



FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON

OFFICE OF
THE CHAIRMANFACSIMILE TRANSMITTAL MEMORANDUM

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Free TV.
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This cover sheet is Page 1 of ___ pages.

Note: FYI. From today's Broadcasting + Cable magazine

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markets as well as in other stations' designated market areas (DMAs). EchoStar plans to retransmit the local signals of the Big Four network affiliates to unserved viewers in Atlanta, Baltimore, Dallas, Detroit, Miami and Philadelphia.

"We are not happy about it, because we have real concerns about EchoStar's ability to keep people from getting the signal when they shouldn't be," says Roger LaMay, vice president and general manager of WTXF (TV), a Fox owned-and-operated station in Philadelphia.

"We are happy to provide our signal to anyone who wants to receive it as long as that does not infringe on any other CBS sta-

it sticks to unserved viewers. An unserved viewer is defined as someone who cannot get an acceptable over-the-air signal.

"We understand what's driving EchoStar, but it's unfair and unacceptable for a DBS provider to carry some television stations in a market, but not their competitors," says Julius Genachowski, general counsel for Silver King Broadcasting. Silver King stations are getting ready to convert from home shopping programming to CityVision, which will offer original and locally oriented programming.

Don Cornwell, whose Granite Broadcasting owns one WB affiliate in Detroit, says that if

eventually plans to do so.

"[A]s technology improves, EchoStar intends to invest in

NAB bac

Board votes support c

By Palge Albinlak

The National Association of Broadcasters board has put its full support behind legislation that would clear the way for satellite retransmission of local signals in local markets.

The vote, which took place last week during the board's winter meeting in Laguna Niguel, Calif., follows Jim Goodmon of Capitol Broadcasting Co. who wants to launch an \$800 million service that would carry all television channels to all markets.

Broadcasters are nervous about the announced plan to offer so-called "local" service, but they embrace the legislative and business plans.

"The Capitol proposal is an excellent opportunity for broadcast stations to move from the [local-into-local] situation," says president of the NAB television division, president of LIN Television.

The proposed legislation would allow legal for satellite companies to carry local signals into local markets, as long as they do not duplicate or syndicate content.

"It takes 24 to 26 months to get from the minute we say go, and go until we get the legislation passed," says attorney for Capitol Broadcasting, Smith, that time, Capitol Broadcasting start-up costs."

Capitol also is seeking financing called Local TV on Satellite, and get that money primarily from broadcast stations.

Capitol Broadcasting thinks its strong chance of passing this year NAB's support and because Congress to stem rising cable rates by encouraging more satellite broadcasting.

But one industry lobbyist says "It is useful for a broadcaster to have a plan. But I think the legislative [that] good. There's less than a 50 percent chance it will get through this year. I don't think it's a must-do legislation this year."

Congress begins debating the legislation in the satellite industry—the Satellite Home Viewing Act—this year. It expires in December in addition to attaching their local-

President expected to renew free airtime call

State of the Union expected to include state of campaign spots in digital age

By Chris McConnell

Broadcasters are bracing for more talk of free political airtime when the President gives his Jan. 27 State of the Union address.

Industry lobbyists and others expect the subject of free airtime to make it into the President's speech. Although Clinton already has endorsed the idea of requiring broadcasters to carve out airtime for politicians on their digital channels, broadcasters are still worried about more drumbeating for a free-airtime requirement.

"We take it very seriously," says one lobbyist, citing an approaching vote in Congress on campaign finance reform. The McCain-Feingold legislation originally included a provision for free airtime, although that language was axed from the bill last year.

Other broadcasters are concerned about the President's continued attention to the issue but are confident that Congress will not impose such a requirement on the industry.

"As long as Democrats and Republicans don't get along, broadcasters will live to fight another day," says Tribune Broadcasting Vice President Shaun Sheehan.

The issue is also under consideration by an advisory committee the White House has established to study broadcast public interest obligations. That group, dubbed the Gore commission, was meeting last Friday in Washington. "I think it's pretty clear the Gore commission is going to come up with a proposal for free airtime," says James Hedlund, president of the Association for Local Television Stations.



Clinton sees free time as key to campaign finance reform

A KILLER ENTERTAINMENT
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to the age-old question of how to network hour dramas: Make it on early \$900 million for the privilege be it passed on the NFL to make on top of its apparent willingness to \$200 million to stick around for says something about the value of "everything" is that great programs, with brand a network or a station. The -vaunted for a reason. It is the only -k and the swelling sea of choices for e it for the umpteenth time): NBC is ny other days it gives the must-see zines it adds (we understand they're to Dateline NBC). And Thursday, nfeld and whatever they sandwich in , perhaps the *New York Times* classi- eems to matter. The night has been (a sort of Macy's parade float of rs willing to turn it into a cash calf bility to launch successful new

ehind the scramble for the NFL. S got it, Fox kept it, ABC got it, TNT lliion? The cachet, the brand, the lead- itable audience slice-and-dice of dig- to preserve their prime real estate by ants. They sure aren't looking for big e. a lot of money," says CBS's Mel all deal. "But if we can make a dollar,

oo many of those dollars at the prob- e just paying the new price of a tick- ightening, just to stay in the game. wn to pay off. Just ask the Chicago

According to the latest UCLA Center for Communication Policy study of TV violence, there is only one network TV series that raises serious concerns about TV violence (it is *Walker, Texas Ranger*). That's down from five such shows a year ago and nine in 1994-95. In fact, every area of television programming showed improvement except the reality specials category—with its world's worst this and scariest that. It was a good report card as such things go, but to be fair we must take this study with as many grains of salt as we would have taken had it concluded that television was rife with violence.

It is a study based on a committee's decision on whether violence in a particular program, as first identified by a group of college students, is "integral to the story," whether the violence is "glorified," whether it is used to "hook" viewers and how "realistic" it is. The result is no more than a collective opinion about thousands of judgment calls. No matter how reasoned that opinion may be—and we have no way of determining that—we would be hesitant to base any conclusions, good or bad, on such judgments.

A pair of Bills coming due

It's quid pro quo time again. FCC Chairman Bill Kennard, in his first major address to broadcasters, will tell a NATPE audience today that broadcasters "need to give something back to their communities." Next week, during his State of the Union address, President Bill Clinton may once again call for a law requiring TV stations to give political candidates free airtime (how about free airline miles as well, since those also are regulated airways used frequently by candidates). The Congressional Budget Office, meanwhile, is calculating how much the government could earn by charging broadcasters (and others) for the use of spectrum.

The common element in the thinking of Kennard, Clinton and the CBO is the assumption that TV and radio are doing precious little in the way of public service to justify their admittedly lucrative broadcast licenses. The assumption is dead wrong. Broadcasters do plenty. They track tornadoes and hurricanes, they investigate corruption in public office, they air PSAs, they raise money for disaster relief, they produce telethons for local charities. The NAB is documenting this public service, recognizing that a ream or two of paper is necessary to make a point in Washington. But we wish that Kennard, Clinton and others who believe broadcasters are getting a free spectrum ride would simply pay more attention to what broadcasters do—on and off the air.

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LEVEL 2 - 1 OF 57 STORIES

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Congressional Press Releases

June 5, 1997, Thursday

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HEADLINE: PUSH **FREE TV** TIME FOR POLITICAL CANDIDATESBYLINE: LOUISE SLAUGHTER , CONGRESSWOMAN , HOUSE , WEBWIRE- REP. LOUISE
SLAUGHTER AND SEN. DICK DURBIN, R-MO,

BODY:

FOR IMMEDIATE RELEASE

CONTACT: Kim Allman June 5, 1997

202-225-3615

SLAUGHTER AND DURBIN TO PUSH **FREE TV** TIME FOR POLITICAL

CANDIDATES

WASHINGTON, D.C. --- Rep. Louise M. Slaughter (D-NY) and Sen. Dick Durbin (D-IL) today urged the Federal Communications Commission (FCC) to take the first step toward requiring broadcasters to offer **free television** time for political candidates.

In separate letters to FCC Chair Reed Hundt, Slaughter and Durbin ask the FCC to immediately issue a "Notice of Inquiry" to allow for public comment on the **free television** time issue.

Recently, the FCC awarded billions of dollars in digital spectrum that enables broadcasters to increase their broadcast capabilities. Slaughter and other Members of Congress had asked the FCC to condition the spectrum giveaway on a commitment from broadcasters to provide free air time for political candidates. The FCC awarded the spectrum in April without the free air time provision, but said it would consider free air time as part of a Notice of Inquiry at a later time. "The broadcasters have been given a windfall in potential profit-making spectrum by the federal government; they should give something back to the American people," Slaughter said. "We should have a thorough and prompt debate regarding the merits of free time and the public interest obligations of the broadcast industry, and I urge the FCC to seize this opportunity to allow the American people a voice in the process."

Slaughter is the author of HR 84, "The Fairness in Political Advertising Act," a bill designed to strike at the high costs of television advertising by conditioning broadcast license renewal on providing free air time to candidates who are running for statewide or federal office.

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The bill would require candidates to use the free time by speaking directly to voters, thereby reducing negative campaigning. "We have an opportunity, with the help of the FCC, to effect meaningful campaign finance reform that will reduce the high costs of running for office and slow down the money chase before the next **election** cycle," Slaughter said. "It is important to remember that the airwaves, which broadcasters use to make millions of dollars, belong the American people."

Joining Rep. Slaughter and Sen. Durbin were representatives of Common Cause, Public Citizen, the Media Access Project, the League of Women Voters and Paul Taylor, Executive Director of the **Free TV** for Straight Talk Coalition.

LANGUAGE: ENGLISH

LOAD-DATE: June 6, 1997



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Title: Many Proposals, Few Supporters, on Campaign Law
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Subjects: Political finance; Federal legislation; Reforms; Elections;
Finances; Reform & Reorganization; Presidential Election of
1996; United States; Law & Legislation
Names: Meehan, Martin T; Clinton, Bill (Pres)
Abstract: Few in Congress favor reform of campaign financing system
that got them elected despite flap over Pres Clinton
campaign's unrestrained pursuit last year of 'soft money,'
unregulated gifts to political parties; reformers hope
planned Senate hearings will put pressure on Congress to
act; reform proposals abound, but none has widespread
support; table (M)

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Article Text:

WASHINGTON, April 5 -- For years, scholars have been saying that another pervasive scandal would get Congress to tighten campaign finance laws, just as Watergate led to the public financing of Presidential elections.

Now they are not so sure.

For all the flaws in the system, most dramatically underscored by the Clinton Presidential campaign's unrestrained pursuit last year of 'soft money' -- the unregulated gifts to political parties from individuals, corporations and unions -- many representatives and senators see the same redeeming virtue in leaving the laws alone: this system got them elected.

As one supporter of spending limits, Representative Martin T. Meehan, said, 'Members are not going to change a system that benefits them unless they feel they have no choice.' Like other would-be reformers, Mr. Meehan, Democrat of Massachusetts, says he hopes that Senate hearings in late spring may put heat on Congress.

But no proposal has widespread support. Mr. Meehan backs a measure that would entice candidates into accepting voluntary limits on spending in exchange for free television time and discounted television time and mailings, has Common Cause and many editorial pages behind it, but almost no Republicans, except Senator John McCain of Arizona and Representative Christopher Shays of Connecticut.

But their Republican colleagues generally oppose spending limits and want to retain the soft money system, which the bill seeks to ban.

House Democrats have a bill patterned on the voluntary limit measure, but it seeks to preserve the role of political action committees, which are diminished under the Meehan-Shays bill.

This bill, introduced by Representative Sam Farr of California, also retains the practice of 'bundling' checks, in which a committee solicits many checks for a candidate from individuals and sends them along even though the total exceeds the PAC contribution limit of \$5,000.

Those provisions matter so much to particular clumps of House Democrats that they are worth blocking any legislation to defend.

Senate Republicans have not shown any particular interest in any piece of legislation, but Senator Mitch McConnell of Kentucky said: 'A sticking point will be requiring organized labor to operate only with voluntarily

contributed money. I hope that won't be a killer provision for Democrats. It's only elementary fairness.'

Democrats disagree.

That issue is emblematic of the problem with changing campaign laws. Republicans strongly dislike labor's ability to use union dues to buy television advertisements attacking their candidates. But they have survived it, and probably their desire to outlaw the practice is weaker than the Democrats' will to resist.

That is true of most of the 57 measures introduced in the first three months of this Congress. Almost every one seems to have at least some provisions that provoke more opposition than support.

It has been 23 years since Congress undertook big change when Watergate led to the adoption of public financing of Presidential campaigns, while, at House insistence, rejecting the same for Congress.

So Mr. McCain, while conceding that the fight was still up a steep hill, said the variety of bills was promising. 'I view it very frankly, as a hopeful sign,' he said. 'I don't think they would be introducing them if there weren't pressure.'

Along with Senator Russell D. Feingold, Democrat of Wisconsin, Mr. McCain is sponsoring the most talked about of the 57 varieties of campaign legislation filed so far, and more on the way now that Congress's spring break is ending. McCain-Feingold has modest differences from the Meehan-Shays bill, mostly in the area of being less tolerant of candidates' raising money in large contributions (more than \$200).

But if action comes at all, it is likely to start in the Senate, where trouble-makers have freer rein. Mr. Feingold may exaggerate when he says theirs is 'the only real proposal,' but it tends to be at least a starting point for discussion.

One proposal that will be filed soon in the Senate is an honest-to-goodness public-financing measure, supported by Democratic Senators like Paul Wellstone of Minnesota and John Kerry of Massachusetts. They are working from a plan offered by Ellen S. Miller, a veteran campaign spending analyst who heads a group called Public Campaign.

If candidates agree to limit their spending, they would get public money and cut-rate television time. Supporters argue that the public would ultimately support such an approach, though their ability to put that hope to a test is uncertain in a day when Senator Trent Lott, the majority leader, scoffs at public financing as 'food stamps for politicians.' They also want to strengthen the Federal Election Commission.

Another new idea comes from four scholars and a former journalist, Paul Taylor, who quit The Washington Post to work on campaign-reform legislation. The others are Norman J. Ornstein of the American Enterprise Institute, Thomas E. Mann of the Brookings Institution, Michael J. Malbin of the State University of New York at Albany and Anthony Corrado of Colby College.

Their approach concedes that Republicans will successfully resist limits and that public financing is somewhere over the horizon. So they concentrated on trying to encourage small contributions and prohibiting the use of soft money. They also urge raising the limit on individual contributions to candidates, unchanged since 1974, from \$1,000 to \$2,500 or \$3,000, and they, too, seek to strengthen the election commission.

Mr. Ornstein justified their plan. 'The alternatives from the aptly named Doolittle plan, all the way over to McCain-Feingold, not to mention constitutional amendments and full public financing are going nowhere,' he said. 'What we have is balanced, and it does not generate visceral opposition from either side. It doesn't promise too much.'

The Doolittle plan is offered by Representative John T. Doolittle, a California Republican who proposes abolishing all existing limits on donations. Mr. Doolittle argues that prompt disclosure is all the system needs, and would require daily filing by candidates and parties, plus

posting of reports on the Internet.

He argues that soft money and independent spending play a big role only because individual contributions have been held down, and says he is tired of 'the constant leftward push for campaign reform.'

'Freedom works,' Mr. Doolittle said. 'The promoters of the left-wing bills basically don't think freedom works.'

If any legislation comes forward, it is unlikely to reflect any single bill. Mr. McCain makes it plain that he will negotiate for anything, so long as it reduces spending and gives challengers a chance. Mr. McConnell might accept curbs on soft money if he got higher individual limits.

And most would-be reformers like one provision of Mr. Doolittle's bill that bars candidates from using contributions if the donors do not specify their addresses and occupations. The law now requires only a 'best effort,' and the National Republican Congressional Committee somehow meets that standard by getting it right only two-fifths of the time.

Partisan issues may be the least of it. Fred Wertheimer, an architect of the 1974 law, said, 'When it comes to political money, we face not a Democratic Party or a Republican Party -- we face an incumbency party.'

SOURCE OF CONTRIBUTIONS

House: 60 percent of all contributions must come from in-state residents

Senate: 60 percent of all individual contributions must come from

in-state residents.

Aliens, felons and minors may not contribute.

Bundling of multiple contributions collected by PACs, corporations, unions, partnerships and lobbyists are essentially prohibited.

Overall limit of contributions in a year is raised from \$25,000 to \$30,000.

SOFT MONEY (large unregulated contributions from corporations, individuals and unions).

Banned by requiring national parties to raise and spend only 'hard money,' (funds from PACs and from individuals) subject to limits. Requires all election year spending, including that by local and state parties, that could affect federal elections (including registration and get out the vote) to be paid in hard money. Bars federal officeholders and candidates from raising unregulated contributions.

INDEPENDENT EXPENDITURES

Requires prompt reporting and permits candidates to exceed spending limits to reply to attack advertisements. Holds that an expenditure is not independent of a candidate if the person making the expenditure has raised money for the candidate or used the same consultant as the candidate.

PUBLIC FINANCING OR OTHER ASSISTANCE

Senate candidates complying with spending limits, if they have raised 10 percent of state spending limit, qualify for 30 minutes of free, prime-time television time on stations in their state or adjacent states (no more than 15 minutes from any one station). Complying House and Senate candidates may also purchase TV time at 50 percent of the lowest unit rate. Senate candidates may send two statewide mailing at third class, non-profit rates. House candidates may send three district-wide mailings at that rate

ENFORCEMENT

Enables federal Election Commission to require electronic filing by candidates, to conduct random audits, and to seek injunctions to bar flagrant violations of law.

ORNSTEIN & CO.

VOLUNTARY SPENDING LIMITS

No provision

CONTRIBUTIONS

Individuals could give \$2,500 or 3,000 in primary and in general election.

Individuals could give \$25,000 to candidates and \$25,000 more to parties.

Small donations would be encouraged by a 100% tax credit on the first \$100.

Present law would govern PAC donations.

SOURCE OF CONTRIBUTIONS

Small in-state contributions encouraged by TV voucher plan above.

SOFT MONEY

Prohibit national parties from raising and using soft money.

INDEPENDENT EXPENDITURES

No provision, but parties would no longer need to use them as a subterfuge because existing limits on how much a party could spend to help candidates would be repealed.

PUBLIC FINANCING OR OTHER ASSISTANCE

Creates a 'broadcast bank' of free minutes of radio and television time, to be used in increments of sixty seconds or longer, with the candidate required to be in the advertisements. Some will be allocated to the parties. Candidates would also get vouchers for more time for each \$25,000 they raise in in-state contributions of \$100 or less. Broadcasters would be assessed a fee, in time or minutes, on all political advertising, but the existing provision requiring them to sell time to candidates at low rates would be repealed.

ENFORCEMENT

Requires prompt electronic filing and prohibits use of contributions where name, address and occupation of donor are not given. Allows candidates to seek injunctions in Federal court instead of waiting for the F.E.C. if delay would cause immediate irreparable harm. Limits commissioners to a single eight-year term instead of multiple six-year terms.

DOOLITTLE

VOLUNTARY SPENDING LIMITS

No provision

CONTRIBUTIONS

Repeals all limits on individual and PAC contributions.

SOURCE OF CONTRIBUTIONS

No provision.

SOFT MONEY

No provisions. Sponsors believe that eliminating all restrictions on contributions to parties and candidates would reduce the use of soft money.

INDEPENDENT EXPENDITURES

Public financing for Presidential campaigns, which took effect in 1976, would be repealed.

PUBLIC FINANCING OR OTHER ASSISTANCE

No provision, but parties would no longer need to use them as a subterfuge because existing limits on how much a party could spend to help candidates would be repealed.

ENFORCEMENT

Require daily electronic filing of contributions and expenditures. Prohibits use of contributions where name, address and occupation of donor are not specified. Require F.E.C. to post all campaign reports on the Internet.

'CLEAN MONEY CAMPAIGN REFORM'

VOLUNTARY SPENDING LIMITS

Senate: \$1.2 million to \$6.6 million per election cycle (primary plus general).

House: \$480,000 per election cycle.

Could be exceeded if an opponent's spending plus independent expenditure against the candidate, was 125 percent of the limit.

CONTRIBUTIONS

Individual and PAC contribution limits would not change from current law. But candidates abiding by limits and taking public funds may not accept any.

SOURCE OF CONTRIBUTIONS

Noncitizens may not contribute.

SOFT MONEY

Banned by requiring national parties to raise and spend only 'hard money' (funds from PAC's and from individuals subject to limits). Requires all election year spending, including local and state parties, that could affect Federal elections (including registration and get out the vote) to

be paid in hard money. Bars Federal officeholders and candidates from raising unregulated contributions.

INDEPENDENT EXPENDITURES

NO provision.

PUBLIC FINANCING OR OTHER ASSISTANCE

House candidates get public financing, up to limits specified above, after receiving 1,000 contributions of \$5 from registered voters in the district. Senate candidates must get 1,000 \$5 contributions in a state's first Congressional district and 500 in each additional district. Senate candidates also get 90 minutes of free television time in blocks of 30 seconds to 5 minutes, with no more than 15 minutes from any station. House and Senate candidates can buy additional time at half the lowest rate for 30 days before a primary and 60 days before a general election.

ENFORCEMENT

Expand F.E.C. to seven members to break deadlocks. Requires prompt electronic filing of contributions and expenditures. Limit commissioners to a single six-year term instead of multiple six-year terms. Permits F.E.C. to conduct random audits, seek injunctions, and appeal to the Supreme Court. ADAM CLYMER (pg. 24)

Caption:

'Four Possible Routes Toward Campaign Finance Reform'

MCCAIN-FEINGOLD

VOLUNTARY SPENDING LIMITS

Senate: \$1.5 million to \$8.25 million per election cycle (primary plus general)

House: \$600,000 per election cycle

These limits could be exceeded if an opponent exceeded them.

CONTRIBUTIONS

Individuals and PAC's may give \$1,000 in primary and \$1,000 in general elections. Whether they agree to limits or not, no candidate may raise more than 20 percent of the spending limit from PAC's in House races or 25 percent in Senate races.

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Access No: 26861519970325 ProQuest - The New York Times (R) Ondisc
Title: The Money Pit
Authors: Walter F. Mondale & Nancy Kassebaum Baker
Source: New York Times, Late Edition (East Coast)
Date: Mar 25, 1997 Sec: A Editorial Desk p: 25
Length: Medium (518 words) Type: Commentary
Memo: [Op-Ed]
Subjects: Political finance; Regulatory reform; Campaign contributions; Federal legislation; Elections; Finances; Ethics; Reform & Reorganization; Presidential Election of 1996

Names: Clinton, Bill (Pres); McCain, John S (Sen); Shays, Christopher (Repr); Feingold, Russell D (Sen); United States

Abstract: Op-Ed article by Walter Mondale and Nancy Kassebaum Baker says Americans have chance to break cycle of fund-raising that demeans politicians and political system; says new legislation is needed to change campaign finance system, and that best chance for reform is bipartisan measure introduced by Sens John McCain and Russell Feingold, and Reprs Christopher Shays and Martin Meehan; drawing (M)

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Article Text:

Washington -- After a combined half-century in public office, we thought we had retired from public service. But when President Clinton asked us to lead an effort to promote campaign finance reform, we accepted the challenge because we believe there is no issue of greater importance for our nation's future.

It is easy to be cynical, to assume that this year, as before, there will be no reform. But Americans have a chance to break the cycle of fund-raising that demeans our politicians and our political system.

Two decades after Congress reformed campaign finance, the laws it passed have been overwhelmed by a flood of money -- \$2 billion in the last election. With every election, the problem has grown worse. These laws are now riddled with loopholes and legal mumbo jumbo that average Americans rightly consider outrageous.

The toll on our political system has been high. Candidates and officeholders spend far too much time raising money to run for office. Far too many good people decline to seek office altogether because of the fund-raising hurdle.

Most important, the rising rivers of money that flow into campaigns are an assault on public trust. Lincoln said, 'With public trust everything is possible; without it, nothing is possible.' We have no more important cause than the restoration of public confidence in the integrity of the political system.

Much attention is being focused on campaign contributions in the last election, and rightly so. Our plea for reform is not an attempt to divert attention from ongoing inquiries. Where legitimate questions exist about the fund-raising activities of either party, they should be investigated and resolved.

The current controversy cannot become an excuse for inaction. We need legislation to change the campaign finance system. The best chance for reform is the bipartisan measure introduced in the Senate by John McCain, Republican of Arizona, and Russell Feingold, Democrat of Wisconsin, and in the House by Representatives Christopher Shays, Republican of Connecticut, and Martin Meehan, Democrat of Massachusetts.

This measure will curb the role of money in elections and reduce the influence of special interests. It will offer free television time to candidates who limit their spending. It will end the practice of bundling, which groups together individual contributions, and will bar donations from noncitizens.

And it will close the so-called soft-money loophole, which enabled the Democratic and Republican parties to raise more than \$250 million during the last campaign, free of the restrictions that govern candidate fund-raising.

Perhaps the greatest obstacle to reform is the loss of faith among voters that anything constructive can come from new laws and new standards. The existing campaign finance system dismays people from all walks of life and all political perspectives. People know that elected

officials cannot adequately represent them if they are constantly in thrall to special interests.

Our mission is to connect the dots -- to show that reform is not only needed, but also possible.

Caption:

Walter F. Mondale, Vice President from 1977 to 1981, was the Democratic Presidential candidate in 1984. Nancy Kassebaum Baker was a Republican Senator from Kansas from 1978 to 1997.

Drawing (Ward Schumaker)

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Title: Excerpts From Clinton's Remarks on Political Reform
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Subjects: Political finance; Broadcasting industry; Candidates;
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Ethics; Reform & Reorganization; Conference on Free
Television & Political Reform; Television; High-Definition
Television (Hdtv)
Names: Clinton, Bill; Clinton, Bill (Pres)
Companies: National Press Club

Abstract: Excerpts from Pres Clinton's address to Conference on Free
Television and Political Reform at National Press Club

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Article Text:

WASHINGTON, March 11 -- Following are excerpts from President Clinton's remarks today before the Conference on Free Television and Political Reform at the National Press Club, as recorded by the Federal News Service, a private transcription service:

We have to do some things to improve the way our political system works at election time, and the way it communicates, or its leaders communicate, to people all year-round. This should not be surprising to anyone. The Founding Fathers understood that we were an experiment. We're still around after all these years because we have relished the idea that we are an experiment, that America is a work in progress, that we're constantly in the making. We always have to change.

A lot of good things have happened to expand participation in the political system from the time we were a new nation, when only white male property owners can vote. And we have to make some more changes now. But if you look at the changes which have been made in the last 200 years, we should be hopeful.

Television has the power to expand the franchise or to shrink the franchise. Indeed, that is true of all means of communications and all media. We know that television is a profound and powerful force. We know that we don't fully understand all of its implications, even what you said, Walter, we don't really know what the connection is between television and a diminished voter turnout. It could be because there's a poll on television every night that tells people about the election, so some people think that there's no point in their voting, because the person they're for is going to win anyway or the person they're for can't win anyway. We need to think about that. . . .

It is now a commonplace, everybody will tell you, that campaigns cost too much and it takes too much time to raise the money, and the more money you raise from the larger number of people, the more questions will be raised about that. Major party committees spent over three times as much in this last election cycle as four years before, and that doesn't count the third-party expenditures, both the genuinely independent third-party committees and those that weren't really independent, although they claim to be. Spending in Congressional campaigns has risen sixfold in the last two decades. That's over three times the rate of inflation.

The biggest reason for this is the rise in the cost of television. But of course, there is also now more money being spent on mail, on

telephoning, on radio, and other print advertising as well. In 1972 candidates spent \$25 million for political ads; in 1996, \$400 million. Presidential campaigns now routinely spend two-thirds or more of their money on paid ads; Senate candidates, 42 percent of their money on television; House races, about a third. Interestingly enough, that's often because there is no single television market which just overlaps the House district, and often the cost is prohibitive, particularly in the urban districts. But you get the drift. It's the same everywhere.

We are the only major democracy in the world where candidates have to raise larger and larger sums of money simply to communicate with voters through the medium that matters most. Every other major democracy offers candidates or parties free air time to speak to voters. And we can plainly do better, building on the big first step urged by this group in 1996.

We have an obligation to restore our campaign finance system to a system that has the broad confidence of the American people, but also of the American press that comments on it. In order to do that, television has to be part of the solution.

I have said before, and I will say again, everybody who has been involved in this system has to take responsibility for it and for changing it. Those of us in public life know better than anybody else what the demands of prevailing in the present system are, and those who control the airwaves understand it well also.

First and most fundamentally, I came here to support Senator McCain.

We have to take advantage of this year to pass campaign finance reform. The campaign finance laws are two decades out of date. They have been overtaken by events, by dramatic changes in the nature and costs of campaigns and the flood of money that has followed them. The money has been raised and spent in ways that simply could not have been imagined when the people who fashioned the last campaign finance law in Congress did it. . . .

What we have to argue is, yes, we really need to be up here doing the public's business. We need to be balancing the budget, improving education, reforming welfare, expanding health care coverage to children who don't have it, passing juvenile justice reform, the kinds of things that I'm passionately interested in.

But having the right kind of campaign finance reform system and having the right kind of straight talk on television, and having issues be more -- elections be more issue oriented, and having the debates of both sides heard clearly by all people, and increasing voter interest and voter turnout, all these things will increase the likelihood that this laundry list of good things will be done and will be done in better fashion than would otherwise be the case.

I think it is very important that those of you who care about this make this connection because that's how to build broad and deep support for this endeavor.

It seems to me that we do have an historic opportunity to pass campaign finance reform, and I think the public owes a lot of gratitude to Senator McCain and Senator Feingold and Congressman Shays and Congressman Meehan and all of their supporters for the legislation they have offered. It is real and tough. It would level the playing field and reduce the role of big money in politics. It would set voluntary limits on campaign spending and ban soft money, all corporate contributions and the very large individual ones. It would restrict the role of political action committees and lobbyists and make needed reforms within the confines of the Constitution as defined by existing Supreme Court case law.

In all these ways, it would set ceilings on money and politics. And just as important, it would also provide a floor -- and I think that is very important -- it would also provide a floor. You actually have some members in Congress who come from districts with a very low per-capita income, for example, who are very afraid of campaign finance reform

because they're afraid among their own constituents they'll never be able to raise enough money in their district to compete the first time a multimillionaire runs against them.

So the law has to give a floor, and McCain-Feingold does that by giving candidates free air time to talk directly to the voters if they observe the spending limits of the law. And we need to emphasize that any ceiling law should have a floor to guarantee that people have their say and are heard. It gives candidates deeply discounted rates for the purchase of time if they observe the limits of the law. . . .

In my State of the Union Address, I asked Congress to pass the McCain-Feingold bill by July 4th, the day we celebrate the birth of our democracy. I pledge to you that I will continue to work with members of both parties to do this. I will be mustering more support out in the country, and that will be announced over the next few weeks, for this endeavor.

We have to use the present intense interest in this, as well as the controversy over fund-raising in the last election and all the publicity on it, as a spur to action. We cannot let it become what it is in danger of becoming, which is an excuse for inaction. And that again is something that I challenge all of you on. Do not let the controversy become an excuse to do nothing and to wallow around in it. Use it as a spur to changing the system because, until you change the system, you will continue to have controversies over the amount -- the sheer amount of money that is raised in these elections. . . .

I believe broadcasters who receive digital licenses should provide free air time for candidates, and I believe the F.C.C. should act to require free air time for candidates.

The telecommunications revolution can help to transform our system so that, once again, voters have the loudest voice in our democracy. Free time for candidates can help free our democracy from the grip of big money. I hope all of you will support that.

There are many ways that this could be done. Many of you here have put forward innovative plans. I believe that free time should be available to all qualified Federal candidates. I believe it should give candidates a chance to talk directly to the voters, without gimmicks or intermediaries.

Because campaign finance reform is so important, I believe it should be available especially to candidates who limit their own spending. It is clear under the Supreme Court decision that this can be done, and I believe that is how it should be done.

Candidates should be able to talk to voters based on the strength of their ideas, not the size of their pocketbooks. And all voters should know that no candidate is kept from running simply because he or she cannot raise enormous amounts of funds.

Last month the Vice President announced that we would create an independent advisory committee of experts, industry representatives, public-interest advocates, and others to recommend what steps to take. Before I came over here today, I signed an executive order creating that committee. The balanced panel I will appoint will advise me on ways we can move forward and make a judgment as to what the new public-interest obligations of broadcasters might be. But today, let us simply agree on the basic premise. In 1997, for broadcasters, serving the public should mean enhancing our democracy. . . .

We know, we know, when we work to expand our democracy, when you give people a greater voice and advocates of all political views a firm platform upon which to stand, we are moving forward as a nation. By passing campaign finance reform, by renewing the compact between broadcasters and the public to better serve in this new era, we can do that again.

Credit: By The New York Times

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Access No: 04984019970312 ProQuest - The New York Times (R) Ondisc
Title: Crusader for Free Air Time Wins a Big Ally
Authors: Lawrie Mifflin
Source: New York Times, Late Edition (East Coast)
Date: Mar 12, 1997 Sec: A National Desk p: 20
Length: Medium (458 words) Type: News
Subjects: Political finance; Broadcasting industry; Political
advertising; Candidates; Reforms; Elections; Biographical
Information; Television; Equal-Time Issue; Conference on
Free Television & Political Reform
Names: Taylor, Paul; Clinton, Bill; Clinton, Bill (Pres)
Companies: Washington Post

Abstract: Paul Taylor quit his job as Washington Post political
reporter to devote his energies to crusade that would
require television broadcasters to grant free air time to
candidates for Federal office; he organized Conference on
Free Television and Political Reform, and has won
endorsement of Pres Clinton (M)

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Article Text:

The campaign-reform bandwagon that Paul Taylor began pushing almost
single-handedly 15 months ago gained a lot of momentum yesterday when
President Clinton climbed on board.

Mr. Taylor is a former political reporter for The Washington Post who
quit that job to devote all his energies to a crusade that would require
television broadcasters to grant free air time to candidates for Federal
office.

And yesterday, at a Washington conference that he organized, he won
the endorsement of the President, who expressed support for the Federal
Communications Commission's adopting a rule that would do just that. In
addition, the commission's chairman, Reed E. Hundt, followed Mr. Clinton
with remarks of his own, saying the agency would soon undertake a
rule-making process that could lead to such a requirement.

Both Mr. Clinton and Mr. Hundt linked the call for free air time to an
immediate issue in which the broadcast television industry has a huge
stake: whether the broadcast spectrum should be auctioned off or should
remain free to its present owners when it becomes digital, in effect
enabling each station owner to convert one channel into five, in the next
few years.

Broadcasters oppose paying the Government for licenses they have always
obtained at no cost. But Mr. Hundt and others argue that those free
licenses were predicated on broadcasters' using their stations to serve
some public interest goals and that free time for political candidates
would be a substantial public service.

'The F.C.C. is now writing rules and preparing to grant the broadcast
digital television licenses,' Mr. Hundt said. 'We intend to make clear
that these licenses will be issued subject to concrete and commensurate
public interest obligations.'

For its part, the industry disputes the notion that granting free
political advertising time is a public interest obligation. Telecasts of

opinionated political content are more in the nature of news coverage, they contend, and the Government has no business dictating how they handle it. Yesterday the National Association of Broadcasters issued a statement calling the President's suggestion 'unconstitutional.'

In his remarks, Mr. Hundt singled out Mr. Taylor for praise, saying no one had done more 'to advance this compelling solution to the never-ending chase after campaign dollars and the corrosive effect it has on the fabric of our democracy.'

Along the way, Mr. Taylor has seen his bandwagon pick up such diverse supporters as Rupert Murdoch, Walter Cronkite and Barry Diller, head of a station group that he hopes to transform into another major network.

Free time was voluntarily provided by most broadcast networks in last year's Presidential election campaign. But much of it was inserted during news programming hours, thus largely failing to meet Mr. Taylor's objective of reaching voters who were not already paying attention to politics.

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Access No: 04898419970312 ProQuest - The New York Times (R) Ondisc
Title: Clinton Offers Licensing Deal For Free TV Campaign Time
Authors: James Bennet
Source: New York Times, Late Edition (East Coast)
Date: Mar 12, 1997 Sec: A National Desk p: 1
Length: Long (1093 words) Type: News
Subjects: Political finance; Broadcasting industry; Candidates;
Spectrum allocation; Political advertising; Elections;
Equal-Time Issue; Television; High-Definition Television
(Hdtv); Finances
Names: Clinton, Bill; Clinton, Bill (Pres)
Companies: Conference on Free Television & Political Reform; National
Press Club; Federal Communications Commission; House of
Representatives (US); United States

Abstract: Pres Clinton, in address to Conference on Free Television
and Political Reform at National Press Club, recommends
that broadcasters give away air time to political
candidates in exchange for new licenses to provide digital
high-definition television; Clinton sketches plan that he
would like Federal Communications Commission to impose;
says time should be given to 'all qualified Federal
candidates' so they can 'talk directly to the voters
without gimmicks or intermediaries'; Clinton's speech links
two of most complex and hotly debated issues in Washington:
whether to tighten campaign finance laws and how to
allocate broadcast spectrum; Clinton also issues executive
order creating advisory panel to determine what public
interest obligations digital-television broadcasters should
assume in addition to providing time for politicians; photo
(M)

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Article Text:

WASHINGTON, March 11 -- Saying the change could 'help free our
democracy from the grip of big money,' President Clinton today recommended
that broadcasters give away air time to political candidates in exchange
for new licenses to provide digital high-definition television.

In a speech to a conference on free broadcast time here, Mr. Clinton
sketched the plan that he would like the Federal Communications Commission
to impose. He said time should be given to 'all qualified Federal
candidates' so that they could 'talk directly to the voters without
gimmicks or intermediaries.' [Excerpts, page A20.]

Mr. Clinton also issued an executive order today creating an advisory
panel to determine what public interest obligations digital-television
broadcasters should assume in addition to providing time for politicians.

With his 23-minute speech, Mr. Clinton linked two of the most complex
and hotly debated issues in Washington: whether to tighten the campaign
finance laws and how to allocate the broadcast spectrum. Mr. Clinton said
that 'because campaign finance reform is so important,' free time should
be 'available especially' to candidates who agree to abide by voluntary
spending limits.

Under most proposals in Congress and elsewhere for free broadcast time,
candidates who accepted it would be severely restricted or prevented from
paying for television commercials. Freed from having to pay for those
commercials, candidates could spend much less time raising money,

supporters of the proposals believe. 'Candidates should be able to talk to voters based on the strength of their ideas, not the size of their pocketbooks,' Mr. Clinton said, 'and all voters should know that no candidate is kept from running simply because he or she cannot raise enormous amounts of funds.'

Addressing the same conference, Reed Hundt, the chairman of the Federal Communications Commission and a longtime supporter of free air time, embraced the President's suggestion. He said that while the commission would grant the new licenses before spelling out the broadcasters' responsibilities, it would make clear to broadcasters that they would have concrete public interest obligations.

In an interview today, Mr. Hundt said, 'I believe that we have the power and the precedent and the procedure for giving free access to media for all candidates.'

In recent interviews, other members of the commission opposed the notion of requiring free air time, but it was unclear whether the President's advocacy might change their thinking. Mr. Hundt noted that Senator John McCain, the Arizona Republican who is chairman of the Senate Commerce Committee, also supported the idea. 'This is a very meaningful alliance of the President and Mr. McCain for the F.C.C.,' he said.

The broadcast industry vehemently objects to such plans. The National Association of Broadcasters called Mr. Clinton's proposal 'blatantly unconstitutional' and declared that it would do nothing to stop negative political advertising or stem the high cost of political campaigns.

'Broadcasters have a great tradition of voluntarily offering free air time for debates and other forums,' Edward O. Fritts, president of the association, said in a statement. 'Politicians have an equally long tradition of refusing these offers.'

Mr. Clinton repeated his calls for tighter campaign finance laws today. Without referring directly to inquiries by the Justice Department and Congressional Committees into his own campaign finances, he said 'the controversy over fund-raising in the last election and all the publicity on it' should serve as a 'spur to action.'

'Do not let the controversy become an excuse to do nothing and to wallow around in it,' he said.

Mr. Clinton did not let that controversy divert him today from his own fund-raising efforts. He attended a fund-raiser for Senator Byron Dorgan of North Dakota, and then a \$25,000-a-plate swordfish dinner for the Democratic National Committee. At the committee event, Mr. Clinton mostly raised 'soft-money,' the unlimited donations that would be illegal under the legislation he supports.

His evening plans notwithstanding, Mr. Clinton offered a blistering critique of the amount of money in politics today. 'Major party committees spent over three times as much in this last election cycle as four years before,' he said. The major reason, he said, was the cost of television. 'In 1972, candidates spent \$25 million for political ads; in 1996, \$400 million. Presidential campaigns now routinely spend two-thirds or more of their money on paid ads.'

During last year's Presidential campaign, Bob Dole, the Republican candidate, urged that the licenses for digital broadcasters be auctioned off, rather than provided to broadcasters in a 'billion-dollar giveaway.' But the commission is planning to award the licenses to existing broadcasters at no cost. Advocates of free broadcast time believe the decision strengthens the commission's hand in asking now for time for candidates.

But the broadcasters feel that they are essentially being asked to bear the costs of changing the campaign finance laws, substituting their time for others' financial contributions. A legal brief prepared last year for the broadcast association argued that requiring time from the broadcasters would 'upset the delicate balance between their journalistic freedoms and

their obligations as licensees of the public airwaves.'

The lawyers also argued that requiring free air time would violate broadcasters' Fifth Amendment rights because it 'takes their property without just compensation.'

Several networks experimented with providing free air time to the Presidential candidates in last year's campaign. At the conference today, participants said they were unimpressed with the results.

'Frankly, we were disappointed,' said Barbara Cochran, the executive producer for politics at CBS News. She said the candidates 'restated boilerplate' and asserted that the forum seemed to favor Mr. Clinton, who was more comfortable in front of a camera. Although CBS allocated two-and-a-minute blocks to both candidates, she said, Bob Dole never used more than two minutes. 'It certainly didn't have a lot of impact,' she said.

While not challenging that conclusion, a study by the Annenberg Public Policy Center of the University of Pennsylvania found that the free-time spots were more substantive and less nasty than campaign advertisements. Facing the camera themselves rather than relying on narrators and spliced images, candidates tended to marshal evidence to support their positions, the study found.

Mr. Hundt said of the efforts last year: 'It was like conducting a hygiene experiment in the middle of the black plague. It's something to build on, but it wasn't anything that had any chance of competing against the paid-time tidal wave.'

Caption:

As his audience was leaving, President Clinton answered one last question yesterday after a speech proposing free air time to political candidates in exchange for digital-television licenses. With him, from left, were Walter Cronkite, Ann McBride, Senator John McCain and Barry Diller. (Paul Hosefros/The New York Times) (pg. A20)

LEVEL 2 - 14 OF 57 STORIES

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THE ORLANDO SENTINEL

April 16, 1997 Wednesday, METRO

SECTION: EDITORIAL; Pg. A21

LENGTH: 742 words

HEADLINE: 'FREE' TV POLITICAL ADS - THE REAL COSTS BEHIND THEM

BYLINE: Stephen Chapman, Creators Syndicate

BODY:

Bill Clinton is the master of the painless solution. His recent proposal to improve our **elections** and reduce the influence of money in politics would be hugely expensive, but don't worry that it will cost you anything. Somebody else will be assigned the unpleasant duty of paying for it.

The president, under pressure to change the subject on campaign finance to any topic but John Huang and the Riady family, thinks it takes far too much money to run for office. The main reason for this deplorable situation, he proclaimed in a March speech, "is the rise in the cost of television." He lamented that "presidential campaigns now routinely spend two-thirds of their money on paid (TV) ads, Senate candidates 42 percent of their money on television, House races about a third."

So he thinks candidates should get **free** TV time. This would be paid for by simply commanding broadcasters to provide it as a condition of obtaining new digital high-definition TV licenses. As on a variety of other issues (health care, the minimum wage, family leave), Clinton wants to deliver a supposed benefit to the American people without asking them to make any sacrifice in return.

Whether the public will truly regard it as a benefit is not dead certain. The big networks gave Clinton and Bob Dole free time to discuss issues of great concern, but a post-**election** survey by the Annenberg Public Policy Center found that most voters couldn't remember these vital broadcasts.

But TV stations will definitely not regard the requirement as a blessing. In large cities, they might have to furnish free access to dozens of congressional candidates. The National Association of Broadcasters says some stations cover 33 congressional districts. Add a Senate race and a presidential **election**, and a viewer might go from Labor Day to **Election** Day without ever seeing anything but earnest, middle-aged people in dark clothing uttering agreeable platitudes.

Not only is the requirement a heavy burden on TV stations, it's probably unconstitutional as well. Supporters see it as a fair swap for free HDTV licenses. But Ronald Rotunda, a law professor at the University of Illinois and co-author of a widely used text on constitutional law, says the mandate amounts to a special tax on some people for engaging in a particular type of speech - an idea the Supreme Court has rejected.



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Making the requirement a condition for getting a federal license is also constitutionally dubious, Rotunda argues, because it amounts to bribing TV station owners to give up some of their constitutional liberties. The government can't offer a special tax break to people who agree to forfeit their right against self-incrimination; nor can it provide public housing only to tenants willing to let police search their apartments without a warrant. By the same principle, it can't decide to give HDTV licenses to people who agree to torch their First Amendment rights.

Newspapers would howl to high heaven if the president proposed forcing them to run free political ads. But newspapers from the Los Angeles Times to the Hartford Courant editorialized in favor of putting a similar burden on TV stations. Their favorite argument is that the airwaves belong to the public and that the public has a right to demand that they be used for the public good.

Oh? Does this mean that the public has a right to censor anyone on television who voices opinions that might undermine the public good? What about those newspaper boxes on every street corner? If the public allows its sidewalks to be used by newspapers for free, doesn't it have the right to attach certain conditions?

Of course, it is not an immutable law of nature that the federal government must give away HDTV licenses. It could auction them off and put the money into financing government programs. One of those programs could be buying TV time for political candidates. That would be a much better deal than Clinton's proposal, which would surrender licenses worth perhaps \$70 billion in exchange for air time worth maybe \$2 billion. The benefit to the political process, if any, would be exactly the same, and the constitutional defects would be eliminated.

But doing it my way would mean honestly acknowledging that free political ads cost money and that the money might be better used for other purposes. Next thing you know, voters might figure out there's no such thing as a free lunch. Then where would Clinton be?

LANGUAGE: ENGLISH

LOAD-DATE: April 16, 1997



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LEVEL 2 - 17 OF 57 STORIES

Copyright 1997 The National Journal, Inc.
The National Journal

April 12, 1997

SECTION: CAMPAIGN FINANCE; Pg. 699; Vol. 29, No. 15

LENGTH: 4414 words

HEADLINE: Tuning Out **Free TV**

BYLINE: ELIZA NEWLIN CARNEY

HIGHLIGHT:

Cheerleaders of campaign finance reform are touting proposals to give **free TV** time to politicians. But naysayers are warning that opening up the airwaves would do little to slow the political money chase--and might actually escalate the ad wars.

BODY:

It would be hard to imagine a broadcast industry leader more eager to open up the airwaves to political candidates than John M. Laabs.

As president of the Wisconsin Broadcasters Association, Laabs has made sure that his organization routinely sponsors senatorial and gubernatorial debates. Last year, Laabs went a step further, orchestrating a multistate debate between the GOP presidential hopefuls on the eve of Wisconsin's March 12 primary.

Primaries were slated all over the country that month, so Laabs won the cooperation of broadcast associations in 12 other states, with dozens of television stations agreeing to run the program live. The value of the debate time was in the millions of dollars.

But there was just one catch: The candidates never showed. While ex-Tennessee Gov. Lamar Alexander and Indiana Sen. Richard G. Lugar said yes, then-Kansas Sen. Robert Dole and Malcolm S. (Steve) Forbes Jr. wavered. When Patrick J. Buchanan begged off, the whole deal fell apart.

"It's very difficult to put on a show that you call a debate among the leading candidates, when they're not there," Laabs said. He acknowledged that the timing was tricky, but said he was "a little bit surprised" when the effort flopped.

Laabs isn't the only broadcast industry advocate who's learned that giving free airtime to candidates is easier said than done. While the ideal of **free TV** is hugely popular among proponents of a campaign finance overhaul, critics say it would



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do little to slow the political money chase--and may actually escalate the ad wars.

Not that the naysayers are getting much attention these days. President Clinton, Federal Communications Commission chairman Reed E. Hundt and a long list of reform-minded lawmakers, activists and journalists have come to regard **free TV** as all but a silver bullet.

Are **elections** too costly? **Free TV** time would liberate candidates from the relentless pursuit of big bucks. Are campaigns too negative and nasty? **Free TV** would restore civility and substantive debate. Do campaigns unfairly protect incumbents? **Free TV** would level the playing field. Or so the cheerleaders say.

But the skeptics warn that such expectations may be inflated. Broadcasters, not surprisingly, are adamantly opposed. They stand to lose hundreds of millions of dollars if **free-TV** proposals go through.

Candidates have long received what amounts to a 30 per cent discount on their ads, broadcasters say. Stations are prohibited from billing candidates at more than the "lowest unit rate"--essentially the minimum fee--that they charge commercial advertisers.

Yet the ad wars are as ferocious as ever. "We think the country will be ill-served by . . . a scheme that would provide only for additional negative attack ads," said Edward O. Fritts, president of the National Association of Broadcasters (NAB), which has a reputation as one of Washington's most powerful industry groups.

Broadcasters aren't the only ones who doubt that **free TV** will solve the campaign finance mess. Campaign finance expert Dwight Morris--who heads the Campaign Study Group, a Springfield (Va.)-based consulting firm--says that for most candidates, TV does not eat up the bulk of the money, contrary to the conventional wisdom.

"The whole debate is being driven by the notion . . . that campaign spending is spiraling ever higher because of this insatiable desire to buy more TV time," Morris said in an interview. "And it just doesn't turn out to be true."

AN EASY TARGET

Still, television is a natural target for advocates of overhauling the campaign finance system. More than any other political tool, TV ads now define American **elections**.

Political mudslinging, of course, is nothing new. It goes back to the newspapers of Colonial times, and later manifested itself in handbills and radio. By the post-World War II era, television had emerged as the advertising medium of choice. Its



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use since then has snowballed: Candidates, political parties and interest groups spent \$ 400 million on political ads in 1996 alone, compared with \$ 25 million in 1972.

These days, the 30-second soundbites that dominate political communications have shortchanged and alienated voters, many experts say. Some blame the frequently negative ads for driving voter turnout down last year to 49 per cent, its lowest level since 1924.

'Negative ads decrease an individual's sense that their vote matters,' said Stephen Ansolabehere, a Massachusetts Institute of Technology associate political science professor. 'Negative ads decrease voters' trust in their government and their sense that government can solve problems.' Ansolabehere is co-author of *Going Negative: How Political Advertisements Shrink and Polarize the Electorate*, which concludes that negative ads can depress voter turnout by as much as 5 per cent.

Such findings have convinced some reform advocates that **free TV** should be linked with format restrictions, such as requirements that a candidate speak directly to the camera for a minimum length of time. (See box, p. 701.)

But subsidized television's real appeal to free-time boosters is the promise that it will stanch the money flow.

Backers of the bipartisan campaign finance reform bill sponsored in the Senate by John McCain, R-Ariz., and Russell Feingold, D-Wis., regard **free TV** principally as an incentive to entice candidates to limit spending. Senate candidates who cap spending would get 30 minutes of **free TV** during the general **election** campaign, plus a 50 per cent discount for ads that they purchased.

'TV is really the root cause of big money in politics,' declared Rep. Martin T. Meehan, D-Mass., a leading co-sponsor of the bill's House version, at a conference on **free television** last month.

The March 11 event was sponsored by the University of Pennsylvania's Annenberg Public Policy Center and the **Free TV** for Straight Talk Coalition, whose executive director, ex-Washington Post reporter Paul Taylor, has become a leading **free-TV** proponent.

Taylor touts **free television** as a way to tackle both the cost of campaigns and the quality of political debate. He has proposed a 'broadcast bank' as part of a five-point reform plan developed with Norman J. Ornstein, resident scholar at the American Enterprise Institute for Public Policy Research, and Thomas E. Mann, director of the Brookings Institution's governmental studies program.

The proposal would require all TV and radio stations to



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give two hours of time to a bank administered by the Federal **Election** Commission, which would hand out vouchers to parties and candidates. To qualify, candidates would have to appear in their ads, which could run no less than one minute. The bank would 'relieve the burdens of fund raising' on all candidates, Taylor said.

President Clinton has sounded a similar note. 'Major party committees spent over three times as much in this last **election** cycle as four years before,' he said at the March event. 'The biggest reason for this is the rise in the cost of television.'

Clinton contends that candidates should get **free TV** time in exchange for digital-spectrum licenses worth billions of dollars that the broadcasters soon will receive free from the government. He's created an independent advisory committee to hammer out broadcasters' 'new public-interest obligations' in light of the spectrum gift.

A Common Cause report released on April 2 takes a similar tack. 'You have candidates who have to raise more and more (money) to buy back from the broadcasters a portion of the public airwaves that the broadcasters are using for free,' said Donald J. Simon, the group's executive vice president. 'It's just a crazy system.'

Clinton also has directed the FCC to act on its own to require free airtime for candidates. And Hundt, a longtime advocate of broadcaster-financed candidate ads, seems happy to oblige. He maintains that the FCC does not have to wait for Congress before imposing free-candidate-time obligations on broadcasters.

'All of (the proposals on the table) have in common a recognition that it is constitutional, lawful and sensible to let candidates for public office use the public airwaves for public debate, including 30-second ads,' Hundt said in an interview. 'That's absolutely right. And furthermore, the FCC can order that. We clearly have the legal power to do so.'

The NAB's Fritts, however, calls efforts to make broadcasters pay for politicians' ad time 'blatantly unconstitutional.' In fact, court precedent suggests that broadcasters' use of the airwaves does carry with it a public-interest obligation. If **free-TV** proposals win approval--either by an act of Congress or through independent action by the Administration--a legal challenge is all but certain.

MONEY MYTHS

Even if industry-financed political ads pass constitutional muster, **free TV** may do little to clip **election** expenditures.



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Morris, of the Campaign Study Group, calls the link between TV and rising campaign costs 'a myth' that's been perpetuated by news articles. Reporters 'keep writing, year in and year out, that it's television,' Morris said. 'And pretty soon it becomes folklore.'

A former editor for special investigations in the Los Angeles Times Washington bureau, Morris has combed through **election** reports to document his claims. He and fellow L.A. Times reporter Sara Fritz presented perhaps the most thorough analysis to date of how congressional candidates spend money, in their book, *Handbook of Campaign Spending: Money in the 1990 Congressional Races*.

That book, and its sequel covering the 1992 congressional races, concludes that candidates sink less than half their budgets into TV. In 1991-92, the average Senate candidate invested 40 per cent of his or her campaign budget on **electronic** media. For House candidates, the figure was 25 per cent.

Those percentages held steady for the 1993-94 **elections**, Morris said--once he threw out the \$ 23 million that California Republican Michael Huffington spent on TV in his unsuccessful Senate race. Morris has not yet crunched the numbers for the 1995-96 congressional races, but he doesn't anticipate much change.

In the 1996 presidential race, the share of spending that went to broadcast advertising was considerably higher. Data compiled by Morris's Campaign Study Group for The Post show that Dole spent \$ 117.6 million in the recent **election**, of which \$ 53.8 million (close to 46 per cent) covered **electronic**-media costs. Clinton spent \$ 113.9 million, with \$ 51.8 million, or 52 per cent of the total, going to **electronic** media.

Morris doesn't dispute that campaign costs have escalated; the advocacy group Public Citizen pegs federal candidate and party spending at just over \$ 2 billion in the recent **election**, compared with \$ 1.58 billion in 1991-92. But Morris says that the percentage spent on TV is holding steady.

So where does all the money go? A big chunk is spent on overhead to maintain a year-round campaign operation, as many incumbents do, complete with staff, rent, utilities, furniture and supplies. In the 1991-92 cycle, Senate candidates spent \$199.3 million, of which \$ 49.5 million (24.9 per cent) went to overhead, Morris's data show.

Morris and his co-authors also have documented millions in campaign contributions used for questionable items such as meals unrelated to fund-raising efforts, constituent entertainment and 'campaign' cars. Consultants such as media, fund-raising and polling experts also clean up. In the 1990 congressional **elections**, they accounted for more than \$ 188 million, or 45 per cent, of total spending.



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Other campaign experts dispute Morris's findings. TV may eat up less than half of candidates' budgets, note advocates of **free television**, but it remains the largest line item when stacked against other costs. Furthermore, television costs are far higher in contested congressional races, said Curtis B. Gans, director of the Committee for the Study of the American **Electorate**, a Washington nonprofit group.

Media costs totaled about 45 per cent in competitive House races in 1992, a 30 per cent increase over 1976, Gans has found. For competitive Senate races, the budget devoted to media was closer to 60 per cent in 1992, also a 30 per cent jump since 1976.

Morris's data confirm that TV costs vary wildly: In the 1995-96 cycle, Virginia Democratic Senate hopeful Mark Warner spent 70 per cent on media, while Sen. Ted Stevens, R-Alaska, spent only 24 per cent on his race. Of course, it's the high-dollar slugfests that grab headlines, such as the \$ 9.2 million race waged last year by now-Sen. Robert G. Torricelli, D-N.J., against Republican Dick Zimmer, who spent \$ 8.2 million. Some 80 per cent of Torricelli's budget went to TV, his spokesman said.

Still, in dozens of House races, television is virtually a nonissue. Many a safe incumbent does not advertise on TV at all. In such cases, free candidate television may simply spawn ad wars where none now exist.

FORESEEING THE FALLOUT

The real danger of **free-television** proposals, warn political and campaign finance experts, is that unless they're carefully crafted, candidates will simply go out and buy twice as many ads. The result would be **elections** that are just as costly as before--and even more ad-driven. Moreover, a growing share of political ads originate not with candidates, but with parties and interest groups.

"My basic view is that unless you abolish all paid time, free time is a waste," said Gans, who favors instead tight regulation of all political ads. He would mandate that broadcasters sell time to candidates in blocks no shorter than two minutes, in order to encourage substantive discourse. The exception would be if politicians address the camera, in which case, the ad could run shorter.

Echoing Gans's sentiments, Lawrence Grossman, former president of NBC News and PBS, declared, "I don't believe for one minute that offering free time . . . will in any way solve the problem of money in politics." In fact, Grossman warns that "free time is going to increase the cost of political campaigning," since broadcasters will be forced to raise ad rates to make up the difference.



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The McCain-Feingold legislation sidesteps such pitfalls, say its backers, by linking the free time to overall spending limits. But the bill faces tough opposition on Capitol Hill and may not survive.

As for how the broadcast-bank proposal might fare, Taylor predicted that because stations don't have unlimited time to sell, free ads would saturate the airwaves and crowd out paid political messages. That would benefit challengers, he said.

"Everybody knows in campaigns that first dollars are more important than next dollars and last dollars," Taylor noted. "In politics, as in any other enterprise, there is a law of diminishing returns. And yes, while candidates would be likely to try to pile additional money and advertising on top of what they would be given, (paid ads) would be less efficient and therefore the stakes on getting (them) presumably would be lower."

Taylor conceded, though, that **free-TV** proposals face multiple hurdles. However popular among pundits and journalists, such schemes have failed to catch fire on Capitol Hill, in part because of broadcasters' opposition.

The NAB gave more than \$ 660,000 in political action committee (PAC) contributions in the recent **election**, and the Common Cause report found that over the past decade, the broadcast industry gave \$ 9.1 million in PAC and "soft-money" donations. Even more important than such contributions may be lawmakers' fear of challenging TV stations, on which they depend heavily for news coverage and ad discounts.

The industry does have some maverick **free-TV** advocates. Barry Diller--chairman of the St. Petersburg (Fla.)-based HSN Inc., which owns the Home Shopping Network--has publicly challenged the industry to cover the cost of all political messages. "It just isn't a lot of money," he says. By the NAB's own estimate, political ads accounted for only 1.2 per cent of total ad revenues last year.

Clinton's recent mandates to the broadcasters and to the FCC have raised the pressure on Congress to act. Hundt's fellow FCC commissioners, at least at this stage, don't share his zeal for **free TV**. Should the efforts pick up steam, however, some lawmakers have signaled that they have no intention of being left out.

"It would be difficult for the President or Mr. Hundt to act in too sweeping a manner without Congress--both for reasons of legislative requirements, but frankly, also, for reasons of getting the kind of support that they need for true campaign finance reform," said McCain. "The **free TV** is an important part of the package."



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Even if broadcasters did end up paying for the nation's political commercials, it would be up to candidates to make such a system work.

Consultants and politicians, ever eager for the competitive edge, tend to want complete control over their campaign messages. The NAB notes that 58 per cent of TV stations offered to sponsor at least one candidate debate in the last **election** cycle, but of those, 26 per cent reported that at least one candidate refused.

"I think that broadcasters have for years given the kind of free time we've been talking about," said Laabs, of the Wisconsin Broadcasters Association. "And I think they have met their public service obligations through those efforts. Would they be willing to give more? I think they would. Should they be mandated to give more? I don't think that's necessary."

Laabs foresees a logistical nightmare if TV stations are forced to run political ads for free. "They do not have infinite inventories," he noted. "And it would certainly create twice as (many) political advertising opportunities for politicians."

Such warnings are unlikely to silence the growing chorus of **free-TV** advocates. Certainly the promises by proponents--such as Taylor's prediction that **free television** will "get rid of dirty money (and) replace it with clean communications resources"--have tremendous popular appeal. On the other hand, TV advertising may turn out to be, as Morris puts it, "the straw man of the American **electoral** process."

LANGUAGE: ENGLISH

LOAD-DATE: April 18, 1997



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LEVEL 2 - 18 OF 57 STORIES

Copyright 1997 American Political Network, Inc.
The Hotline

April 2, 1997

SECTION: NATIONAL BRIEFING

LENGTH: 280 words

HEADLINE: **FREE TV: PROPOSAL FOR A "TIME BANK"**

BODY:

In a W. POST op-ed, **Free TV** for Straight Talk Coalition's Paul Taylor suggests the creation of a "national political broadcast time bank." At the beginning of each **election** campaign, every TV and radio station in the country would contribute an hour or two of prime spot ad time to a broadcast bank administered by the FEC. The bank would distribute vouchers for this time in two ways. "Half would go to all general **election** congressional candidates who demonstrated a broad base of support from small donations. The other half would go to the major (and any qualifying minor) political parties, which would be free to distribute the vouchers" to their national, state or local general **election** candidates (4/2) S.D. UNION-TRIBUNE editorial: "President Clinton supports the free air-time concept along with Sen. John McCain (R-AZ), who is trying without much success to persuade Congress to clean up the way campaigns are financed. There is precious little enthusiasm on Capitol Hill for changing an incumbent-friendly system. But the FCC could do so through its rule-making authority. This is an intriguing idea worth serious consideration" (4/1).

LANGUAGE: ENGLISH

LOAD-DATE: April 2, 1997



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LEVEL 2 - 25 OF 57 STORIES

Copyright 1997 The Baltimore Sun Company
The Baltimore Sun

March 21, 1997, Friday, FINAL EDITION

SECTION: EDITORIAL, Pg. 17A

LENGTH: 686 words

HEADLINE: **Free TV** time for candidates: a modest beginning

BYLINE: JACK GERMOND & JULES WITCOVER

BODY:

WASHINGTON -- Like horses brought to water who can't be made to drink, voters can't be forced to exercise the franchise if they don't want to. In last year's presidential **election**, more didn't vote than did -- only 49 percent of those eligible.

The figure, according to Curtis Gans of the Committee for the Study of the American **Electorate**, resumed a 36-year decline in voter turnout, broken only in 1992.

The regression after the 55.2 percent voter participation in the Clinton-Bush race in 1992 came in spite of a new experiment in the communication of candidate views: **free television** time on five networks: NBC, CBS, CNN, Fox and PBS.

The campaign for free time was spearheaded by a former Washington Post political reporter, Paul Taylor, and the retired CBS anchorman Walter Cronkite. While they did not achieve what could have been the most effective reform -- getting the networks to "roadblock" candidate appearances on all of them simultaneously, there are indications that **free TV** time did raise the tone of the campaign.

The Annenberg Public Policy Center of the University of Pennsylvania, concluded that when the candidates talked directly to the camera, the discourse was more civil and informative and less negative than that conveyed in paid television ads. The study found that when a candidate did criticize his opponent, he frequently compared his own positions with those of his opponent, rather than launch a pure attack. Such free-time attacks were found to be considerably less frequent than in the presidential debates, in ads and in news accounts of campaign speeches and other events.

The candidates in free-time presentations also, on the whole, offered more evidence of their claims than did other communications to the voters, and in some cases were more accurate than information conveyed in debates and ads, as well as less inflammatory and alarmist in phrasing.

All this was to the good, but there was a distinct downside in the free time: Its audience, the report said, "paled in comparison to the audiences for debates and ads." Although free-time segments were presented on five to 12 days, depending on the network, and sometimes repeated, only 22.3 percent of the



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The Baltimore Sun, March 21, 1997

registered voters surveyed said they had watched at least one free-time appearance by a candidate. By comparison, 71.8 percent said they had watched or listened to at least one debate, and 83.5 percent said they had seen or heard at least one paid campaign commercial.

Reaching the informed

Most voters who said they had seen a free-time segment said they usually watched television for news and information anyway and already considered themselves interested and informed. Also, the study noted, the free-time segments were not very well promoted in advance.

Mr. Taylor, who pushed the roadblock idea as a way to force-feed voters who watched television, acknowledges it was too hard a sell to the networks in 1996, but says he will attempt in this year's gubernatorial **elections** in New Jersey and Virginia to get local television stations to try the experiment.

He is encouraged by Mr. Clinton's recent call for the Federal Communications Commission to require broadcasters to give free time to candidates as a condition of continued licensing, but says Congress is likely to balk. The networks reported \$ 500 million spent for ads in 1995-96. Mr. Taylor suggests that if that amount were made available in free time, it could "drive out" paid commercials.

Mr. Gans argues, though, that "grants of free time are a nice thing, but they won't begin to compete with paid ads." What's needed, he says, is regulation of campaign advertising, to require "talking heads" -- candidates speaking directly to camera, as in the free-time format -- to make the pitch themselves.

While the free-time presentations in 1996 didn't snap voters out of their lethargy, they apparently did raise the quality of the discourse somewhat -- a result that warrants further efforts to advance the idea.

Jack W. Germond and Jules Witcover report from The Sun's Washington bureau.

Pub Date: 3/21/97

TYPE: COLUMN, COMMENTARY

LOAD-DATE: March 22, 1997

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LEVEL 2 - 21 OF 57 STORIES

Copyright 1997 The New York Law Publishing Company
The National Law Journal

March 31, 1997

SECTION: Pg. A1

LENGTH: 2050 words

HEADLINE: Give **Free TV** Time to Pols?

BYLINE: BY MARIANNE LAVELLE, NATIONAL LAW JOURNAL STAFF REPORTER

DATELINE: WASHINGTON

HIGHLIGHT:

Lawyers line up to forge or block linkage to HDTV.

BODY:

President Clinton has given the nation's TV broadcasters a new issue and, it would seem, new allies in their decade-long battle to influence the federal rules that will govern use of public air waves for high-definition television and other digital technology.

The president's March 11 remarks that broadcasters should be required to give free air time to political candidates in return for these potentially lucrative federal licenses has raised First Amendment issues that have never before been a major part of the HDTV debate.

But it is not at all clear that broadcasters will be able to count on the American Civil Liberties Union or other free speech activists in this latest skirmish over the shape of 21st century telecommunications.

That's because a remarkable array of interest groups has coalesced behind the idea that broadcasters should have additional public service obligations in return for their slice of the public broadcast spectrum -- property now known to be far more valuable than anyone could have imagined in the 1980s. On April 3, the FCC is expected to begin the process of dividing that profitable pie in the sky by assigning digital channels to existing broadcasters. The TV stations will accept their new channels with the knowledge that some unnamed obligation -- if not free political time, then children's programming or something -- likely awaits in the future.

"You'll hear a lot of controversy over this, but they've got a license to use government property, and it's pretty well established that the FCC . . . can change the terms under which they operate," says Jonathan Blake, of Washington, D.C.'s Covington & Burling, who represents a coalition of broadcasters and networks.

In a compromise for which Mr. Blake and others credit Vice President Al Gore, the administration agreed not to delay the assignment of digital channels while it decides what requirements it will extract from the broadcasters. Instead, an

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advisory panel named by President Clinton will decide the nature and extent of those public interest obligations. This gives broadcasters more time and another forum to lobby; but it also means more time for the opposition to rally public support behind an idea that already has gathered a head of steam.

No 'Free Ride'

In fact, one of high-definition television's most ardent boosters, Richard Wiley, of Washington, D.C.'s Wiley, Rein & Fielding, laments that recent news coverage and commentary invariably refer to the divvying up of the spectrum as a "giveaway" to broadcasters.

"The broadcasters are not going to get a free ride," he says. "There's a tremendous amount of expense involved in gearing up . . . with no guarantee there will be an additional audience," he says.

It is in the public interest for the FCC to make the spectrum available to broadcasters, Mr. Riley says, "because it's the only free, advertising-supported telecommunications service available to the American public."

But in his speech to the Conference on **Free Television** and Political Reform at the National Press Club in Washington, D.C., President Clinton said that he believed in a new definition of public service in telecommunications: "In 1997, for broadcasters, serving the public should mean enhancing our democracy."

FCC Chairman Reed Hundt has been talking at least since last July about the idea of digital TV licenses being tied to free political time obligations for broadcasters. The other three commissioners -- Rachelle Chong, Susan Ness and James H. Quello -- historically have opposed new public-interest duties, but observers believe that presidential backing of the idea and the eventual advisory board recommendations could change the dynamic.

"I've been doing this for 25 years," says Andrew Jay Schwartzman, a lawyer and director of the Media Access Project, a Washington, D.C.-based public interest group long active in the HDTV debate. "This is the first telecommunications policy issue in that time that has been elevated to a presidential initiative. It does give it a different dimension."

The prospect of new federal requirements comes while broadcasters believe they actually had a strong constitutional argument for fewer rules and regulations. The seminal Supreme Court case establishing that the FCC has the right to regulate political content on the air, *Red Lion v. FCC*, 395 U.S. 367 (1969), was based on this premise: "Broadcasters are licensed by the government to use a scarce resource," the court had said. Therefore, under its Fairness Doctrine, the court said the FCC could impose obligations that broadcasters present opposing views to political editorials and take other steps to safeguard vigorous debate on issues.

National Association of Broadcasters Vice President and Policy Counsel Jack Goodman argues *Red Lion's* premise is obsolete.

"There were far fewer stations, no cable . . . no Internet," he says. "The relationship between scarcity and diminished First Amendment rights was never clear, but even if it were good law in 1969, the scarcity doctrine carries the



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seeds of its own destruction."

He points out that the Supreme Court, in *Turner Broadcasting v. FCC*, 512 U.S. 622 (1994), refused to extend the Red Lion doctrine to cable television. Broadcasters feel certain they could prevail against content requirements in the digital age, which could expand the number of broadcasting outlets exponentially.

The Quality of Free Speech

But President Clinton's latest proposal suggests that the FCC needs to look at the quality, not just quantity, of free speech, picking up on the theme most closely associated with Cass Sunstein, Karl N. Llewellyn Professor of Jurisprudence at the University of Chicago Law School and author of the 1993 book "Democracy and the Problem of Free Speech."

"The free speech principle is, above all, about democratic self-government," Professor Sunstein said. "Efforts by government to regulate broadcast or other private behavior shouldn't be seen to be unconstitutional if they promote a well-functioning political democracy. Requiring free air time for candidates, given constitutional history and aspirations, is fully consistent with the basic goals of the First Amendment."

Mr. Goodman, of the National Association of Broadcasters, points out that Mr. Sunstein's theories are not court-tested.

The issue, Professor Sunstein says, is an important test for the ACLU, which historically has backed campaign finance regulation but has been adamantly opposed to regulation of broadcast.

Laura Murphy, director of the ACLU's national office, says organization leaders plan to meet to discuss the issue soon.

"We do support free air time for legally qualified candidates," she said, "but we want to balance that against any compelled speech issues that may arise. At first blush, it seems the president is on the right track, but that is a far cry from a thorough constitutional analysis."

I Want My HDTV

From the start of the HDTV debate in the late 1980s, it has been difficult to keep track of the lobbying alliances without a scorecard. That's when the Japanese launched the broadcasting equivalent of Sputnik by developing the first high-definition picture technology that would allow viewers to enjoy cinematic quality pictures in their living room. The enhanced images meant football game broadcasts could bring to America every bead of sweat, each grimace, the movement of every blade of grass (except in artificial turf stadiums).

U.S. policy makers were united in purpose; American manufacturers and broadcasters had to catch up or the American public would have the lowest quality television in the world.

Under Mr. Wiley's leadership as chairman of the FCC, U.S. engineers from Sarnoff Laboratories, General Instruments and AT&T (now Lucent Technologies),



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along with Europe's Phillips and Zenith, were united in a Grand Alliance that would work to make HDTV technology for the Western Hemisphere. And soon, they achieved the broadcast equivalent of reaching the moon: They developed a digital technology that far outstripped the conventional analog technology the Japanese use.

HDTV now meant more than new, life-like pictures: It meant that broadcasting would move to digital technology. And digital broadcasting meant that each channel (which 1980s policymakers had been willing to give away for free, just to aid the U.S. competitive position in the world marketplace) could be broken up into at least five different channels.

Use all five channels at once, and a broadcaster can provide HDTV. But break it up, and the broadcaster can provide Internet services, home-shopping broadcasts, **electronic** "newspapers," stock-market quotes, regular entertainment programming -- all at once.

'Beachfront Property'

The value of digital channels is estimated at between \$ 11 billion and \$ 70 billion. It was after the realization hit that broadcasters may not be moving toward HDTV, but toward these other, less risky, more lucrative prospects, that policymakers began to debate whether the federal government should be giving the space away for free.

"It seems to me giving broadcasters free spectrum is like giving newspapers free paper from our national forests," said Republican presidential candidate Bob Dole last year in a brief, abortive drive to have the FCC put up the spectrum for public auction.

Since then, Mr. Hundt and others have settled on the idea that the spectrum will be cost-free but not duty-free for broadcasters. President Clinton's recommendations on free political time are just the latest iteration of this idea. Still unresolved is whether broadcasters will be required to provide HDTV to the public on their new digital channels. This is an important issue to the television manufacturers, broadcasters' long-time ally in the HDTV wars. They are prepared to roll out the first HDTV-capable television sets in 1998. Recent remarks by Preston Davis, ABC's president of broadcasting, indicate the networks do not plan to begin broadcasting an HDTV signal until the fourth quarter of 1999.

"We're very concerned," says Jonathan Thompson, spokesman for the Consumer **Electronics** Manufacturers Association. "But I think in the end, logic and reason will prevail and the consumers will get the product."

Mr. Blake, of Covington & Burling, notes that the question of public service obligations dates back to the FCC's birth in 1934. The agency was created to claim broadcast frequencies as public resources and bring order to the chaos that reigned when broadcasters were free to jam each other's signals. Until the early 1980s, broadcast licenses were awarded on the basis of which applicant would best serve the public interest.

The broadcasters hope they can influence the public so they never have to bring out their constitutional arguments. The NAB points to a recent study concluding that TV advertising costs are not skyrocketing out of control for



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candidates. The analysis of expenditures reported to the Federal **Election** Commission by candidates shows that in the 1994 cycle, House incumbents seeking re-**election** spent 25 percent of their \$ 200 million in campaign costs on television and radio advertising -- about the same ratio as they spent four years earlier. The study suggests spending to maintain permanent campaign operations -- office rental, staff salaries, legal, accounting, computer and telephone services -- are a significant and faster-growing segment of the political spending pie.

"Advertising is one reason modern campaigns cost so much, but it is certainly not the only reason," says Dwight Morris, of the Washington, D.C.-based Campaign Study Group, who conducts the spending analysis every two years for Congressional Quarterly magazine.

Broadcasters say **free TV** time for candidates is not only unnecessary but unwanted by the public or candidates themselves. Mr. Goodman says that in the last **election** candidates turned down **free TV** time offered by local broadcasters 25 percent of the time. Fox Broadcasting offered free half-hour prime-time segments on **election** eve last year to the presidential candidates. Both Mr. Dole and president Clinton, despite their campaign finance reform rhetoric, turned the offer down.

GRAPHIC: Picture 1, No Free Ride: Richard Wiley, a booster of high-definition TV, says development costs mean broadcasters aren't getting HDTV channels worth billions for nothing. SUSAN MUNIAK; Picture 2, Jonathan Blake: He says government can attach strings to HDTV channels.

LANGUAGE: ENGLISH

LOAD-DATE: April 21, 1997



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Las Vegas Review-Journal (Las Vegas, NV)

March 31, 1997 Monday, FINAL EDITION

SECTION: A; Pg. 1A

LENGTH: 661 words

HEADLINE: FCC considering **free** TV ads for candidates

BYLINE: Robert A. Rankin

BODY:

The **Free** TV highway is an unconstitutional federal seizure of both power and property, broadcasters say.

By Robert A. Rankin Knight-Ridder Newspapers

WASHINGTON _ One road that could lead American government out of the swamp of campaign-finance corruption may begin with a single step this week at the Federal Communications Commission. The name of the road is '**Free** TV,' and it's for federal candidates. Many believe it could curtail the feverish chase for money that candidates today cannot avoid, a demeaning process that appears to be poisoning politics and the people's faith in government. To its detractors however, the **Free** TV highway leads to an unfair and unconstitutional federal seizure of power and property from the nation's 1,556 private TV broadcasters. This week _ the exact date has not been set _ the FCC intends to give those broadcasters a big piece of bait on a tiny little hook. The bait will license each broadcaster to open a second TV channel free _ a giveaway of public airwaves ordered by Congress and estimated to be worth as much as \$ 70 billion _ in a step intended to speed installation of high-definition television, the next generation of sharper, better TV pictures. But the FCC will make clear that along with the licenses comes a new obligation for the broadcasters to 'serve the public interest.' The FCC won't spell out specifically what that obligation will entail _ yet. But President Clinton believes it should be a requirement for broadcasters to give **free** TV airtime to candidates for federal office. 'Free time for candidates can help free our democracy from the grip of big money,' Clinton said in a recent speech. The president, who is engulfed in controversy over his relentless efforts to raise campaign money, noted that the major political parties spent more than three times as much money in the 1995-96 **election** cycle as they had four years before. 'The biggest reason for this is the rise in the cost of television,' Clinton said. 'Presidential campaigns now routinely spend two-thirds or more of their money on paid ads; Senate candidates, 42 percent of their money on television; House races, about a third.' If political TV advertisements were free, politicians wouldn't have to raise so much money. Then their dependence upon donors seeking favors might be reduced enough to help restore public confidence in the impartiality of government. At least, that's Clinton's hope. Broadcasters strongly disagree; after all, they sell TV airtime for big money. No sooner had Clinton spoken than Edward O. Fritts, president of the National Association of Broadcasters, denounced the idea as ineffective, unworkable and unconstitutional. NAB intends



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to test the strength of its arguments in Congress and the courts. Opponents also cite practical objections: Why should they give free time for 'attack ads'? How would this prevent illegal campaign contributions? Why isn't a TV station's sponsorship of debates enough? Even people who agree on the principle

of requiring **free TV** time for candidates are split over such practical details as how much time to give. Most free-time proposals would attach strings, such as prohibiting 'attack ads,' requiring only the candidate to appear and limiting the number of paid advertisements a campaign could run in addition to free ones. The opening round of this fight will come at the FCC, where Clinton appears to have the edge. The commission is split 2-2 on this question, with one seat vacant. But Clinton will appoint three new commissioners in coming months. Even though they must be confirmed by the Republican Senate, the senator in charge of screening them will be Commerce Committee Chairman John McCain, R-Ariz., who favors a **free-TV** requirement as part of his campaign-finance reform bill. The bill faces an uphill struggle on Capitol Hill, where NAB may be more powerful than the president on this issue.

LANGUAGE: ENGLISH

LOAD-DATE: April 1, 1997



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LEVEL 2 - 19 OF 57 STORIES

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THE ARIZONA REPUBLIC

March 31, 1997 Monday, Final Chaser

SECTION: FRONT; Pg. A1

LENGTH: 655 words

HEADLINE: **FREE TV** BACKED AS CAMPAIGN FUNDING FIX

BYLINE: By Robert A. Rankin, Knight-Ridder Newspapers

DATELINE: WASHINGTON

BODY:

One road that could lead American government out of the swamp of campaign finance corruption may begin with a single step this week at the Federal Communications Commission.

The name of the road is "**Free TV**" for federal candidates.

Many believe it could curtail the feverish chase after money that candidates today cannot avoid, a demeaning process that appears to be poisoning both the nation's politics and the people's faith in government.

To its detractors, however, the **free-TV** highway leads to an unfair and unconstitutional federal seizure of power and property from the nation's 1,556 private TV broadcasters.

This week - the day has not been set - the FCC intends to give those broadcasters a big piece of bait on a tiny little hook. The bait will license each broadcaster to open a second TV channel free - a giveaway of public airwaves ordered by Congress and estimated to be worth as much as \$70 billion - in a step intended to speed installation of high-definition TV, the next generation of sharper, better TV pictures.

Here's the hook: The FCC will make clear that along with the licenses comes a new obligation for the broadcasters to "serve the public interest." The FCC won't spell out specifically what that obligation will entail - yet.

But President Clinton believes it should be a requirement for TV broadcasters to give free air time to candidates for federal office.

"Free time for candidates can help free our democracy from the grip of big money," Clinton proclaimed in a recent speech.

The president, who is engulfed in controversy over his relentless efforts to raise campaign money, noted that the major political parties spent more than three times as much money in the 1995-96 **election** cycle as they had four years earlier.



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If political TV ads were free, the theory goes, politicians' dependence upon donors seeking favors might be reduced enough to help restore public confidence in the impartiality of government.

Broadcasters, who sell air time for big money, strongly object to the idea of giving it away.

Edward O. Fritts, president of the powerful National Association of Broadcasters, denounced the idea as ineffective, unworkable and unconstitutional. NAB intends to test the strength of its arguments in Congress and the courts.

Opponents also cite practical objections: Why should a New York City TV station give free time to House candidates when its broadcast reaches voters outside the candidate's district and in several other states? Why should stations give free time for "attack ads"? How would **free TV** time prevent illegal campaign contributions? Why isn't a TV station's sponsorship of debates enough?

Even people who agree on the principle of requiring **free TV** time for candidates are split over such practical details as how much time to give and how to administer it.

Most free-time proposals would attach strings, such as prohibiting "attack ads," requiring that only the candidate appear and limiting the number of paid ads a campaign could run in addition to free ones.

Thrashing out the details will come much later; for now the battle is over whether to do it, not how.

The opening round of this fight will come at the FCC, where Clinton appears to have the edge.

FCC Chairman Reed Hundt said, "I hear the call, and I agree with him." At present, Hundt doesn't control the commission, which is split 2-2 on the question, with one seat vacant. But Clinton will appoint three new FCC commissioners in coming months, which should strengthen Hundt's hand.

Though the appointees must be confirmed by the Republican Senate, the senator in charge of screening them will be Commerce Committee Chairman John McCain, R-Ariz., who favors a **free-TV** requirement as part of his campaign-finance reform bill.

Still, the bill faces a struggle on Capitol Hill, where the National Association of Broadcasters may be more powerful than the president on this issue.

LANGUAGE: ENGLISH

LOAD-DATE: April 3, 1997



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Electronic Media

March 17, 1997

SECTION: Cover Story; Pg. 70

LENGTH: 974 words

HEADLINE: CLINTON PRESSES FREE TIME ISSUE

BYLINE: DOUG HALONEN

BODY:

WASHINGTON-Weighing in on the controversy over industry public-interest responsibilities, President Clinton last week said he believed broadcasters that get new digital channels should provide free time to political candidates-and that the FCC should require that the time be given.

'Free time for candidates can help free our democracy from the grip of big money,' said the president at a seminar co-hosted by the **Free TV** for Straight Talk Coalition.

'Candidates should be able to talk to voters based on the strength of their ideas, not the size of their pocketbooks,' the president added. The National Association of Broadcasters quickly branded the plan 'blatantly unconstitutional.

'But the president's remarks got an enthusiastic review from FCC Chairman Reed Hundt, who has been leading the charge for beefed-up industry public-interest obligations.' 'I was thrilled,' the chairman said, noting that the FCC is now writing the final rules that will govern digital broadcasting. 'We intend to make clear that these licenses will be issued subject to concrete and commensurate public-interest obligations,' he added.

Broadcasters vowed to fight. 'Broadcasters have long opposed mandatory free airtime for politicians because it won't prevent illegal campaign contributions, won't reduce the cost of campaigns, won't stop negative campaign ads and is blatantly unconstitutional,' said Eddie Fritts, NAB president and CEO.

Pay the price

The president's initiative represents the federal government's latest effort to ensure that broadcasters pay some price for the new channels they need to switch to digital-now that the industry has all but buried initiatives for channel auctions. Proponents said they hoped the speech would give momentum by shifting the debate from Congress to the FCC. According to would-be reformers, lawmakers are leery, at least in private, about the concept of free-time proposals because incumbents enjoy a huge fund-raising advantage over potential rivals under the existing system. So lawmakers tend to talk tough but do nothing about an issue that they believe could level the playing field with potential rivals. 'That's why this is so important,' said Paul Taylor, the former



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Washington Post reporter who heads the Free Time for Straight Talk Coalition. 'This says the FCC can do this by themselves, unilaterally.' The president's speech, at least according to broadcasters, was also clearly intended to take some of the heat off the controversy swirling around the fund-raising tactics of President Clinton's campaign and the Democratic National Committee.

No big improvement

Broadcasters also said that, without more fundamental reforms, the initiative would simply result in candidates having more TV time to bash one another. It won't, according to the industry, clean up campaigns.

The reform proposal also will, according to the industry, wreak havoc in markets like New York, where there are more than 30 congressional districts. 'There would be virtually no commercial time in the 30 days leading up to the election because it would all be used up by candidates,' said Jim Hedlund, president of the Association of Local Television Stations.

Nonetheless, the FCC's Mr. Hundt—noting that Sen. John McCain, R-Ariz., was also lobbying for a rule-making-vowed to forge ahead. 'As the president communicated, the FCC has the power, the precedent and the procedures to assure free access to the airwaves for political candidates,' Mr. Hundt said. 'He asked us to take the rule-making steps to do that. I hear the call and I agree with him.' In his speech, the president said candidates spent \$400 million for TV time last year, compared to \$25 million in 1972.

Hundt's prospects improve

On a related note, the president said he had signed an executive order authorizing an advisory committee that's supposed to decide whether new public-interest obligations should be imposed on the industry. The commission is supposed to wrap up by early next year. At the FCC, the president's remarks appeared to have given Mr. Hundt the leverage he needs to ensure that the digital TV rules—now expected to be voted on by April 3—put broadcasters on notice to expect beefed-up public-interest requirements. Last month, it appeared that Mr. Hundt might not be able to win a single agency vote of support for his effort to tie a new public-interest obligation to digital. But in the wake of the president's remarks, it appeared that Mr. Hundt would be able to count on a full vote of confidence from Commissioner Susan Ness and at least the partial support of Commissioner Jim Quello. 'We're going to pay attention to the president,' Mr. Quello said, 'but we're an independent agency and we're supposed to make our findings independent of the administration or anyone else.'

GRAPHIC: With former CBS anchor Walter Cronkite (left) in attendance, President Clinton in a speech last week called on broadcasters to give **free** TV time to political candidates.

LANGUAGE: ENGLISH

LOAD-DATE: March 20, 1997



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Copyright 1997 Times Mirror Company
Los Angeles Times

March 13, 1997, Thursday, Home Edition

SECTION: Metro; Part B; Page 8; Editorial Writers Desk

LENGTH: 371 words

HEADLINE: **FREE TV FOR CANDIDATES IS IN THE PUBLIC INTEREST;**
A MUCH-NEEDED STEP ON THE ROAD TO CAMPAIGN REFORM

BODY:

President Clinton has given the strongest push yet to the effort to require broadcasters to provide **free television** time to candidates in federal **elections**, a change that among other things would lighten the poisonous burden on office-seekers of raising huge amounts of money to pay for costly TV ads. Clinton has linked the free air time issue to the granting of federal licenses to broadcasters who are preparing to move into a new era of transmitting via high-definition digital technology. But why wait? Free air time for candidates isn't something to plead or bargain for. It's something that should be required.

The Federal Communications Commission regulates broadcasting under a law mandating it to assure that the industry serves the "public interest, convenience and necessity." FCC Chairman Reed Hundt says the commission already has "the power, precedent and procedures to issue a rule ordering free air time access by candidates." That rule should be issued now, so that free air time is available by next year's congressional campaign.

Broadcasters, of course, claim that any requirement for them to provide free air time constitutes theft, arguing that it would violate the 5th Amendment to the Constitution by depriving them of property without compensation. That contention, we think, is nonsense.

Broadcasters don't own the airwaves; they are simply licensed to use them, a no-cost grant of power that earns bundles of money, including the hundreds of millions of dollars they reaped selling ads to presidential and congressional candidates in last year's campaign. The government does not charge them a royalty for their use of the broadcast spectrum. It simply asks that they responsibly serve the public interest. It's time to hold broadcasters more rigorously to that requirement.

Free time would not eliminate all the squalid and corrupting aspects of political fund-raising and campaigning. But it would reduce pressures on candidates to solicit ever-larger contributions from special-interest sources, and it would let voters see candidates outside the artificial context of slick multimillion-dollar ads. It's a much needed step on the long road to reforming political campaigning.

LANGUAGE: English



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The Commercial Appeal (Memphis, TN)

March 12, 1997, WEDNESDAY, FINAL EDITION

SECTION: NEWS, Pg. A1

LENGTH: 606 words

HEADLINE: CLINTON CALLS FOR **FREE** TV AIR TIME FOR CANDIDATES

BYLINE: James Bennet The New York Times News Service

DATELINE: WASHINGTON

BODY:

Saying the change could "help free our democracy from the grip of big money," President Clinton Tuesday recommended that broadcasters give air time to political candidates in exchange for new licenses to provide digital high-definition television.

In a speech to a conference on free broadcast time, Clinton sketched the plan he would like the Federal Communications Commission to impose. He said time should be given to "all qualified federal candidates" so they could "talk directly to the voters without gimmicks or intermediaries."

He also issued an executive order creating an advisory panel to determine what public interest obligations digital-television broadcasters should assume in addition to providing time for politicians.

With his speech, Clinton linked two complex and hotly debated issues: whether to tighten the campaign finance laws and how to allocate the broadcast spectrum. Clinton said that "because campaign finance reform is so important," free time should be "available especially" to candidates who agree to abide by voluntary spending limits.

The broadcast industry objects to such plans. The National Association of Broadcasters called Clinton's proposal "blatantly unconstitutional" and said it would do nothing to stop negative political advertising or stem the high cost of political campaigns.

"Broadcasters have a great tradition of voluntarily offering free air time for debates and other forums," Edward O. Fritts, president of the association, said in a statement. "Politicians have an equally long tradition of refusing these offers."

Clinton also repeated his calls for tighter campaign finance laws. Without referring directly to inquiries by the Justice Department and Congressional Committees into his own campaign finances, he said "the controversy over fund-raising in the last election and all the publicity on it" should serve as a "spur to action."

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Under most proposals for free broadcast time, candidates who accepted it would be severely restricted or prevented from paying for television commercials. Freed from having to pay for those commercials, candidates could spend much less time raising money, supporters of the proposals believe.

Addressing the broadcast conference, Reed Hundt, chairman of the FCC, embraced the President's suggestion. He said that while the commission would grant the new licenses before spelling out the broadcasters' responsibilities, it would make clear to broadcasters that they would have concrete public interest obligations.

Other members of the commission have opposed the notion of requiring free air time.

During last year's presidential campaign, Bob Dole, the Republican candidate, urged that the licenses for digital broadcasters be auctioned off, rather than provided to broadcasters in a ''billion-dollar giveaway.'' But the commission is planning to award the licenses to existing broadcasters at no cost. Advocates of free broadcast time believe the decision strengthens the commission's hand in asking now for time for candidates.

But the broadcasters feel they are essentially being asked to bear the costs of changing the campaign finance laws, substituting their time for others' financial contributions.

Clinton did not let controversy divert him Tuesday from his own fund-raising efforts. He attended a fund-raiser for Sen. Byron Dorgan of North Dakota, and then a \$ 25,000-a-plate swordfish dinner for the Democratic National Committee. At the committee event, Clinton mostly raised ''soft-money,'' the unlimited donations that would be illegal under legislation he supports.

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The New York Times

March 12, 1997, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 5; National Desk

LENGTH: 1140 words

HEADLINE: MONEY AND POLITICS: THE PROPOSAL;
Clinton Offers Licensing Deal For **Free** TV Campaign Time

BYLINE: By JAMES BENNET

DATELINE: WASHINGTON, March 11

BODY:

Saying the change could "help free our democracy from the grip of big money," President Clinton today recommended that broadcasters give away air time to political candidates in exchange for new licenses to provide digital high-definition television.

In a speech to a conference on free broadcast time here, Mr. Clinton sketched the plan that he would like the Federal Communications Commission to impose. He said time should be given to "all qualified Federal candidates" so that they could "talk directly to the voters without gimmicks or intermediaries." [Excerpts, page A20.]

Mr. Clinton also issued an executive order today creating an advisory panel to determine what public interest obligations digital-television broadcasters should assume in addition to providing time for politicians.

With his 23-minute speech, Mr. Clinton linked two of the most complex and hotly debated issues in Washington: whether to tighten the campaign finance laws and how to allocate the broadcast spectrum. Mr. Clinton said that "because campaign finance reform is so important," free time should be "available especially" to candidates who agree to abide by voluntary spending limits.

Under most proposals in Congress and elsewhere for free broadcast time, candidates who accepted it would be severely restricted or prevented from paying for television commercials. Freed from having to pay for those commercials, candidates could spend much less time raising money, supporters of the proposals believe. "Candidates should be able to talk to voters based on the strength of their ideas, not the size of their pocketbooks," Mr. Clinton said, "and all voters should know that no candidate is kept from running simply because he or she cannot raise enormous amounts of funds."

Addressing the same conference, Reed Hundt, the chairman of the Federal Communications Commission and a longtime supporter of free air time, embraced the President's suggestion. He said that while the commission would grant the new licenses before spelling out the broadcasters' responsibilities, it would make clear to broadcasters that they would have concrete public interest



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obligations.

In an interview today, Mr. Hundt said, "I believe that we have the power and the precedent and the procedure for giving free access to media for all candidates."

In recent interviews, other members of the commission opposed the notion of requiring free air time, but it was unclear whether the President's advocacy might change their thinking. Mr. Hundt noted that Senator John McCain, the Arizona Republican who is chairman of the Senate Commerce Committee, also supported the idea. "This is a very meaningful alliance of the President and Mr. McCain for the F.C.C.," he said.

The broadcast industry vehemently objects to such plans. The National Association of Broadcasters called Mr. Clinton's proposal "blatantly unconstitutional" and declared that it would do nothing to stop negative political advertising or stem the high cost of political campaigns.

"Broadcasters have a great tradition of voluntarily offering free air time for debates and other forums," Edward O. Fritts, president of the association, said in a statement. "Politicians have an equally long tradition of refusing these offers."

Mr. Clinton repeated his calls for tighter campaign finance laws today. Without referring directly to inquiries by the Justice Department and Congressional Committees into his own campaign finances, he said "the controversy over fund-raising in the last election and all the publicity on it" should serve as a "spur to action."

"Do not let the controversy become an excuse to do nothing and to wallow around in it," he said.

Mr. Clinton did not let that controversy divert him today from his own fund-raising efforts. He attended a fund-raiser for Senator Byron Dorgan of North Dakota, and then a \$25,000-a-plate swordfish dinner for the Democratic National Committee. At the committee event, Mr. Clinton mostly raised "soft-money," the unlimited donations that would be illegal under the legislation he supports.

His evening plans notwithstanding, Mr. Clinton offered a blistering critique of the amount of money in politics today. "Major party committees spent over three times as much in this last election cycle as four years before," he said. The major reason, he said, was the cost of television. "In 1972, candidates spent \$25 million for political ads; in 1996, \$400 million. Presidential campaigns now routinely spend two-thirds or more of their money on paid ads."

During last year's Presidential campaign, Bob Dole, the Republican candidate, urged that the licenses for digital broadcasters be auctioned off, rather than provided to broadcasters in a "billion-dollar giveaway." But the commission is planning to award the licenses to existing broadcasters at no cost. Advocates of free broadcast time believe the decision strengthens the commission's hand in asking now for time for candidates.

But the broadcasters feel that they are essentially being asked to bear the costs of changing the campaign finance laws, substituting their time for others'



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The New York Times, March 12, 1997

financial contributions. A legal brief prepared last year for the broadcast association argued that requiring time from the broadcasters would "upset the delicate balance between their journalistic freedoms and their obligations as licensees of the public airwaves."

The lawyers also argued that requiring free air time would violate broadcasters' Fifth Amendment rights because it "takes their property without just compensation."

Several networks experimented with providing free air time to the Presidential candidates in last year's campaign. At the conference today, participants said they were unimpressed with the results.

"Frankly, we were disappointed," said Barbara Cochran, the executive producer for politics at CBS News. She said the candidates "restated boilerplate" and asserted that the forum seemed to favor Mr. Clinton, who was more comfortable in front of a camera. Although CBS allocated two-and-a-minute blocks to both candidates, she said, Bob Dole never used more than two minutes. "It certainly didn't have a lot of impact," she said.

While not challenging that conclusion, a study by the Annenberg Public Policy Center of the University of Pennsylvania found that the free-time spots were more substantive and less nasty than campaign advertisements. Facing the camera themselves rather than relying on narrators and spliced images, candidates tended to marshal evidence to support their positions, the study found.

Mr. Hundt said of the efforts last year: "It was like conducting a hygiene experiment in the middle of the black plague. It's something to build on, but it wasn't anything that had any chance of competing against the paid-time tidal wave."

GRAPHIC: Photo: As his audience was leaving, President Clinton answered one last question yesterday after a speech proposing free air time to political candidates in exchange for digital-television licenses. With him, from left, were Walter Cronkite, Ann McBride, Senator John McCain and Barry Diller. (Paul Hosefros/The New York Times) (pg. A20)

LANGUAGE: ENGLISH

LOAD-DATE: March 12, 1997



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Free TV - EW

TO: Paul Weinstein
Tom Reidman

FROM: Karen

RE: Free Time

McCain will stand in way of free time

(Continued from Page 1)
the FCC lacks legal authority to act.

"While I believe that campaign finance reform is sorely needed and that free television time for candidates is a crucial and key component of any campaign finance reform, only Congress can enact such reform," Sen. McCain said in a statement.

The aide also said that Sen. McCain, the influential chairman of the Senate Commerce Committee, is planning to block FCC action by attaching a rider to a federal appropriations bill that is expected to be voted on

next month.

Sen. Conrad Burns, R-Mont., according to an aide, is also

maker, who is chairman of the Senate Communications Subcommittee and an opponent of a free-time requirement.

"If the FCC moves forward in an attempt to mandate free TV time for candidates, it would be clearly overstepping its authority."

—Sen. John McCain, R. Ariz.

planning an appropriations bill rider to block FCC action.

"Sen. Burns feels that's a highly inappropriate action for a group of unelected bureaucrats," said an aide to the law-

the form of higher advertising costs," the aide added.

National Association of Broadcasters executives and other industry officials, who have privately been deriding the

initiative as "food stamps for politicians," have also been arguing that the FCC lacks authority to require broadcasters to provide free time.

Indeed, some congressional and industry sources believe that the White House is using the FCC to make an illegal "end run" around Congress on the issue.

The FCC's Mr. Kennard has argued that action is justified under a provision in the Communications Act of 1934, requiring the agency to ensure that spectrum is used in the public interest.

At least some observers also argue that the FCC represents

the government's best hope for a free-time requirement, because many lawmakers privately oppose the concept because they fear it could level the campaign playing field with their challengers.

Said Sen. McCain, however, "If the FCC moves forward in an attempt to mandate free TV time for candidates, it would be clearly overstepping its authority. While I am certain the Congress would appreciate any technical advice from the FCC regarding broadcast issues, only the Congress can enact this or any other kind of programming obligation on broadcasters." #

'Public Eye' gets new producer

(Continued from Page 1A)
taking a new project to be announced soon. "Michael did a fantastic job getting this show up and running in a short time," he said.

But Mr. Klein didn't offer a clear reason why the show didn't click consistently.

"That's what I want to find out. There's a big difference between buying the plane and flying the plane. I'll be in the cockpit," he said.

"The mission is just to take this show, which ought to be a play-off contender, and start playing

With a month until the new version of the show goes on the air, Mr. Klein was unable to say just how it will change.

"It's an imprecise business," Mr. Klein said, insisting that the task was more difficult than changing the balance of live and taped segments. "So much of what makes a show work is stuff you can't put a finger on. We ought to be impressing and surprising people more often.

"We want bigness. A show people can't miss," he said.

Mr. Klein said he's encouraged by the time slot CBS has

Olympics won't dominate newscasts this time around

(Continued from Page 1A)
cause as a non-Olympics rights holder the network is severely restricted by CBS in its ability to show videotape during its shows.

Meanwhile, over at ABC News, one staffer joked, "I sat in meetings all week, and the Olympics never came up."

does so well."

CBS will have a strong group of correspondents in Nagano, including Bryant Gumbel, Harry Smith, Bob Simon and Anthony Mason, to file news and features. CBS's "This Morning," with co-anchors Jane Pauley and Mark McEwen, will also be part of CBS Sports'

Olympic coverage.

After a months-long series of "Don't Drop the Torch" reports on his training, Mr. McEwen last week ran with the Olympic torch through the crowd-lined streets of Koshoku, Japan.



CABLE EDITOR

NEW YORK—It looks like E! Entertainment Television won't be louting a "CNN of entertainment news" spin after all.

When ABC Cable Networks and Comcast Corp. last year bought controlling interest in E! from Time Warner, Rich Frank, chairman of Comcast's C3 programming division, said he'd make E! as synonymous with entertainment news "as ESPN is to sports and CNN is to news."

But E! President Lee Masters will have the last say on that subject now that Mr. Frank has exited the E! picture after Comcast sold him a majority stake in C3.

E!'s real forte, said Mr. Masters, is serving as a marquee for a variety of news and softer, more entertaining feature programs about show business, all marked with E!'s own tongue-in-cheek sensibility.

"We're a place to hang out as an adult when you turn on the TV," Mr. Masters said. "We call it 'branditude'—mixing our brand with our attitude on the air."

Ironically, E!, originally named "MovieTime" and managed by Time Warner and HBO for its five multiple

(Continued on Page 4)

Photo by Kenneth Chen



E! President Lee Masters says the network has "branditude."

Affiliates in flux

BY DIANE HERMIGAS
FINANCIAL EDITOR

Two well-regarded media analysts are warning that a new \$18 billion NFL rights contract and other skyrocketing program costs will end broadcast network profits and radically alter traditional affiliate compensation.

Tom Wolzien, media analyst for Sanford C. Bernstein & Co. and a former vice president of NBC, says the rich NFL rights deals and NBC's deal for "ER" have reduced the broadcast networks to break-even "program buying services for their owned and affiliated television stations."

Jessica Reif of Merrill Lynch estimates \$100 million in annual losses in the first five years of the eight-year pact for each of the three networks (CBS, ABC and Fox) that won NFL rights, or a total of \$1.5 billion in losses over the life of the contract. That's assuming there is no weakness in network ratings or broadcast advertising.

In 1997, combined network profits totaled about \$550 million, and NBC
(Continued on Page 47)

Sen. McCain will stand in the way of free time

BY DOUG HALONEN

WASHINGTON BUREAU CHIEF

WASHINGTON—In a major break for broadcasters, Sen. John McCain, R-Ariz., told

supporters last week that he will use legislation to block a controversial Federal Communications Commission proposal that could require radio and TV stations to pro-

vide free ad time to political candidates.

With a ringing endorsement from President Clinton, FCC Chairman Bill Kennard announced the campaign re-

form initiative late last month, contending that free or sharply discounted ad time is needed to reform a system that has become overly reliant on cash.

Sen. McCain, according to an aide, believes broadcasters should provide free time. But as point of principle, the senator said he also believes
(Continued on Page 46)

KIDS AND TEENS TV

Our special report takes a close look at the current state of the kids TV market, evaluating upfront spending and cable competition, as

well as new approaches to making educational shows commercially successful. Also, a look at a hot producer of teen shows.

PAGE 27

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AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

February —, 1998

Purpose: To prohibit the Federal Communications Commission from increasing requirements on broadcasters for political broadcasts.

IN THE SENATE OF THE UNITED STATES—105TH Cong., 2D Sess.

S. or H.R. —, 105TH Congress, 2D Session

FEBRUARY —, 1998

() Referred to the Committee on — and
ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. MCCAIN

Viz:

- 1 At the appropriate place, insert the following:
- 2 SEC —. LIMITATION ON USE OF APPROPRIATED FUNDS
- 3 BY FCC.
- 4 No amount appropriated under this or any other Act
- 5 may be used by the Federal Communications Commission
- 6 to impose or enforce any obligation on radio and television
- 7 broadcasters with respect to the use of broadcasting sta-
- 8 tions by candidates for elective office that was not specifi-
- 9 cally required by statute as of January 1, 1998.

○

Newsday
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Sunday, February 1, 1998

MONEY & CAREERS

RENO ON SUNDAY / Anything This Good Is Doomed / Who could object to free
airtime for politicians? Politicians
Robert Reno

A STEALTH CAMPAIGN-finance-reform plan - one that could cleverly evade obstructions in Congress and fly right by some of the most powerful and wealthy anti-reform forces in the nation - has just been launched.

It's intriguingly simple, deftly straightforward and almost too cute for words, considering the unconvincing and excruciating contortions Congress has been going through to weakly pretend it is offended by campaign-finance excesses and desperately wants a clean system.

William Kennard, the new chairman of the Federal Communications Commission, has apparently rounded up the votes he needs to pass a plain old FCC regulation that would simply tell the nation's broadcasters to give free airtime for campaign commercials. What's so attractive about this plan is that it could move closer to true reform than anything likely to slither through Congress in this session. It won't cost taxpayers a dime or restrict the precious free speech of a single moneybags or corporation that wants to buy influence with both parties by saturating them with soft money. A Steve Forbes, a Ross Perot or Arianna Huffington's former husband, Whatshisname, will still be free to buy their way into any race that strikes them as a good way to waste their time and money.

And, irony of ironies, the big losers in this plan will be a handful of corporations that from 1991 through 1997 poured close to \$5 million in squishy soft money into both party treasuries to buy themselves favors from Congress worth close to \$100 billion. These are - you guessed it - the nation's broadcasters.

Common Cause reports that in the seven-year period, the broadcasters gave \$2.2 million to the Democrats and \$2.6 million to the Republicans. Rupert Murdoch's corporate interests alone gave \$853,000 to the Republicans and \$75,000 to the Democrats. He also

slipped an added \$1 million to the California Republican Party.

And what did the broadcasters get? Well, it's totally, utterly unrelated to their campaign gifts, of course, but they got about \$70 billion worth of free digital-TV licenses. They also got a measure that will allow them to keep their old, unneeded analog licenses after 2006 instead of turning them in and letting the Treasury have a go at auctioning them to the highest bidders. And they got a bill making it easier for one company to monopolize a media market. Let's say all these goodies are worth, oh, \$100 billion to the broadcasters. Not a bad return for the \$5 million they gave.

If the FCC plan flies, it could blow the present campaign-finance system out of the water. Kennard estimates 60 percent of the money spent on elections goes to buy TV time. This amounted to about \$400 million in the 1996 election alone. The proposed free time rule would be in effect financed by - and I'm stifling a maniacal giggle here - our nation's generous broadcasters.

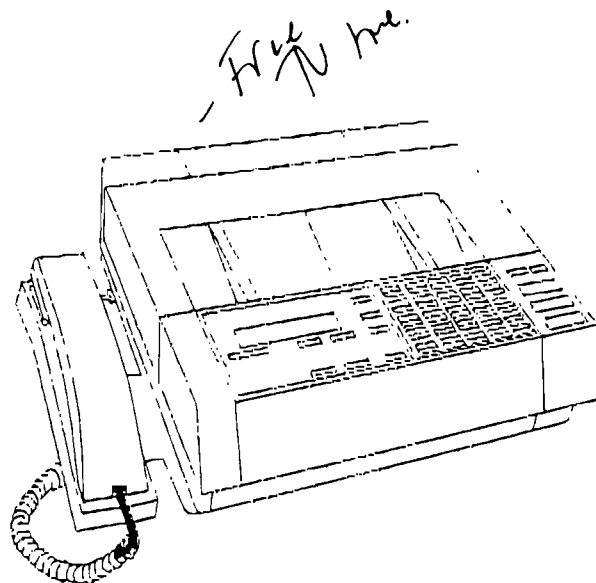
Since title to the nation's airwaves, under the Radio Act of 1927, has been effectively held by the federal government, it doesn't seem at all unreasonable for people who hold licenses to make money with this federal property to be required to share just a little slice of it to clean up our campaign finance system. It's not some squalid, contemptible scheme like the one President Nixon had to take away Katharine Graham's broadcasting licenses because she ran a newspaper that displeased him.

Of course, the minute this proposal was revealed last week, many members of Congress predictably had a cow. You have to suspect it has more to do with jealousy than principle. If he believes deeply in campaign-finance reform, Sen. John McCain (R-Ariz.) ought to love this plan. But he quickly declared that it exceeds FCC authority. And Rep. Billy Tauzin (R-La.), whose committee has FCC oversight, was practically apoplectic, saying that if the FCC proceeds, "there will be a war on Capitol Hill."

Congress can, of course, overrule anything the FCC does. But this would put a handful of goody-goody Republicans like McCain and Sen. Fred Thompson (R-Tenn.) in a terrible bind. They have yelled their heads off that they want real reform and aren't simply interested in investigating Democrats, putting them all in jail and drying up Democratic sources of funds. Do they really want to shoot down the one major piece of campaign-finance reform that may have real hope of passage this year?

FEDERAL COMMUNICATIONS
COMMISSION

FAX SHEET



MASS MEDIA BUREAU

FAX NUMBER: (202) 418-2828

FROM: Karen

PHONE: _____

TO: Tom Friedman

COMPANY: _____

FAX NUMBER: _____

OFFICE PHONE: _____

THIS COVER SHEET IS PAGE 1 OF _____ PAGES.

SPECIAL INSTRUCTIONS:

PXI. Our defense of our authority to act
(Note cover letter is 3 pages + can be used alone)



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

February 18, 1998

The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Dingell:

Thank you for your recent letter inquiring about my views concerning proposals that broadcasters provide free or reduced cost time for political candidates to present their positions to the electorate. I appreciate the strong commitment that you have made over the years to ensuring that broadcasters serve the public interest, and I look forward to working with you to formulate the best approach to this important issue. At the outset, I would like to stress that these are my preliminary views. Of course, my final judgments and any Commission action in this area would be based on a full and complete record, including legal arguments presented by the parties, and after careful deliberation and consultation with Members of Congress.

In your letter you stated that "[f]ree air time for political candidates is an appealing idea, given the harsh reality that the high cost of media advertising is largely responsible for the escalating cost of political campaigns." Your observation is echoed by dozens of requests and petitions from citizens, political scientists, public interest advocates, 55 Members of Congress and the President, all of whom have asked the Commission to examine whether broadcasters should be obligated to provide free or reduced-rate airtime to political candidates as a way of reducing the demand for campaign dollars by enhancing candidates' ability to reach the electorate. Given these calls and my conviction that improved exposure to informed political debate would serve the public interest, I favor a Commission proceeding examining free or reduced-rate airtime initiatives. A proceeding will provide an open and public forum for discussion of proposals for ways to improve candidate access to the airwaves, as well as an opportunity to collect and consider all views on the extent of the Commission's legal authority to effectuate various free time initiatives.

It is my preliminary view that the Commission would have the authority to require free or reduced-rate airtime for candidates under the public interest standard governing license renewals set forth in Section 309 of the Communications Act. As you know, the public interest standard charges the FCC with ensuring that broadcasters serve the public interest in

The Honorable John D. Dingell

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return for their free licenses to use the public's valuable airwaves. The Supreme Court has on numerous occasions upheld the broad scope of this authority. The breadth of discretion afforded the Commission under the public interest standard led the Congressional Research Search last year to conclude tentatively that the FCC has sufficient authority to require broadcasters to provide free time for political advertisements. See Cantor, Rutkus & Greely, "Free and Reduced-Rate Time for Political Candidates," CRS Report for Congress 25-26 (July 7, 1997).

In an unbroken line dating back to the earliest days of broadcasting, the bedrock principle established by Congress has been that the Commission must ensure that broadcasters serve the public interest. The public interest standard originated in the Radio Act of 1927 and was construed almost immediately to require consideration of broadcasters' programming before a license could be renewed. Congress incorporated this standard in the Communications Act of 1934. Under Section 309, the Commission may not renew a broadcast license unless it determines that "the station has served the public interest, convenience, and necessity." Congress reaffirmed the public interest standard in 1996, when it enacted Section 336(d). Section 336(d) provides that the provisions that facilitate the transition from analog to digital television shall not "be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity." The Supreme Court has held repeatedly that the public interest standard requires the Commission to adjust the duties of broadcasters to serve the public. See, e.g., FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940); NBC v. United States, 319 U.S. 190, 219 (1943); Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969); CBS, Inc. v. FCC, 453 U.S. 367, 395 (1981).

Although Congress has enacted two provisions specifically addressing broadcasters' obligations to political candidates (Subsection 312(a)(7) and Section 315 of the Communications Act), it is my preliminary view that Congress has not chosen to enact the sort of legislative scheme that would preclude further agency action pursuant to Section 309. Rather, I believe that Congress preserved the Commission's duty to construe and apply the public interest standard. Significantly, the primary provision of the Act specifically addressed to campaign issues, Section 315(a), does not preclude the Commission from addressing campaign-related matters pursuant to the public interest standard. Instead, Section 315(a) provides that it should not be construed to relieve broadcasters "from the obligation imposed upon them under [the Act] to operate in the public interest."

Consistent with the foregoing, the Commission in the past has construed the public interest standard to contain requirements very similar to, but not identical with, those imposed by the equal opportunities requirement of Section 315(a) of the Communications Act. The equal opportunities requirement of Section 315(a) is triggered when a candidate is given or purchases time from a broadcaster. The political editorial rule, 47 C.F.R. 73.1930(a), which was codified as a regulation in 1967, requires a broadcaster to provide time for a candidate to respond if the broadcaster endorses the candidate's opponent. In Nicholas Zapple, 23 FCC 2d 707 (1970), the Commission held that supporters of a candidate must be provided equal

The Honorable John D. Dingell

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opportunities if supporters of an opposing candidate were given or sold time on a station. Both the political editorial rule and Zapple are based on the public interest standard, but they plainly concern matters closely related to Section 315. All three provisions involve campaigns. If any of the three provisions is triggered, the result is that a broadcaster must provide time to advance the election of a particular candidate. But both the political editorial rule and Zapple are based on the public interest standard, rather than Section 315. Thus, the public interest standard has long been used as a basis for rules affecting political campaigning, which shows that the Commission has not understood Sections 312(a)(7) and 315 to have precluded further agency action. I recognize that Congress may choose to limit our authority to adopt campaign-related public interest rules under Section 309, either expressly or by enacting a comprehensive statutory scheme in that area.

Plainly it would be desirable for Congress to address the issue of free or reduced-rate airtime as part of its effort to reform the campaign finance system. In the absence of legislation aimed at precluding agency action in this area, however, I believe it is incumbent on the Commission to respond to the many requests we have received to review what broadcast licensees, as trustees of the public's airwaves, should do to provide candidates greater access to the airwaves to inform and educate the electorate about their positions. Of course, any ultimate action by the Commission would be taken only after receiving the benefit of a full and informed record.

I realize that you have expressed "serious doubts about the FCC's authority to act in this area absent any express authority from Congress." Attached to this letter are my further views on this subject as well as responses to the specific questions in your letter. I have deep respect for your experience and understanding of the scope of the Commission's statutory mandate and therefore welcome the opportunity to discuss this topic with you personally to address any further questions or concerns you may have.

Sincerely yours,



William E. Kennard
Chairman

Attachment

**ATTACHMENT TO LETTER FROM WILLIAM E. KENNARD TO THE
HONORABLE JOHN D. DINGELL REGARDING THE PROVISION OF FREE OR
REDUCED COST TIME TO POLITICAL CANDIDATES BY BROADCASTERS**

This attachment sets out in more detail my preliminary views on the Commission's authority to act regarding the provision of free or reduced cost time to political candidates by broadcasters, as well as responses to the specific questions in your February 4, 1998 letter.

I. COMMISSION AUTHORITY TO ACT IN THIS AREA

As discussed in my attached letter, it is my preliminary view that the Commission has authority to act in this area under the public interest standard governing license renewals set forth in Section 309(k)(1)(A) of the Communications Act. I believe that this interpretation of the public interest standard is consistent with longstanding Commission and judicial precedent. In addition, although Congress has enacted two provisions specifically addressing broadcasters' obligations to political candidates (Subsection 312(a)(7) and Section 315), it is my preliminary view that Congress has not chosen to enact the sort of legislative scheme that would preclude further agency action pursuant to Section 309. Instead, I believe that Congress preserved the Commission's duty to construe and apply the public interest standard.

A. Commission Authority Under the Public Interest Standard

The public interest standard predates the Commission. The Radio Act of 1927 established the general scheme under which broadcasters may use the airwaves by making clear that the airwaves are public property and that broadcasters may use them only if they agree to serve the "public interest, convenience and necessity." That licensing standard was used when the Communications Act was enacted and the Federal Communications Commission was created in 1934. Under Section 309(a), the Commission may not grant a broadcast license unless it determines that "the public interest, convenience, and necessity will be served," and under Section 309(k)(1)(A) the Commission may not renew a broadcast license unless it determines that "the station has served the public interest, convenience, and necessity." In the recently enacted Section 336(d), which provided that existing television stations may obtain digital spectrum, Congress made clear that "[n]othing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity." In short, in an unbroken line dating back to the dawn of broadcasting, the bedrock principle established by Congress has been that the Commission must ensure that broadcasters serve the public interest. Congress added to the Commission's broad authority by enacting Section 303(r), which states that the Commission may "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act," which, of course, includes the public interest standard.

Within a decade of the Commission's creation, the Supreme Court twice ruled that the Act conferred broad and flexible authority upon the Commission. In FCC v. Porttville

Broadcasting Co., 309 U.S. 134, 138 (1940), the Court described the public interest standard in the Act as a "supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy." In NBC v. United States, 319 U.S. 190, 219 (1943), the Court upheld the Commission's authority to regulate broadcast networks, despite the absence of any explicit reference to networks in the Act, explaining that the Act gave the Commission "a comprehensive mandate to 'encourage the larger and more effective use of radio in the public interest.'" Thus, it has long been settled that the 1934 Act conferred ample authority on the Commission to adjust the duties of broadcasters to better serve the needs of the American people.

Congress largely has chosen not to develop the contours of the public interest standard itself -- although it may do so -- but instead generally has allowed this agency to develop and adjust that standard to meet changing circumstances such as the development of digital broadcasting. Even before this Commission was created, the Federal Radio Commission considered the programming service offered by licensees to determine whether they served the public interest, and its renewal forms sought information on the amount of time devoted to entertainment, religious, commercial, educational, agricultural, and fraternal programs. See 1928 Annual Report to Congress by the Federal Radio Commission 161. In 1946, the Commission issued its "Blue Book" governing the Public Service Responsibilities of Broadcast Licensees, which provided that the public interest service of broadcasters would be judged according to the Commission's evaluation of the noncommercial programming offered by the licensee; the extent of its local programming devoted to discussion of public issues; and the licensee's efforts to limit the extent of commercials. By 1960, the Commission listed 14 elements of programming that would usually be necessary to meet the public interest standard: (1) opportunity for local self-expression; (2) the development and use of local talent; (3) programs for children; (4) religious programs; (5) educational programs; (6) public affairs programs; (7) editorialization by licensees; (8) political broadcasts; (9) agricultural programs; (10) news programs; (11) weather and market reports; (12) sports programs; (13) service to minority groups; and (14) entertainment programs. Report re En Banc Programming Inquiry, 44 FCC 2203, 2314 (1960). And, of course, the Commission developed standards such as the fairness doctrine, the personal attack rule, and the political editorializing rule pursuant to the public interest standard. See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969). None of those programming elements is set forth explicitly in specific provisions of the Communications Act itself. Rather, for decades after 1927 it was understood that it is the core duty of this agency and its predecessor to develop and adjust that standard. The Supreme Court approved the Commission's role as "'ultimate arbiter and guardian of the public interest'" because "[a] licensed broadcaster is 'granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise it is burdened by enforceable public obligations.'" CBS, Inc. v. FCC, 453 U.S. 367, 394-95 (1981).

From time to time, of course, the Commission can and should reduce a broadcaster's public interest obligations to take into account marketplace and other developments. The Commission has eliminated a number of requirements because they were no longer necessary.

To cite one example, both the 1928 and 1960 standards required broadcasters to provide agricultural programming, and it seems clear that such a requirement is no longer appropriate as a general matter. But in eliminating certain requirements the Commission never purported to eliminate the general public interest obligation of every licensee to air programming that serves the public interest. Nor could the Commission reach such a decision, for the Act clearly requires the Commission to issue and renew licenses only upon a finding that the licensee has and will continue to serve the public interest. Indeed, the public interest standard was never deleted from the statute -- to the contrary, Congress in 1996 reiterated that it applies with full force to digital licenses -- and it would be a mistake to conclude that the Commission has authority to enforce only duties that are specifically enunciated in the Communications Act. Such a scheme is precisely the opposite of the one Congress enacted in 1934 and that continues to govern the Commission today.

B. Specific Statutory Provisions Relating to Campaign Advertising

The Communications Act includes two specific provisions relating to campaign advertising, Sections 312(a)(7) and 315. I do not believe that those requirements constitute comprehensive legislation that has, in effect, precluded regulation pursuant to the public interest standard. As an initial matter, it seems to be beyond dispute that, in the decades following 1934, the Commission's interpretation of the public interest standard to require "public affairs programs" and "political broadcasts" was appropriate. Under the long history of broadcast regulation, such requirements have been considered to be at the heart of the public interest standard. Congress would not have reenacted the language of the public interest standard in 1934 if it thought that the Federal Radio Commission had erred in 1928 by examining licensees' programming in the course of deciding whether to renew licenses.

I also do not believe that Congress, without so stating, amended the public interest standard in 1959 or 1971 to deprive the Commission of authority with respect to such political matters. Section 315(a) established the "equal opportunities" rule, which requires broadcasters who permit one candidate to "use" a station to permit the candidate's opponents to "use" the station as well. Section 315(a) long has been construed by the Commission, in accordance with its straightforward language, to require a station that sells or provides free time to one candidate to provide time to other legally qualified candidates for that office on the same terms. But that provision was never thought to preclude regulation of political or public affairs programming under the public interest standard. In 1959, concerned that the Commission had misconstrued the provision by requiring equal opportunities for a challenger when an incumbent appeared on a news program, Congress amended Section 315(a) to make clear that the equal opportunities rule was not triggered by such an appearance. At that time, Congress also specified that its limitation on the equal opportunities rule should not be construed to relieve broadcasters "from the obligation imposed upon them under [the Act] to operate in the public interest." In other words, Congress in 1959 took pains to make clear that it was not circumscribing the public interest standard generally, but instead was making a surgical amendment limited to the equal opportunities rule of Section 315.

Twelve years later, in 1971, Congress added the "lowest unit charge" rule to Section 315. Once again, that was a focused but limited amendment, which provided that broadcasters may not charge candidates whatever the market may bear but must provide advertising time to candidates at the discounted rate charged to large advertisers. Congress did not indicate that, by making this change, it was otherwise adjusting the public interest standard in any way. Section 315 instead includes an express proviso preserving the obligation "to operate in the public interest."

In 1971, Congress also added Section 312(a)(7). I do not believe that through this provision Congress sub silentio has adjusted the public interest standard to limit the Commission's discretion regarding license renewal decisions. Congress did not say in 1971 that it was restricting the Commission's broad discretion under the public interest standard of Section 309, and relieving broadcasters of their longstanding obligations under that provision, by adding one sentence to another provision of the Act. Moreover, Section 312(a)(7) is not addressed to license renewals and it did not on its face relieve broadcasters of any obligation. Section 312 does not involve license renewal, but rather involves license revocation. And rather than relieving broadcasters of any obligation, Section 312(a)(7) provides, in full, that the Commission may revoke a station license "for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy." The other provisions in Section 312(a) have nothing to do with political advertising. Section 312(a) may be a comprehensive list of the bases on which the Commission may take one of the most drastic actions authorized under the Act -- license revocation -- but it is not a comprehensive code governing campaign advertising.

The 1971 amendments, in short, did not relieve broadcasters of any obligations, but instead directed the Commission to revoke broadcast licenses in certain circumstances. If the Commission had authority prior to the 1971 amendments to consider a broadcaster's actions regarding political broadcasting prior to those amendments, as the Commission's 1960 Programming Inquiry shows, it did not lose that authority upon enactment. Indeed, I do not believe it would be correct to construe a provision placing additional burdens on broadcasters (the lowest unit charge rule) and authorizing a draconian penalty in certain circumstances (the license revocation provision) as effecting an unstated amendment of the public interest standard that relieved broadcasters of a core responsibility.

It also is worth noting that the Commission in the past has construed the public interest standard to contain requirements very similar to, but not identical with, those imposed by the equal opportunities requirement of Section 315(a). The equal opportunities requirement of Section 315(a) is triggered when a candidate is given or purchases time from a broadcaster. The political editorial rule, 47 C.F.R. 73.1930(a), which was codified as a regulation in 1967, requires a broadcaster to provide time for a candidate to respond if the broadcaster endorses the candidate's opponent. In Nicholas Zapple, 23 FCC 2d 707 (1970), the Commission held that supporters of a candidate must be provided equal opportunities if supporters of an opposing candidate were given or sold time on a station. Both the political

editorial rule and Zapple are based on the public interest standard, but they plainly concern matters closely related to Section 315. All three provisions involve campaigns. If any of the three provisions is triggered, the result is that a broadcaster must provide time to advance the election of a particular candidate. But both the political editorial rule and Zapple are based on the public interest standard, rather than Section 315. Thus, the public interest standard has long been used as a basis for rules affecting political campaigning, which shows that the Commission has not understood Sections 312(a)(7) and 315 to have precluded further agency action.

II. RESPONSES TO SPECIFIC QUESTIONS LISTED IN FEBRUARY 4, 1998 LETTER

In addition to your questions regarding Commission authority to act in this area, you also asked for my "ideas on how the Commission plans to interact with the President's Advisory Committee on Public Interest Obligations of Digital Television Broadcasters." The Advisory Committee includes a number of experts on various relevant issues. I am sure the FCC can learn from its findings and recommendations. In addition, it also is particularly worthwhile that the Advisory Committee includes a number of broadcasters who have been leaders in promoting public service. I look forward to receiving recommendations from this distinguished panel of experts.

Finally, to the extent I have not already answered above any of the ten enumerated questions in your February 4, 1998 letter, I provide those answers below.

1. *What specific statutory authority gives the Commission the ability to mandate that broadcasters provide free air time to political candidates? Is there any specific support in the legislative history for your conclusion?*

As I discuss in detail above, it is my preliminary view that the Commission has authority to act in this area under the public interest standard governing license renewals set forth in Section 309(k)(1)(A) of the Communications Act.

2. *In what specific proceedings (i.e., rulemakings, policy statements, adjudications, or other agency action) has the Commission determined whether broadcasters are required to provide free air time under Section 312(a)(7)? What did the Commission say?*

As I discuss above, a free time rule would likely be based on the public interest standard, not on Section 312(a)(7) or Section 315. Statements by the Commission concerning interpretation of those provisions say little or nothing about the scope of the public interest

standard. I discuss the proceedings in which the Commission has interpreted its authority to act under the public interest standard in Section I above.

3. *How do you reconcile the Commission's proposal to provide free air time to candidates with the court's holding in Kennedy for President Comm. v. FCC, 636 F.2d [432] (D.C. Cir. 1980)? When the Commission briefed and argued that case, how did the agency characterize Congress's intent with respect to free time for candidates?*

As I noted in response to Question 2, a free time rule would likely be based on the public interest standard, not on Section 312(a)(7) or Section 315. Thus, cases construing those provisions, such as Kennedy for President Committee, shed little light on the Commission's authority to act in this area under the public interest standard.

4. *If Section 312(a)(7) requires that broadcasters either give candidates reasonable access to free time or the opportunity to purchase reasonable amounts of time, what legal authority gives the Commission the power to modify that requirement in any way?*

As discussed above, I would not expect to rely on Section 312(a)(7) in proposing to act in this area, but rather I preliminarily believe that the Commission has authority to act in this area under the public interest standard of Section 309. Moreover, it is my preliminary view that through Section 312(a)(7), as well as Section 315, Congress sought to establish certain minimum requirements relating to campaign broadcast advertising, not to foreclose further Commission action in this area as might be warranted under the public interest standard.

5. *In what specific proceedings (i.e., rulemakings, policy statements, adjudications, or other agency action) has the Commission determined whether the "lowest unit charge" provisions of the Communications Act mandates free time? 47 U.S.C. 315(b). What did the Commission say? Has the agency ever said that the lowest unit charge should be zero?*

The Commission has not previously held that the "lowest unit charge" provisions in Section 315(b) mandate free time. As I discuss above, however, I would expect any free time proposal to be based upon the public interest standard of Section 309, not on Section 315(b).

6. *What purpose would the "lowest unit charge" provisions serve if the Commission promulgated a system for free time for candidates? Would a zero charge establish no charge as the benchmark for "sales" of additional time to candidates?*

Your question regarding how a free time mandate would work in conjunction with the lowest unit charge provisions of Section 315(b) is one of the issues that I believe the Commission should carefully consider in the context of a Commission proceeding examining free time initiatives. I look forward to hearing from interested parties, as well as members of Congress, as to how best to implement any free time initiative.

7. *In what specific proceedings (i.e., rulemakings, policy statements, adjudications, or other agency action) has the Commission determined the circumstances in which free time would be mandated under the "equal opportunities" provisions of the Communications Act? 47 U.S.C. 315(a).*

a) *What did the Commission say about the availability of free time under this provision?*

b) *If "major" candidates, or those who voluntarily observe campaign spending limits, are afforded free time, wouldn't the equal opportunities provision then require a grant of free time for all opposing candidates?*

Your questions regarding how a free time mandate would work in conjunction with the equal opportunities provisions of Section 315(a) are additional issues that I believe the Commission should carefully consider in the context of a Commission proceeding examining free time initiatives.

8. *What statutory provision gives the Commission the power to modify Congress's specific choices on the issue of candidate access to broadcast time? Reconcile your answer with the Supreme Court's holding in FCC v. Midwest Video, 440 U.S. 689, 706 (1979), that the Commission "was not delegated unrestrained authority" to regulate public access to cable systems.*

As discussed in detail above, it is my preliminary view that in enacting Sections 312(a)(7) and 315 Congress did not intend to limit the Commission's authority to adopt rules -- including those relating to candidate access to broadcast time -- under the public interest standard of Section 309. As to FCC v. Midwest Video, that case involved an exercise of the Commission's "ancillary authority" -- specifically its authority to regulate cable operators before Title VI was added to the Communications Act. Because the Commission would not be exercising its ancillary authority by construing the public interest standard, which is expressly set forth in Section 309(k), as well as other provisions of the Act, I do not believe that this case constrains our ability to act in this area.

9. *If the Commission has the authority to mandate free time for political candidates, does it have the same authority to mandate free time for elected officials to communicate with their constituents? Can the Commission mandate free time for State and local officials and candidates? What about free time for coverage of local government proceedings? What about free time for special interest groups? Is there any limit to the scope of power you are claiming? If so, what is it?*

I have discussed above my preliminary views on Commission authority to act regarding free broadcast time for candidates. As to your questions regarding the details of a free time initiative, I believe the Commission should carefully consider these and other questions in the context of a Commission proceeding. As noted above, I look forward to hearing from interested parties, as well as members of Congress, as to how best to implement any free time initiative.

You also asked about limits to the Commission's power. Although the Supreme Court has described the Commission's authority as "expansive," NBC, 319 U.S. at 219, there are important checks on that authority. First, Congress may always amend Section 309(k) to adjust the public interest standard, although it has not done so since that standard was adopted in 1927. Second, the courts retain authority to review all of our regulations as well. And we recognize, as the Supreme Court stated in CBS, that the Commission's role as "guardian of the public interest" requires "a delicate balancing of competing interests." 453 U.S. at 394. Accordingly, we always strive to provide as much discretion as possible to broadcasters, and to limit whatever burden is placed upon them, although "[i]t is the right of viewers and listeners, not the right of broadcasters," which is "paramount" under the public interest standard. Id. at 395 (quoting Red Lion). In the course of considering the duties of broadcasters in the digital era, we should listen to comments from all quarters regarding the proper balance to be struck and be especially mindful of the First Amendment rights of broadcasters. In addition, commenters would be free to raise arguments concerning the scope of the Commission's authority, and we would carefully consider those arguments as well.

10. *What special expertise does the Commission have to determine how much free air time for candidates would be needed to effectively counter the adverse consequences of the current system on our democratic process? Or to determine which candidates would be entitled to receive such free time? Is the resolution of these contentious issues more appropriately within the province of elected officials?*

I do not believe that the Commission needs to examine broader campaign finance issues in order to consider adopting a free time initiative. Rather, the focus should be on examining what broadcasters can do to serve the public interest of providing political candidates with access to the public airwaves. This is an area in which the Commission has gained substantial experience in implementing the public interest standard as well as Sections 312(a)(7) and 315. Moreover, the Commission should, of course, conduct a comprehensive rulemaking proceeding that solicits the views of all parties as part of the consideration of

initiatives to provide free airtime for candidates. Although we have learned much that is relevant to campaign advertising under our longstanding duties under the Act, it remains the case that the Commission needs to learn much more before acting on any free time proposal.

Memo on Where are we?



Paul Taylor

1. A lot for the President to do
2. Do you think media is a distraction
3. Do you think they are trying to displace President
4. Do you think lawyers are trying to get rid of CI.
5. Do you think American economy has fundamentally changed
6. Has it made your life more difficult
7. Has it made keeping this a moral country more difficult
8. Can government help keep institutions like businesses, the media and scientists in line?
9. CC, libertarians, protect the needy, protect the middle class.
10. Do you think the American ideal can be emulated around the world-- do you think CI. Is a new model

1. Starr - illegal taping
KS 2 Coordinated w/ Paula Jones
US - 3. Prosecutors - involved in case
→ continue from
5.
6,

② Fighting
① the Congress
and control.



Office of Legislative &
Intergovernmental Affairs

Free TV time
SW

FACSIMILE TRANSMITTAL MEMORANDUM

From: Jamil Davis / Karen Kornbluh

Date: Time:

Fax: 202-418-2806

Phone: 202-418-1900

To: Tom Friedman

Organization:

Fax: 446-7431

Phone:

This cover sheet is Page 1 of pages.

Note: Info on Free Time.

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United States Senate

WASHINGTON, DC 20510

**FOR IMMEDIATE RELEASE
TUESDAY, FEBRUARY 10, 1998**

**CONTACT: PLA PIALORSI 202-224-2670
MATT RAYMOND 202-224-8150**

McCain - Burns Announce Amendment To Ban FCC's Proposal For Free TV Time

WASHINGTON, D.C. — Senator John McCain (R-AZ), Chairman of the Committee on Commerce, Science, and Transportation, and Senator Conrad Burns (R-MT), Chairman of the Communications Subcommittee, today announced that they intend to offer an amendment that would ban the FCC's ability to mandate free TV time for political candidates. They would offer the amendment to the Supplemental Appropriations Bill.

"Mandating free broadcast time cannot and should not be done by a regulatory agency. The FCC is clearly overstepping its authority here," McCain said. "While I believe that campaign finance reform is sorely needed and that free television time for candidates is a crucial and key component of any campaign finance reform, only Congress can enact such reform."

"Chairman McCain and I strongly agree that this issue is not within the realm of the FCC. We must remind Mr. Kennard that the FCC is an independent agency created by Congress, not an arm of the White House. While I believe mandatory free time amounts to an entitlement for politicians, there is a wide bipartisan belief that this is a question for Congress, not the FCC, to answer," Burns said.

(copy of the amendment attached)

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

February —, 1998

Purpose: To prohibit the Federal Communications Commission from increasing requirements on broadcasters for political broadcasts.

IN THE SENATE OF THE UNITED STATES—105TH Cong., 2D Sess.

S. or H.R. —, 105TH Congress, 2D Session

FEBRUARY —, 1998

() Referred to the Committee on — and
ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. McCain

Viz:

- 1 At the appropriate place, insert the following.
- 2 SEC —. LIMITATION ON USE OF APPROPRIATED FUNDS
- 3 BY FCC.
- 4 No amount appropriated under this or any other Act
- 5 may be used by the Federal Communications Commission
- 6 to impose or enforce any obligation on radio and television
- 7 broadcasters with respect to the use of broadcasting sta-
- 8 tions by candidates for elective office that was not specifi-
- 9 cally required by statute as of January 1, 1998.

□

February 3, 1998 (5:29 p.m.)

Arguments That the Federal Communications Commission Has the Authority to Require Broadcasters to Provide Free Time to Candidates

Broadcast licensees are trustees of a valuable public resource. Broadcasters, as public trustees, are responsible for using the spectrum to serve the public. Pursuant to the Communications Act of 1934, the Federal Communications Commission is charged with the regulation of this important resource.

The Communications Act requires the Commission to grant and renew broadcasters' licenses "if public convenience, interest, or necessity will be served thereby." The Supreme Court has called the public interest standard the "touchstone" of the FCC's authority and a "supple instrument for the exercise of discretion."

A July 1997 Congressional Research Service Report concludes that "[g]iven the breadth of discretion provided the agency under this standard, it could be argued that the public interest mandate would provide the FCC sufficient authority to require broadcasters to provide free air time for political advertisements."

The Commission has over the years adopted -- as well as eliminated -- rules and policies guaranteeing access to broadcast time based upon the public interest standard.

The Commission has required that to serve the public interest, broadcasters must provide programming for children, political broadcasts and public affairs and news programming.

Questions and Answers

Q: Where does the Commission get the authority to impose a requirement of free time when the fairness doctrine was struck down by the courts?

A: The court affirmed the Commission's decision to eliminate the Fairness Doctrine based upon the Commission's determination that it no longer served the public interest. The court's decision does not preclude this Commission from determining that a requirement of free air time serves the public interest.

Q: Are you treating the broadcast spectrum as a public forum?

A: The broadcast spectrum *is* publicly owned. And as the licensees of a public resource, broadcasters are trustees, entrusted with the use of the public fora in the public interest.

Q: Where does the Commission get the authority to require broadcasters to provide free air time when the D.C. Circuit has held that Section 312(a)(7) requires broadcasters to provide either free time or the opportunity to purchase time?

A: Before the adoption in 1971 of the reasonable access requirement of Section 312(a)(7), broadcasters' responsibility to make time available to candidates was based upon the public interest standard.

In asserting that the Commission has the authority to require free time pursuant to the public interest standard, former Commission General Counsel Henry Geller set forth the following argument: Prior to the adoption of the reasonable access requirements, the Commission certainly would have had the power to adopt a free time requirement, pursuant to its public interest authority. The reasonable access requirement of Section 312(a)(7) was intended to *increase*, not to decrease, candidates access to the broadcast media. Using the reasonable access requirement to *limit* the Commission's ability to require broadcasters to provide free time would be contrary to the purpose of the statute.

Finally, at the very least, the Commission could create incentives for broadcasters to provide free time through a number of means, such as providing a menu of options -- including free time -- by which broadcasters may satisfy their public interest obligation.

Q: Doesn't the requirement that broadcasters devote otherwise remunerative advertising time to candidates constitute a taking?

A: No. Broadcasters have no property right in their licenses. This would be a requirement imposed upon a license to use government property. Where the government grants a benefit that may constitutionally be withheld -- for example, a broadcast license as opposed to public education -- a condition on that benefit does not constitute a taking.

Q: But broadcasters have invested a tremendous amount of money in their facilities, and will have to invest millions more in building digital facilities? What about that property?

A: The facilities are expensive, but nowhere near as valuable as the broadcast licenses, which broadcasters are granted without charge. Suppose someone loaned you a house, and you purchased furniture for that home, would you acquire a property right to that home just because you spent your own money to make it liveable?