

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Expansion of Online Public File Obligations)	MB Docket No. 14-127
to Cable and Satellite TV Operators and)	
Broadcast and Satellite Radio Licensees)	
)	

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

Campaign Legal Center, Common Cause, and the Sunlight Foundation (CLC *et al.*) file these comments in response to the FCC’s Notice of Proposed Rulemaking in *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, 29 FCC Rcd 15943 (2014).

CLC *et al.* applaud the FCC for its prompt action on this issue. CLC *et al.* strongly support the FCC’s efforts to expand the online public file requirement to satellite and cable providers and radio stations. Commenters urge the FCC to impose formatting requirements for the data and to complete this proceeding so information will be available online before the 2016 election. Further, commenters oppose all categorical exemptions, but would not necessarily oppose a phase-in category if the category is based on total political advertising revenue rather than station size.

I. The FCC must implement formatting requirements so the data will be put to its highest use.

Implementing a standard format for political advertising data will make the collected data much more useful. Currently, the political file consists of PDF documents. These documents can be read by everyone with a computer, but they are not searchable and do not allow for aggregation of the information contained in them. As a result, public interest groups such as the

Sunlight Foundation and Free Press have taken on the burdensome task of creating their own database designed with that functionality, which relies entirely on volunteer efforts.¹

A standard format, as CLC *et al.* has proposed previously, would bring about many public benefits. It would (1) ensure that filers input all the statutorily-required data, (2) streamline the filing process for many stations because many forms could be auto-completed, (3) improve the quality of the data, including helping to avoid misspellings of stations and candidate names, (4) obviate the need to do manual labor to find useful information such as how much money is spent in a market, how much is spent by a particular group, or how much revenue stations make from political advertising; and (5) prevent overdisclosure of potentially sensitive information.² As with FEC disclosure, such a system would allow software companies to create software for the online political file, further reducing the burden on stations.³ The FCC is aware of these benefits yet states in this NPRM that it will not impose “specific formatting requirements for documents posted to the online file.”⁴

If the FCC is unwilling to consider a standardized format in this proceeding, it should immediately open a new proceeding to seek comment on a standardized format for the political file.

¹ See Political Ad Sleuth, <http://www.politicaladsleuth.com>. The public interest groups greatly appreciate the work of these Herculean volunteers, but if the FCC imposed its own data formatting requirements, the data would be more complete and would be available much more quickly than it currently is.

² PIPAC Comments, MB Dkt. 00-168, Aug. 26, 2013, at 23. Some stations were accidentally uploading bank checks to the system that included account numbers. The system proposed by CLC *et al.* would avoid that problem.

³ *Id.* at 16-17.

⁴ NPRM, 29 FCC Rcd 15943, ¶31.

II. The FCC must ensure that the new requirement is in place as soon as possible, but at least by July 2016, and that the system is functional.

It is imperative that all new entities required to upload political files to the online database are doing so as soon as possible⁵ and at least before the next general election in 2016.⁶ As CLC *et al.* has noted in prior comments, cable, satellite, and radio are growing as sources of political advertising.⁷ Further delay only harms the political system by depriving the public of important political spending information. Thus, the FCC must establish compliance dates, grace periods, and phase-in timing so that all entities are putting their public files online by July 2016 at the latest. The FCC must also release the final order in time for it to be published in the Federal Register and take full effect prior to July 2016.⁸

Similarly, the FCC must ensure that the system remains functional even after thousands of new users are added and hundreds of thousands of new documents are uploaded. The FCC should do what it needs to ensure functionality, whether that is staggering deadlines for certain filings that occur on one day or improving capacity to ensure the system can handle the exponential increase in use.

⁵ Should the FCC decide to impose a formatting requirement in this proceeding, commenters would support a slight delay in the implementation of the system. If, however, the FCC decides that it will simply impose the same data requirements as exist now for television broadcasters, it would be unacceptable for the start date to be after the next major election.

⁶ In prior comments, CLC *et al.* advocated for the proceeding to be completed in early 2015 because of all the elections occurring this year. CLC *et al.* Reply Comments, MB Dkt. 14-127, Sept. 8, 2014, at 1-2. CLC *et al.* still advocates the FCC implement the online filing requirement as soon as possible and with minimum administrative delay.

⁷ Petition for Rulemaking by Campaign Legal Center, Common Cause, and the Sunlight Foundation, July 31, 2014, at 1-2; CLC *et al.* Comments, MB Dkt. 14-127, Aug. 28, 2014, at 1-3.

⁸ Commenters note that this NPRM took nearly two months to be published in the Federal Register. The FCC released the NPRM on December 18, 2014, yet the Federal Register publication date was February 13, 2015. The FCC should not wait until the last minute, expecting quick Federal Register publication.

III. If the FCC exempts any commercial radio stations, it should do so according to political advertising revenue rather than size.

In the NPRM, the FCC proposes to exempt or phase-in radio stations with fewer than five full-time staff members.⁹ CLC *et al.* opposes the proposed category definition.

As an initial matter, CLC *et al.* reiterates its view that an online filing requirement imposes very low burdens on stations that are already required to maintain paper public files.¹⁰ CLC *et al.* also opposes any categorical exemption beyond non-commercial radio stations with fewer than five full-time employees. Nor would CLC *et al.* necessarily oppose a phase-in (but not an exemption) for a category of small radio stations if the category is reasonably tailored and the phase-in period did not extend beyond July 2016.

As proposed, the category is not reasonably tailored. The FCC should not define any exempted category as commercial radio stations with fewer than five full-time staff members. In at least some cases, stations will have fewer than five full-time employees because the station is owned by a broadcaster with multiple stations in the same market or is a party to a joint sales agreement or a shared services agreement, the specific design of which is to reduce staff and gain efficiencies. Alternatively, a station may have fewer than five full-time employees but have significant political advertising revenue. Exempting these stations would undermine the purpose of the exemption, which is to relieve the burden on very small stations with very limited resources.

Instead, if the FCC insists on establishing a category for a phase-in, the FCC should exempt stations with fewer than five full-time employees *that earn only a nominal amount of revenue from political advertising per year*. This exemption more appropriately reflects the ability of the station to perform the task. If a station earns significant revenue from political advertising, it should not be exempted from the online filing requirement regardless of size

⁹ NPRM, 29 FCC Rcd 15943, ¶¶66-71.

¹⁰ CLC *et al.* Reply Comments, MB Dkt. 14-127, Sept. 8, 2014, at 2.

because that increased income can be used to help it comply with the minimal disclosure requirement.

Conclusion

For the above reasons, the FCC should impose a formatting requirement for its online political file. But if it chooses not to, it should act quickly to release a final order to ensure all new stations are filing online before the 2016 general election.

Respectfully submitted,

/s/

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

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Counsel for CLC et al.