything of value from ~~the entity~~ an entity described paragraph 1(A), except that this clause shall not apply to any communication the costs of which are defrayed entirely out of a segregated account to which only individuals can contribute.

"(B) A section 501(c)(4) organization that derives amounts from business activities or from any entity described in paragraph (1)(A) shall be considered to have paid for any communication out of such amounts unless it paid for the communication out of a segregated account to which only individuals can contribute.

"(3) DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) the term 'section 501(c)(4) organization' means an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and (or application)

"(B) a person shall be treated as having made a disbursement if the person has contracted to make the disbursement."

Subtitle B—Independent and Coordinated Expenditures

SEC. 201. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (calendar year)', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates; Done

"(ii) ~~that~~ is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent; and Done

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (calendar year)', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

January 23, 1998

CF Campaign Finance Refm

To: Campaign Finance Group

Fr: Bill Marshall
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Re: Issue Advocacy and Independent Expenditure Regulatory Options

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Thurs. 4 pm

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  Constitutional Appraisal: Although Buckley v. Valeo, 424 U.S. 1 (1976) rejected a monetary cap on independent expenditures, the Court upheld contribution limits as constitutionally valid. Accordingly, this proposal might survive Buckley v. Valeo.

C. *Require More Stringent Disclosure*

- Any expenditure for an express advocacy communication made within 30 days of an election must be reported within 72 hours of the broadcast or public dissemination of the communication.
  (See similar provision of S.25/McCain-Feingold, requiring 24 hour disclosure within 20 days of an election for independent expenditures of $10,000 or more.)

- Require the FEC to notify a candidate mentioned in an independent expenditure when the total spent on the communication reaches a certain dollar amount. (See Clean Congress Act, 104th Congress) triggering amount is $25,000.)

Constitutional Appraisal: Under Buckley, these disclosure requirements should be upheld.

Lisa Brown

Marty and Mike —
Wingrd Waldman

We should convene the CFR group to discuss how we want to respond to this, as it raises a number of issues re: Free TV, the FCC's consideration of the issue, election timing etc.

Lisa —

I leave this in your capable hands.

We will need to amend the Executive Order if we change the date.

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters

Leslie Moonves
CBS Television

Dr. Norman Ornstein
American Enterprise Institute

Co-Chairs

January 15, 1998

The President
The White House
Washington, DC 20500

Dear Mr. President:

As you know, by Executive Order No. 13038 (March 11, 1997), you established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, and directed that the Advisory Committee report to the Vice President on the public interest obligations digital television broadcasters should assume. Under Section 2 of the Executive Order, this report is to be submitted on or before June 1, 1998.

As you also are aware, more than seven months elapsed between issuance of the Executive Order and appointment of members to the Advisory Committee. As the Advisory Committee began its work at a meeting on October 22, 1997, there was general agreement among the members that adherence to the June 1, 1998, deadline would not afford the Advisory Committee sufficient time to gather necessary information, consider that information, deliberate on possible conclusions, and prepare the required report to the Vice President.

We therefore respectfully request that the deadline for submission of the Advisory Committee's report be extended until October 1, 1998.

Very truly yours,

Leslie Moonves
Co-Chair

Norman J. Ornstein
Co-Chair

cc: The Honorable Al Gore
Vice President of the United States

The Honorable Larry Irving
Assistant Secretary of Commerce for Communications and Information

Secretariat:

Karen Edwards
Designated Federal Officer

Anne Stauffer
Committee Liaison Officer

Room 4716; National Telecommunications and Information Administration; US Department of Commerce; Washington, DC 20230
Tel: 202-482-8056; Fax: 202-482-8058

Campaign Finance — EW

Paul J. Weinstein Jr. 02/03/98 02:50:04 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP

cc: William P. Marshall/WHO/EOP, Peter G. Jacoby/WHO/EOP
Subject: REVISED statement on soft $$$ - rahm hasn't commented, but he won't care .. go for it

Waldman decided we needed to release this today since AP had a blurb on the proposed FEC rule this morning. He has sent it over Lockhart. It is a revision of the one I did yesterday. Somewhat shorter but still to the point.

--------------------- Forwarded by Paul J. Weinstein Jr./OPD/EOP on 02/03/98 02:48 PM ---------------------------

Michael Waldman
02/03/98 02:46:20 PM

Record Type: Record

To: Joseph P. Lockhart/WHO/EOP, Elizabeth R. Newman/WHO/EOP

cc: Michelle Crisci/WHO/EOP, Paul J. Weinstein Jr./OPD/EOP
Subject: REVISED statement on soft $$$ - rahm hasn't commented, but he won't care .. go for it

I strongly support action to end the soft money system raised by both political parties. That is why last year I asked the Federal Election Commission to ban soft money, under its current legal authority. I am very pleased that the agency's general counsel has proposed a new rule prohibiting national parties from raising soft money. Now I ask the members of the Commission to step up to their responsibility and act, within their legal authority, to end soft money.

January 23, 1998

Campaign Finance

To: Campaign Finance Group

Fr: Bill Marshall
Lisa Brown
Janis Crum

Re: Issue Advocacy and Independent Expenditure Regulatory Options

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ISSUE ADVOCACY

I. Definition

Issue advocacy is the most highly protected form of political speech under the First Amendment. It is defined as a communication which does not "in express terms advocate the election or defeat of a clearly identified candidate."

Only communications that contain such express advocacy are currently regulated under the Federal Election Campaign Act.

II. Current Regulation of Issue Advocacy

None. Issue ads are subject to neither disclosure nor contribution limitations under the current regulatory scheme.

III. Regulatory Options

A. *Narrow the Definition of Communications Which Qualify as Issue Advocacy By Expanding the Definition of Express Advocacy.*

- Redefine express advocacy to include communications which, "when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as advocating the election or defeat of one or more clearly identified candidate(s)." (11 CFR 100.22; FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987.)

- Redefine express advocacy to include communications which: (1) contain the name of a candidate and (2) are printed or broadcast within 30 days of an election.

- Include communications that contain the name of a candidate for elective office and are printed or broadcast within 30 days of an election, where the "intent is to advocate the election or defeat of the named candidate, as shown by one or more factors such as a statement or action by the person making the communication, the targeting or placement of the communication, or other devices intended to influence the outcome of an election." (H.R. 493, 104th Congress Reps. Shays/Meehan bill)

  Constitutional Appraisal: Circuit courts are split as to the constitutionality of expansive definitions of express advocacy. (See, Furgatch, supra; ME Right to Life Cmtee v. FEC, 98 F.3d 1 (1st Cir. 1996.) The Supreme Court has not resolved the issue. Because of the core First Amendment interests at stake, the Court may be reluctant to uphold broad language.

B. *Mandate Disclosure for Broadcast Communications of Issue Ads*

- Require disclosure of the source(s) of funding for the communication.

- Where an issue ad is funded by an organization, association, for-profit or non-profit corporation, require disclosure of the five [or more] largest contributors to that organization, association or corporation.

- Where an issue ad is funded by contributions to an organization specifically earmarked for issue ads, require disclosure of the names of the five [or more] individuals making the largest monetary contributions for funding the ad.

- Where an issue ad is funded by an organization, require disclosure of major contributors to that organization who donated [$500] or more (i.e., set a threshold dollar amount for persons whose contributions must be disclosed).

Constitutional Appraisal: McIntyre v. OH Elections Commission, 514 U.S. 334 (1995) held that a state could not require disclosure of the author of a leaflet. The Court left open the question of whether disclosure would be permitted in the broadcast context. The First Amendment will require an exception from disclosure for unpopular organizations which can demonstrate that disclosure of contributors will threaten the organization's existence. Brown v. Socialist Worker's Party, 459 U.S. 87 (1982) (holding that the Socialist Workers Party was exempt from campaign disclosure requirements).

C. *Require Disclaimers for Broadcast Issue Ads*

- Require a continuous printed disclaimer stating that the advertisement is not authorized by a candidate and naming the group responsible for it.

INDEPENDENT EXPENDITURES

I. Definition

An independent expenditure is a communication that expressly advocates the election or defeat of a clearly identified candidate, but which is made independently of any candidate's campaign.

Independent expenditures cannot be "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." 2 U.S.C. 431(17); 11 CFR 109.1(a).

Expenditures found to be "coordinated" with a candidate's campaign are considered contributions to that candidate, and are subjected to candidate contribution limits.

II. Current Regulation of Independent Expenditures

- Individuals who make contributions to political committees (i.e., PACs) are limited to giving $5,000, regardless of whether the committee makes independent expenditures.
- However, current law imposes no limits on individuals who make independent expenditures, even if an individual has contributed the maximum amount to a political committee allowed under the statute.
- FECA requires PACs, multi-candidate committees,

political parties and candidate committees to disclose independent expenditures that aggregate over $200 a year.

- Any independent expenditure of $1,000 or more which is made after the 20th day, but more than 24 hours before the day of an election must be reported within 24 hours after the independent expenditure is made. Individuals who spend $250 on independent expenditures must disclose to the FEC at the end of the reporting period.

III. Regulatory Options

A. *Expand the Definition of "Coordinated Expenditure"*

- Create a presumption that any express advocacy expenditure by a past or present donor is conclusively deemed "coordinated." Such coordinated expenditures would be subject to applicable candidate contribution limits.

- Impose this "presumption of coordination" on organizations and individuals registered as lobbyists; or, more specifically, on individuals and organizations that have lobbied a particular officeholder in the past.

- Impose the "presumption of coordination" on volunteers who are integrally linked (and who have direct knowledge of message and strategy) to the candidate's campaign.

- McCain/Feingold (S.25) provision: Defines "in coordination with a candidate" as: "A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made."

  The bill also defines "coordinated" to include payments made by a person who has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or policymaking discussion in the same election cycle in which the payment is made.

  Constitutional Appraisal: Limits on independent expenditures have been rejected by the Supreme Court, albeit in very fact-specific circumstances. See, Colorado Republican Federal Campaign Committee v. FEC, 518 U.S. --, 135 L.Ed.2d 795, 801-803 (1996) (noting that the case represented an as-applied challenge to

the FEC's factual interpretation of "independent" versus "coordinated" expenditures). Nevertheless, unless the Colorado case is overturned or limited, the constitutionality of broad definitions of "coordinated expenditure" will be suspect.

B. *Limit Contributions To Organizations That Make Independent Expenditures for Broadcast Communications*

- Require individuals and organizations who are not currently registered as a political committee to register as an "independent expenditure committee" when they spend or receive $1,000 for the purpose of making independent expenditures.

- For an independent expenditure committee that makes broadcast expenditures of $10,000 [or some other threshold amount] in support of or opposition to any candidate, impose a limit of $1,000 (the maximum amount applicable to candidates) on contributions to the independent expenditure committee.

  Constitutional Appraisal: Although Buckley v. Valeo, 424 U.S. 1 (1976) rejected a monetary cap on independent expenditures, the Court upheld contribution limits as constitutionally valid. Accordingly, this proposal might survive Buckley v. Valeo.

C. *Require More Stringent Disclosure*

- Any expenditure for an express advocacy communication made within 30 days of an election must be reported within 72 hours of the broadcast or public dissemination of the communication.
  (See similar provision of S.25/McCain-Feingold, requiring 24 hour disclosure within 20 days of an election for independent expenditures of $10,000 or more.)

- Require the FEC to notify a candidate mentioned in an independent expenditure when the total spent on the communication reaches a certain dollar amount. (See Clean Congress Act, 104th Congress) triggering amount is $25,000.)

Constitutional Appraisal: Under Buckley, these disclosure requirements should be upheld.

facsimile transmission

Office of the Chairman

SW

~~file~~

Campaign-finance

PERSONAL AND CONFIDENTIAL

To: Dan **Time:**

Fax:

From: Karen

Date:

Fax: (202) 418-2801

Phone: (202) 418-1000

Message: One more letter, from Sen. Durbin + others, to follow.

This cover sheet is Page ____ of ____ pages.

Congress of the United States

Washington, DC 20515

March 27, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

We are writing because we believe an important opportunity exists for the Federal Communications Commission (FCC) to improve dramatically our troubled system of financing elections.

It is clear that the 1996 elections were the most expensive in history. *The Washington Post* reports that the estimated total cost of these recent elections was a record-breaking $2.7 billion. Such sums require candidates to spend too much time raising money, and distort our political system.

A significant share of skyrocketing campaign expenditures is devoted to the purchase of advertising time on television and other media. It is estimated that an all-time high of $500 million was spent in 1996 just on televised political advertising. In order to compete, candidates have to buy air time to make their views known. We need a healthy debate in our political system so that voters can make informed choices when they select representatives, but we must ensure that this discourse is not at a price so high that it undermines our system of government.

Television broadcasters have undertaken limited but promising efforts to offer free air time to candidates. Free air time reduces campaign costs and provides the public with necessary information. It also can lead to a more in-depth exposition of an office-seeker's views if segments longer than traditional campaign commercials are made available, as has been the case in some contributions of air time to date. In addition, if free air time is given with a proviso that candidates must appear in the ads themselves we could improve the level of political discourse, increase accountability, and reduce much of the negative advertising that permeates our airwaves during elections, increases voter cynicism, and suppresses voter turnout.

We applaud the generous contributions of air time broadcasters have made so far, but more could be done. The FCC could vastly improve political debate and reduce the cost of elections by offering an incentive to broadcasters to provide candidates with free air time during elections.

FCC Chairman Hundt
March 27, 1997
Page 2

It is our understanding that the FCC is about to provide additional spectrum allocations worth billions of dollars to broadcasters for the purpose of developing digital broadcast capabilities. Our airwaves are a scarce public commodity that have been and should continue to be licensed for private use only under certain conditions. Before any additional spectrum is provided, we urge that you require a firm commitment from broadcasters to provide a significant amount of free air time to candidates in all future elections. We believe that asking for such a civic commitment to improve our campaign finance system is a reasonable requirement before making available profitable new portions of the communications spectrum.

We urge you to condition additional spectrum allocations on the provision of free air time to candidates and thank you for your consideration in this matter.

Sincerely,

Rosa L. DeLauro
Member of Congress

Louise M. Slaughter
Member of Congress

Christopher Shays
Member of Congress

Martin T. Meehan
Member of Congress

Maurice Hinchey
Member of Congress

Sidney R. Yates
Member of Congress

Ronald V. Dellums
Member of Congress

Joseph P. Kennedy II
Member of Congress

Lynn C. Woolsey
Member of Congress

Eleanor Holmes Norton
Member of Congress

FCC Chairman Hundt
March 27, 1997
Page 3

Nancy Pelosi
Member of Congress

Carolyn B. Maloney
Member of Congress

John F. Tierney
Member of Congress

Congress of the United States
House of Representatives
Washington, D.C. 20515

April 4, 1997

Hon. William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

As newly elected Representatives, we commend you for proposing last week that broadcasters be required to provide free air time for all qualified federal candidates. This single step will go a long way toward reducing the endless money chase in which most of us were engaged last fall. The two major bipartisan campaign finance reform bills in the House and Senate, McCain-Feingold and Shays-Meehan, provide for free or reduced-rate access to the public airwaves. The FCC's adoption of the "free air time" proposal would significantly advance the cause of genuine, bipartisan reform. And Chairman Reed Hundt has stated the FCC has "the power and the precedent and the procedure" to require free air time now.

We urge you to follow through on this proposal. Specifically, we urge you to use your authority to ask the Federal Communications Commission to impose this requirement on <u>all</u> broadcast license holders -- radio as well as television.

Chairman Hundt has noted that if broadcasters were made to set aside even "a tiny fraction of their self-promotion time for stump time for candidates," this would greatly minimize the problems inherent in the current system.

Walter Cronkite has supported your proposal, calling it part of the "obligations that go with the privilege" granted to users of our airwaves. Contrary to the contentions of the National Association of Broadcasters and other industry opponents, we believe you are on solid legal and constitutional ground. It's time that those who are holders of federally granted franchises and who make handsome profits using the spectrum recognize and appreciate that the American people are the actual owners of the airwaves. The concept of free public access to the spectrum is hardly radical: Japan and Europe have long required it.

We recognize that forging a bipartisanship approach to campaign reform will not be easy. While we are not all agreed on the best means to that end, we are unanimous in the view that easier access to the public airwaves will be a significant step forward.

We hope you continue to use the power of your office to rally public support for the FCC's adoption of this reform and pledge our continued support for this effort.

Sincerely,

Rep. John F. Tierney

Del. Donna M. Christian-Green

Page 2
President Clinton

Rep. Harold E. Ford, Jr.

Rep. Dennis J. Kucinich

Rep. Rod R. Blagojevich

Rep. Bill Pascrell, Jr.

Rep. Steven R. Rothman

Rep. William D. Delahunt

Rep. James P. McGovern

Rep. Walter H. Capps

Rep. Robert A. Weygand

COMMITTEE ON THE BUDGET

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEES:
NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS
NATIONAL SECURITY, INTERNATIONAL AFFAIRS, AND CRIMINAL JUSTICE

CONGRESSIONAL ARTS CAUCUS
CHAIR
CAUCUS FOR WOMEN'S ISSUES
CHAIR, WOMEN'S HEALTH TASK FORCE
NE AGRICULTURE CAUCUS
CO-CHAIR

WHIP-AT-LARGE

CONGRESS OF THE UNITED STATES
LOUISE M. SLAUGHTER
28TH DISTRICT, NEW YORK

2347 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
202/225-3615

DISTRICT OFFICE:
3120 FEDERAL BUILDING
100 STATE STREET
ROCHESTER, NY 14614
716/232-4850
TTY 716/454-4805

May 8, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Chairman Hundt:

Thank you for your letter of April 30, 1997 regarding the Commission's recent action on Digital Television (DTV) licenses and its intent to issue a future Notice with regard to free air time for political candidates. I am encouraged by the leadership that you and the Commission have shown in this area, and I look forward to meeting with you next week to discuss this issue further. Because we have not previously discussed my own legislation, I thought it might be useful at this point to outline for you my proposal with regard to free television time, so that you might have the opportunity to consider it in advance of our meeting.

As you may know, I have introduced a bill, the Fairness in Political Advertising Act, H.R. 84, which would amend the Communications Act of 1934 to condition the renewal of television broadcast station licenses on making available free broadcast time for political advertising. A candidate would qualify for time under the Act if the candidate's party, in the most recent statewide or national election, received more than two percent of the vote. The bill provides for an equal amount of time to each qualified candidate.

However, it makes little sense to provide free time for political communication if it winds up discouraging citizens from voting. Unfortunately, much paid political advertising on television does exactly that. In most attack ads, the candidate paying for the ad does not even appear. That format lessens accountability, encourages voter cynicism, allows for distortion of facts, and ultimately reduces voter turnout.

That is why my bill includes a requirement that candidates who accept free time must use that time to air unedited segments in which they speak directly into the camera. In my view, this is the most essential provision in my legislation, and any system of providing free time to candidates that does not include an on-screen requirement like this is simply not worth doing.

The format requirement is not designed to impede creativity in political campaigns or political advertising. In fact, it places no restrictions whatsoever on what the candidate says or does within that time: he can still attack his opponent -- but if he does, at least it will be clear to the voters who is making the attack. As you may know, Paul Taylor has included a similar format requirement in his proposal for a national political time bank. In addition, in a recent column reflecting on the British elections, David Broder observed, "(I)f American broadcasters are ordered to give free time to candidates for federal office, the candidates themselves should be required to deliver the message..." (*Washington Post*, May 7, 1997).

Research indicates that many voters are confused by today's negative ads. The voters often do not recognize that it is the opponent who is running the negative ad and therefore do not judge the content of the ad in that context. And campaign consultants deliberately take advantage of that confusion. They make ads seem like unbiased news bulletins. Or they use "man in the street" reactions to their distorted charges to reinforce the voter's own reactions to the charges.

The broadcast lobby is fond of opposing proposals like these by suggesting that candidate on-screen requirements somehow violate a candidate's First Amendment free speech rights. Nothing could be further from the truth. Candidates would not be *required* to accept free time under my bill; their acceptance of the time would be strictly voluntary, and candidates would be free to purchase as much time as they like outside the confines of my bill. However, if they did choose to accept free time, they would have to abide by the bill's prescriptions regarding how that time could be used. Voluntary acceptance of restrictions like this have been upheld by the Supreme Court in other contexts. Moreover, I believe that requiring candidates to communicate their message directly to the voters is actually the ultimate form of free speech, allowing citizens access to candidates and their views unfiltered.

The bill's requirement for direct candidate communication is designed to encourage substance over sound-bites, and to strengthen the link between candidates and voters by ensuring that candidates are the communicators of their own messages. In the long run, campaigns emphasizing direct candidate communication and de-emphasizing negative ads will attract more citizens to our political process, rather than driving them away as is now the case.

As the Commission considers placing new public interest obligations on broadcasters, I urge you to consider my proposal. Again, I look forward to meeting with you next week to discuss this issue further.

Sincerely,

Louise Slaughter

Louise M. Slaughter
Member of Congress

Congress of the United States
Washington, DC 20515

June 4, 1997

Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt and Commissioners:

In April, the Federal Communications Commission (FCC) awarded billions of dollars worth of spectrum rights to broadcasters for the purpose of developing Digital Television (DTV). But in its *Fifth Report and Order* setting forth DTV license and service rules, the FCC did not specify how or whether broadcasters' public interest obligations should be reconceptualized in light of broadcasters' new digital spectrum rights. Instead, the Commission stated its intention to issue a Notice that would afford an opportunity for all interested parties to comment on the appropriate nature and scope of specific public interest obligations in a digital age. We now request that the FCC issue this Notice.

As the FCC itself stated in its *Fifth Report and Order*, current rules imposing existing public interest obligations on broadcast licensees originate in the statutory mandate that broadcasters serve the "public interest." These public interest obligations include the requirements that broadcasters must provide "reasonable access" to candidates for federal elective office and must afford "equal opportunities" to candidates for any public office.

Now, with the granting of the exclusive privilege of new DTV rights and the new revenue sources that these licenses will open up for broadcasters, it is appropriate for the FCC to seize this opportunity and open the question of what additional public interest responsibilities should come with broadcasters' expanded rights. In particular, we urge that a major focus of the FCC's inquiry be the proposals for licensees to provide free broadcast air time to candidates, as advocated by Members of Congress, broadcast executives like Rupert Murdoch and Barry Diller, and respected public figures such as Walter Cronkite and David Broder.

Accordingly, we, the undersigned Members of Congress, request that the Commission commence proceedings at the earliest possible date to explore new public interest duties of broadcast licensees. Commencing a full and open public debate on these duties, particularly with respect to free time proposals, will fulfill the promise that the FCC made in its *Fifth Report and Order*. Moreover, it is the best way for the Commission to live up to its own statutory duty, as mandated by Congress, to serve the public interest.

Free time proposals deserve the Commission's prompt consideration and should be included as part of an FCC inquiry regarding broadcasters' public interest obligations. Therefore, we request your support for letting the inquiry process go forward immediately, so that the American people have a meaningful opportunity to make their voices heard on this important issue.

Thank you for your consideration. We look forward to your response.

Sincerely,

Louise M. Slaughter — David E. Bonior

[illegible] — Marcy Kaptur

[illegible] — [illegible]

[illegible] — [illegible]

[illegible] — [illegible]

Ron Kind — George E. Brown Jr.

Pete Stark — [illegible]

[illegible] — Bernie Sanders

Eva M. Clayton — [illegible]

[illegible] — [illegible]

[illegible] — [illegible]

[illegible] — [illegible]

Mike Doyle — [illegible]

John Lewis — Vic [illegible]

[illegible] — Charles B. Rangel

LIST OF SIGNATORIES TO JUNE 4, 1997 SLAUGHTER LETTER TO FCC

1. Louise Slaughter (D-NY)
2. David Bonior (D-MI)
3. Ron Dellums (D-CA)
4. Marcy Kaptur (D-OH)
5. Carolyn Maloney (D-NY)
6. Eleanor Holmes Norton (D-DC)
7. Ron Kind (D-WI)
8. Pat Danner (D-MO)
9. Maurice Hinchey (D-NY)
10. Barney Frank (D-MA)
11. Bill Lipinski (D-IL)
12. Bill Hefner (D-NC)
13. Pete Stark (D-CA)
14. Bernie Sanders (I-VT)
15. George Brown (D-CA)
16. Peter DeFazio (D-OR)
17. Rosa DeLauro (D-CT)
18. Eva Clayton (D-NC)
19. Bob Filner (D-CA)
20. Marge Roukema (R-NJ)
21. David Skaggs (D-CO)
22. Nick Lampson (D-TX)
23. Eni Faleomavaega (D-AS)
24. Vic Fazio (D-CA)
25. Jim Clyburn (D-SC)
26. Mike Doyle (D-PA)
27. Robert Weygand (D-RI)
28. Sander Levin (D-MI)
29. John Lewis (D-GA)
30. Charlie Rangel (D-NY)

Congress of the United States
House of Representatives
Washington, D.C. 20515

July 7, 1997

Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt and Commissioners:

Members of Congress, including many of the undersigned, recently wrote the Commission to express our strong concern that the Digital Television (DTV) licenses awarded in April should be conditioned on broadcasters' performance of quantifiable public interest duties. Although you chose not to specify any new public service obligations at that time, we were pleased that in your *Fifth Report and Order* setting forth DTV license and service rules, you did announce your intention to issue a Notice of Inquiry to explore a range of possible public interest obligations that might be appropriate in the wake of the award.

It is our hope and expectation that the issuance of a Notice will begin a wide-ranging debate on the best ways to implement new public service obligations.

The advent of DTV will mean that the broadcast television industry can evolve as a medium to digital technology much in the same way that the telephone, cable, computer, wireless and other telecommunications technologies increasingly all use a digital format. Throughout the process the industry indicated its intention to compensate the public by fulfilling its unique compact with the American people, namely, to provide public service duties in return for the privilege of using the public airwaves.

These duties must become an integral part of the contract between the public and the broadcasters. If the process is delayed, new public service obligations are in danger of becoming an ineffectual afterthought, cheating the public out of the compensation owed them by the broadcasters for use of the spectrum

It is our hope the Commission will provide the maximum possible opportunity for broadcasters, Members of Congress and, most importantly, the American public to engage in a robust, wide-open debate on which public interest duties would best serve "the public interest, convenience, and necessity" through a broad inquiry, including a public comment period and en banc hearings.

A variety of proposals have been offered on how broadcaster public interest obligations can be increased to be commensurate with expanded DTV benefits. They include: an increase in the airing of Public Service Announcements, expanded educational programming for children, free air time for candidates and other quantifiable programming requirements. It has also been suggested that the Commission set forth a menu of public service obligations from which broadcasters could select one or more to fulfill their duty.

In particular, we urge that one key focus of the proceedings be the many proposals that licensees provide free or reduced-cost broadcast air time to candidates. Many interested parties hold strong views on this subject. We acknowledge there are important arguments for and against the various free air proposals. But we're pleased to note that many who remain skeptical, including Commissioner Quello, have stated that -- so long as it is balanced -- such an inquiry would be worthwhile.

Some of us believe free or reduced-cost air time should be considered in the context of campaign finance reform, and we welcome the opportunity to move simultaneously on the legislative and administrative fronts toward the important goal of comprehensive campaign finance reform. It is our hope that by providing a forum for discussing those views the Commission can develop a public record on which its rulemaking can be based, and, just as importantly, help to develop a public consensus on this matter.

As the Supreme Court recently noted, broadcast television, which enjoys special privileges and has special duties is "an essential part of the national discourse." Turner Broadcasting System, Inc. v. F.C.C., __ S. Ct. __ (1997). Nowhere is this more true than with respect to the national political discourse and election campaigns. Proceeding with the Notice of Inquiry now is the best way for the Commission to carry out its statutory duty to serve the public interest -- and at the same time, to provide an important forum in which to explore what is a major feature of a number of campaign reform proposals.

Thank you for your consideration. We look forward to your response.

Sincerely,

John F. Tierney

Rosa L. DeLauro

Christopher Shays

Martin T. Meehan

Marge Roukema

Edward J. Markey

Rod R. Blagojevich

Thomas M. Barrett

William D. Delahunt

Bob Filner

Ron Kind

John Lewis

Carolyn B. Maloney

Bill Pascrell, Jr.

John Elias Baldacci

George E. Brown, Jr.

Ronald V. Dellums

Joseph P. Kennedy, II

Sander M. Levin

James P. McGovern

John W. Olver

Bernard Sanders

Paul McHale

Walter H. Capps

Charles E. Schumer

George Miller

David Minge

Constance A. Morella

Eleanor Holmes Norton

David Skaggs

James P. Moran

Sidney R. Yates

Maurice D. Hinchey

Nick Lampson

Henry A. Waxman

Steven R. Rothman

Dennis J. Kucinich

Nydia Velazquez