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November 13, 2013

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Written *Ex Parte* Communication
MM Docket No. 00-168

Dear Ms. Dortch:

This letter is being filed in the above-referenced proceeding on behalf of the forty-six (46) State Broadcasters Associations named at the end of this letter (collectively, the “Named State Associations” or these “Associations”).

The Named State Associations continue to oppose any requirement that television stations post their political files online (the “Online Political File Rule”),¹ particularly given there is no parallel regulation requiring cable and satellite operators to post online the same competitively sensitive information about political advertising rates. These Associations also oppose any one-size-fits-all approach to how every television broadcast station should report their political advertising sales in their political files.

¹ See Comments of the Named State Broadcasters Associations filed June 11, 2012 in re *Notice of Public Information Collection Requirement Submitted to OMB for Review and Approval*, OMB Control Nos. 3060-0214 and – 0174.

The Associations acknowledge that the Commission has established July 1, 2014, as the tentative deadline to begin applying the Online Political File Rule to all television stations, irrespective of affiliation and market size.² However, as long as the Commission refuses to apply the Online Political File Rule to cable and satellite providers as well, which largely compete with television broadcasters for the same viewers and advertisers, the Commission should, as a matter of fundamental fairness consistent with principles of administrative law, defer that tentative deadline. For the same reason, the Commission should also, on its own motion, lift the current, broadcast-only, asymmetric Online Political File Rule at least until it requires cable and satellite operators to post online the same type of competitively sensitive information.³

These Associations agree with the National Association of Broadcaster's ("NAB's") observation that "[T]he asymmetry created by the [broadcast-only Online Political File Rule] is increasingly indefensible in light of the changing landscape of political advertising" where "Political advertising on cable... has ballooned, from \$136 million in 2006 to \$650 million in 2012, and analysts believe that this trend will continue" (footnotes omitted).⁴ For that reason, the Commission must, at a minimum, resolve "the regulatory and competitive disparity" before extending the Online Political File Rule to all television stations.⁵

As the NAB noted in its Comments, "the experiences of the large stations that have been using the online political file may not accurately predict the effects of expanding the online file requirement to all broadcast television stations. Small market stations have much more limited personnel and financial resources, and yet they may experience intensive demand to air political ads during a busy election."⁶ Furthermore, in their Joint Reply Comments, the North Carolina Association of Broadcasters, the Ohio Association of Broadcasters, and the Virginia Association of Broadcasters well point out that "imposing [the Online Political File Rule] on all television stations will impose significant risks to and cost burdens on smaller market

² See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MM Docket No. 00-168, Second Report and Order, 27 FCC Rcd 4535, 4555-56 (2012) ("Order").

³ The Named State Associations, for that and other reasons, support the NAB's Petition for Review of the Online Political File Rule. See *Nat'l Assoc. of Broadcasters v. FCC*, No. 12-125 (D.C. Cir. May 21, 2012).

⁴ Comments of NAB at 8 (filed August 26, 2013).

⁵ *Id.* at 10.

⁶ *Id.* at 6.

stations, with no offsetting public interest benefits.”⁷ In addition, smaller market stations “are not universally equipped with sufficient staff, sales practices, or equipment to accommodate the requirement to upload political file documents during a hectic political season.”⁸

Separate and apart from whether the Commission adheres to its July 1, 2014, deadline, the Named State Associations strongly urge the Commission to reject the position of Public Interest Public Airwaves, Sunlight Foundation and the Center for Effective Government (collectively, “PIPAC”) that the Commission adopt a one-size-fits-all approach to how each broadcast station must report its political advertising sales in its political file.

First, it is noteworthy that after a lengthy proceeding and a strong record, the Commission properly rejected this approach in its *Order* adopting the current online political filing requirement.⁹ The FCC has already looked at this issue and decided that it would not require the type of standardized recordkeeping and reporting requirements that PIPAC is urging the Commission to impose upon broadcasters here. In justifying its decision, the Commission stressed that “[U]nder the rules we are adopting, broadcasters will not need to change the software in their traffic systems to post documents to our online public file.”¹⁰ PIPAC’s proposal to require stations to prepare new forms or to modify their traffic systems is thus on its face contrary to the Commission’s rationale for its previous rejection of PIPAC’s concept.

Second, there is no valid justification for adopting PIPAC’s proposal. Congress long ago determined that one of the core functions of the Federal Election Commission (“FEC”) is to collect and make publicly available campaign finance reports from political candidates and advertisers. PIPAC has not demonstrated that the objectives of Congress, or the FEC’s requirements, are not being achieved. To the contrary, PIPAC states in its Comments the FEC has been “successfully” collecting campaign finance reports electronically.¹¹ Tellingly, PIPAC has not shown that the FEC’s efforts are inadequate in terms of the public’s access to data relating to political advertising sales. Thus, there is simply no justification for increasing political file burdens on broadcasters, particularly given that stations’ existing

⁷ Joint Reply Comments of North Carolina Association of Broadcasters, the Ohio Association of Broadcasters, and the Virginia Association of Broadcasters, at 2 (filed Sept. 23, 2013).

⁸ *Id.* (citing Reply Comments of Gray Television, Inc. (at 3)).

⁹ *See Order* at ¶¶ 35-37.

¹⁰ *Id.* at ¶ 37.

¹¹ Comments of PIPAC at 16-17 (filed Aug. 26, 2013).

Hawaii Association of Broadcasters,
Idaho State Broadcasters Association,
Illinois Broadcasters Association,
Indiana Broadcasters Association,
Iowa Broadcasters Association,
Kansas Association of Broadcasters,
Kentucky Broadcasters Association,
Louisiana Association of Broadcasters,
Maine Association of Broadcasters,
MD/DC/DE Broadcasters Association,
Massachusetts Broadcasters Association,
Michigan Association of Broadcasters,
Minnesota Broadcasters Association,
Mississippi Association of Broadcasters,
Missouri Broadcasters Association,
Montana Broadcasters Association,
Nebraska Broadcasters Association,
Nevada Broadcasters Association,
New Hampshire Association of
Broadcasters,
New Jersey Broadcasters Association,
New Mexico Broadcasters Association,
New York State Broadcasters
Association, Inc.,
North Dakota Broadcasters Association,
Oklahoma Association of Broadcasters,
Oregon Association of Broadcasters,
Pennsylvania Association of
Broadcasters,
Rhode Island Broadcasters Association,
South Carolina Broadcasters
Association,
South Dakota Broadcasters Association,
Tennessee Association of Broadcasters,
Texas Association of Broadcasters,
Utah Broadcasters Association,
Vermont Association of Broadcasters,
Washington State Association of
Broadcasters,
West Virginia Broadcasters Association,
Wisconsin Broadcasters Association,
Wyoming Association of Broadcasters