

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
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)	
Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations)	MM Docket No. 00-168
)	
Extension of the Filing Requirement For Children’s Television Programming Report (FCC Form 398))	MM Docket No. 00-44
)	

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SUMMARY

The Public Interest Public Airwaves Coalition (“PIPAC”), the Sunlight Foundation, and the Center for Effective Government appreciate the opportunity to comment on their experiences with the online political files and to make recommendations for improving the system before July 1, 2014, the deadline for all television stations to upload their political files to the Commission’s website.

The Sunlight Foundation along with PIPAC member Free Press created the website Political Ad Sleuth to collect information from the political files in the FCC’s database and to make that information more searchable. This experience has clearly shown that posting political files online has accomplished many of the Commission’s intended public interest goals, such as reducing the public’s burden in accessing the files. Moreover, the easier availability has allowed effective reporting on electoral and political issues creating a more open political debate that better informs the public.

At the same time, the experience with Political Ad Sleuth revealed a number of problems. Thus, PIPAC and Sunlight urge the Commission to improve the online filing process before July 1, 2014. It is especially important that the Commission take action to make it easier to aggregate, search, and analyze the data. It should also ensure that all stations file on a timely basis and that the filings contain all of the required information.

PIPAC and Sunlight also recommend one way the Commission could improve the online filing process. Specifically, the Commission should adopt data standards and require television stations to upload their political files in a machine-readable format. This approach has already been successfully employed by the Federal Election Commission to implement even more complex reporting requirements. To demonstrate how this might be accomplished, Sunlight

developed a demonstration form. It is available online at <http://assets.sunlightfoundation.com/fcc-political-form/index.html>.

Adoption of this proposal would permit political file data to be easily aggregated and analyzed. The public would benefit from being better informed about important electoral races, issues, and the political process in general. It would allow the public, as well as the Commission, to better monitor broadcast stations compliance with statutory and regulatory requirements. Broadcasters would also be less likely to inadvertently expose sensitive financial information such as bank account numbers from uploading full contracts and checks. Further, it would significantly reduce paperwork burdens for broadcast stations.

Finally, PIPAC and Sunlight oppose the alternative set forth in the Television Station Group's Petition for Reconsideration because the alternative would further burden the public. Having potentially two different sets of data (one online and one at the station) makes it very difficult to assess whether a television station is complying with statutory requirements, makes it more cumbersome to analyze or even find the data the person needs, and makes the Commission-hosted data less useful and less accurate.

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COMMENTS

The Public Interest Public Airwaves Coalition,¹ whose members include Campaign Legal Center, Common Cause, Free Press, the Benton Foundation,² New America Foundation, and the Office of Communication of the United Church of Christ, Inc. (collectively “PIPAC”), together with the Sunlight Foundation and the Center for Effective Government, file comments in response to the Public Notice, *Media Bureau Seeks Comment on Online Political File and Petition for Reconsideration filed by the Television Station Group*, DA 13-1440, June 25, 2013.

The Public Notice seeks comment on the impact of a rule implemented in the *Second Report and Order*, requiring broadcasters to post their political files to an FCC-hosted online database.³ The *Second Report and Order* required television stations to start uploading most of

¹ PIPAC would like to thank the following people for their assistance in drafting these comments: Derek Clinger, Legal Intern for Campaign Legal Center; Amber Robinson, Georgetown Law Student; and Sean Vitka, Google Policy Fellow at IPR, Summer 2013.

² The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

³ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children’s Television*

their public inspection files by August 2, 2012. For political files, the FCC postponed the effective date until July 1, 2014, for stations not affiliated with any of the top-four networks and for stations not in the top-50 markets.⁴ In the Public Notice, the Bureau seeks comment on the public's experience in accessing the political file information.⁵ It asks whether the online file has been beneficial, whether there are ways to make the database more user-friendly, and whether the online database could be improved. PIPAC and Sunlight commend the Commission for requiring television stations to post their public file, including the political file, online, and welcome the opportunity to share their experiences so that the process can be improved.

PIPAC member Free Press and the Sunlight Foundation have extensive experience using the political files in the FCC database. Together, they created the "Political Ad Sleuth" website (<http://politicaladsleuth.com>), the description of which is the following:

Political Ad Sleuth is a project dedicated to collecting and posting the information available in the "public files" of U.S. broadcast stations on the Internet. This "public file" includes important information detailing political advertisements sold at the station (known as the "political file"). Until this year, these records have been kept on paper at stations' main studios, where they were required to be available for any member of the public who wanted to inspect them.

Despite these files being "public," they haven't been easy to reach -- rendering them inaccessible to all but the most tenacious members of the public. And even though the Federal Communications Commission now requires some of them to be placed online, they still aren't easy to search. Until now.

Sunlight and Free Press, in partnership with other organizations, are doing four things to make it easier for the public to gain access to these public files:

1. We are scraping the FCC's database of ABC, CBS, Fox and NBC affiliates in the top 50 markets and adding some basic information about them in order to make them easy to search.

Programming Report, Second Report and Order, 27 FCC Rcd. 4535 (2012) ("*Second Report and Order*").

⁴ *Second Report and Order*, 27 FCC Rcd. 4535, ¶ 33.

⁵ *Id.* ¶ 6.

2. We are working to encourage journalists and volunteers to visit the stations not yet required to post their files online and upload copies of those files to this site.
3. We are building an interface so that journalists and other volunteers can look at these files (mostly as PDFs) and enter key data from them into an easy-to-use database.
4. The site will make it simple for anyone to look up the data that's been entered about ad buys in the system, such as money spent by Crossroads GPS or Priorities USA Action.⁶

The experience with Political Ad Sleuth has shown that online public filings have achieved many of the Commission's public interest goals. At the same time, there are ways that the process can and should be improved prior to July 1, 2014.

I. Requiring Online Posting of the Public and Political Files Accomplished Many of the Commission's Public Interest Goals

The Commission's goal in adopting the *Second Report and Order* was to "modernize disclosure procedures to improve access to files that, for decades, have been public more in theory than in practice."⁷ Specifically, it found that "[m]aking the information available online will permit 24-hour access from any location, without requiring a visit to the station, thereby greatly increasing public access to information on how a station is meeting its public interest obligations."⁸ In addition, it found that having "a uniform organizational structure among all files will allow consumers to more easily navigate the public files of all stations of interest."⁹

For the political file, the Commission explained that that "placing the political file online will enable candidates, as well as the public, journalists, educators, and the research community, to identify and investigate those sponsoring political advertisements."¹⁰ The Commission noted that "political ad spending is rapidly increasing, and often the only way to track such

⁶ About, Political Ad Sleuth, <http://politicaladsleuth.com/about> (last visited Aug. 24, 2013).

⁷ *Second Report and Order*, 27 FCC Rcd. 4535, ¶ 10.

⁸ *Id.* ¶ 13.

⁹ *Id.* ¶ 14.

¹⁰ *Id.* ¶ 16.

expenditures is through stations' political files.”¹¹ It agreed with “PIPAC’s assertion that the disclosures included in the political file further the First Amendment’s goal of an informed electorate that is able to evaluate the validity of messages and hold accountable the interests that disseminate political advocacy.”¹² It also observed that public access was important for the reasons stated by the Supreme Court in *Citizens United v. FEC*: “[T]ransparency enables the electorate to make informed decisions and give proper weight to different speakers and messages” and that with the “advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.”¹³

A. Online Disclosure of Political Files Has Reduced the Public’s Burden of Access

The record in this proceeding is replete with examples of how physically traveling to a station’s premises to gain access to the file was cumbersome and inconvenient.¹⁴ For example, the Michigan Campaign Finance Network filed a letter discussing in-depth their efforts to view the physical files.¹⁵ Richard Robinson, the executive director of the group, has been viewing physical files for over a decade. He often spends a disproportionate number of hours traveling and collecting data, time that could be spent analyzing and exposing the data to the public.¹⁶

The public’s experiences at stations varied, but often they were forced to wait, told they needed an appointment, sent to unorganized and disorderly file rooms, required to pay high copying fees, or required the jump through unnecessary hoops such as signing in with detailed

¹¹ *Id.* (footnotes omitted).

¹² *Id.*

¹³ *Id.* (citing *Citizens United v. Federal Election Commission*, 130 S.Ct. 876, 916 (2011)).

¹⁴ *Id.* ¶ 13.

¹⁵ Letter from Richard Robinson, Exec. Dir. Michigan Campaign Finance Network, to FCC, MM Docket No. 00-168 (Dec. 22, 2011), <http://apps.fcc.gov/ecfs/document/view?id=7021751587>.

¹⁶ *Id.* at 2.

information or giving an explanation of why the person wanted the records.¹⁷ For example, Kent State journalism students visited four stations in Cleveland in spring 2012, and wanted to videotape their experience.¹⁸ Three stations refused, however, to allow them to use video cameras. Once they were in, they found that the political files contained hundreds of pages, and that the cost for copies was fifty cents per page, over four times what FedEx would have charged.¹⁹

Posting political files online significantly reduces the burden on the public. On October 10, 2012 (not long after the files were required to be online), Political Ad Sleuth started “scraping the FCC’s database of ABC, CBS, Fox and NBC affiliates in the top 50 markets and adding some basic information about them in order to make them easy to search.”²⁰ Online files meant that volunteers from “around the country” could help with the project, and not just for their local stations, but for as many stations and files as they desired.²¹ Political Ad Sleuth’s volunteers use metadata in the FCC files to enable users to search the political ads by market, by state, and by committee name. By Election Day 2012, there were 52,000 records in Political Ad

¹⁷ See Meredith Hoffman, *At TV and Radio Outlets, Little-Known Trove of Kudos and Complaints*, N.Y. TIMES (Dec. 4, 2011), <http://www.nytimes.com/2011/12/05/nyregion/at-radio-and-tv-outlets-a-little-known-trove-of-kudos-and-complaints.html>; Comments of PIPAC, *Standardized and Enhanced Disclosure Requirements*, MB Docket No. 00-168 (Dec. 22, 2011), at 7, <http://apps.fcc.gov/ecfs/document/view?id=7021751634>. Many stations were good at providing access, but some stations. *Inspecting Local TV’s “Public Inspection Files,”* COLUMBIA JOURNALISM REV. (Mar. 20, 2012),

http://www.cjr.org/united_states_project/inspecting_local_tvs_public_in.php?page=all.

¹⁸ Kathy Kiely, *Kent State Student Journalists Have Tough Time Prying Open TV Political Ad Files*, SUNLIGHT FOUND. REPORTING GRP. (Apr. 24, 2012),

<http://reporting.sunlightfoundation.com/2012/kent-state-student-journalists-have-tough-time-prying-open-tv-po>.

¹⁹ Daniel Victor, *Public Files? Not on a Student Budget*, PROPUBLICA (Apr. 25, 2012),

<http://www.propublica.org/article/public-files-not-on-a-student-budget>.

²⁰ About, Political Ad Sleuth, <http://politicaladsleuth.com/about> (last visited Aug. 24, 2013);

Amy Ngai, *Political Ad Sleuth Exposes the Money Behind Election Advertising*, SUNLIGHT FOUND. REPORTING GRP. (Oct. 10, 2012),

<http://sunlightfoundation.com/blog/2012/10/10/political-ad-sleuth-exposes-the-money-behind-election-advertising>.

²¹ About, Political Ad Sleuth, <http://politicaladsleuth.com/about> (last visited Aug. 24, 2013).

Sleuth. By August 19, 2013, it had more than 79,000 records. The vast majority of those files were pulled from the FCC file.

In addition to the Sunlight Foundation, ProPublica, an independent, non-profit newsroom that produces investigative journalism in the public interest,²² created its own database, “Free the Files,” that incorporated data from the political files. ProPublica’s goal was to “take thousands of hard-to-parse documents and make them useful, helping to reveal hidden spending in the election.”²³ The database included approximately \$1 billion in political ad buys, and a month after the election, people were still reviewing documents.²⁴

Because only about 200 television stations were required to report political spending online, both Sunlight and ProPublica attempted to enlist volunteers to gather data from the non-network and smaller market stations. They found that this process was extremely labor intensive and difficult. In Hawai’i, which had a number of hotly contested races in 2012 but lacks a top-50 market, the online news service *Honolulu Civil Beat* was inspired by ProPublica’s Free the Files to create its own similar system for scanning paper files.²⁵ While the reporters were able to obtain Time Warner Cable’s political file online, the *Civil Beat* reporters had to make weekly visits to the local television stations to obtain paper copies, scan them, and put them online.²⁶

²² About Us, ProPublica, <http://www.propublica.org/about> (last visited Aug. 24, 2013).

²³ Amanda Zamora, *Crowdsourcing Campaign Spending: What We Learned from Free the Files*, PROPUBLICA (Dec. 12, 2012), <http://www.propublica.org/article/crowdsourcing-campaign-spending-what-we-learned-from-free-the-files>.

²⁴ *Id.* (also describing ProPublica’s experience with the political files).

²⁵ *The Public File: Who’s Buying Political Ads in Hawaii*, HONOLULU CIVIL BEAT, <http://www.civilbeat.com/topics/the-public-file-whos-buying-political-ads-in-hawaii> (last visited Aug. 5, 2013).

²⁶ *Id.* Time Warner Cable has opted-in to electronic reporting because it is “easier, cheaper, and better” according to Time Warner Cable spokesman Alex Dudley. Keenan Steiner, *Time Warner Cable Posts Its Political File Online, So Why the Fuss, NAB?*, SUNLIGHT FOUND. REPORTING GRP. (June 15, 2012), <http://reporting.sunlightfoundation.com/2012/time-warner-cable-already-posting-its-political-file-online>.

B. The Online Database Has Facilitated Effective Reporting and Has Helped Inform the Electorate

As the Commission expected, placing the political file online has enabled the public, journalists, educators, and researchers to identify and investigate the true sponsors behind political advertisements.”²⁷ Many articles reported and analyzed election spending in ways that were much more difficult to do with offline data. This kind of access furthers the First Amendment’s goal of an informed electorate and helps to inject facts into the debate over campaign financing.

Reporters at the Sunlight Foundation used data from Political Ad Sleuth for political reporting and political articles.²⁸ For example, an article in October 2012 disclosed that the National Association of Manufacturers (“NAM”) had authorized close to \$1 million for ads in Ohio, an important battleground state, over a two week period. While only eleven of Ohio’s forty television stations were required to report online, the reporter was able to determine that NAM had run 161 spots targeting Senator Sherrod Brown on stations in Cincinnati, 96 spots in Cleveland, and 40 in Columbus. The article notes the following:

NAM had acknowledged its ad campaign in a press release, but specifics, such as the amount spent, were hidden in the FCC online database of political ad buys. According to electioneering rules, ads that are run outside the 60-day window before the election -- prior to Sept. 7 this year -- do not have to be disclosed to the Federal Elections Commission. But as of Aug. 2, political ad files previously stored at some TV stations must be uploaded to the FCC online database, shedding light on a portion of the dark money spent before the electioneering period.²⁹

Another story took place in Maryland in 2012. Maryland had a gay marriage referendum on its ballot. A group in favor of same-sex marriage urged Maryland television stations not to

²⁷ *Second Report and Order*, 27 FCC Rcd. 4535, ¶16.

²⁸ These articles are available at “Political Ad Sleuth” Tag, SUNLIGHT FOUND. REPORTING GRP., <http://reporting.sunlightfoundation.com/tag/political%20ad%20sleuth> (last visited Aug. 24, 2013).

²⁹ Jake Harper, *NAM Authorized \$1 Million in Undisclosed Spending*, SUNLIGHT FOUND. REPORTING GRP. (Oct. 17, 2012), <http://reporting.sunlightfoundation.com/2012/nam>.

run an ad opposing same-sex marriage. The reporter uncovered this story because he found a letter in Political Ad Sleuth from the Maryland Marriage Alliance refuting claims made by Marylanders for Marriage Equality and arguing that the rival group was attempting to “bully, threaten, punish their opponent.”³⁰ In another story, Sunlight reporters revealed the source of funding for a group that spent \$1.7 million on negative advertising in a single day.³¹

While the data from the political files has been particularly useful during election periods, it has also been an important source of information outside of election periods. Sunlight reporters have used data from the political files in several recent articles. For example, one story revealed that “[l]ess than a week after the presidential election, the American Petroleum Institute was on the air with a new TV ad campaign warning against the economic dangers of new energy taxes -- one of the possible revenue raisers being discussed as the nation hurtles toward the so-called ‘fiscal cliff.’”³² Another article reported on spending by groups opposed to Senator Chuck Hagel’s nomination for Secretary of Defense.³³ Another article examined television advertising

³⁰ Jake Harper, *Pro-Gay Marriage Group Pushes for Ad Removal*, SUNLIGHT FOUND. REPORTING GRP. (Oct. 19, 2012), <http://reporting.sunlightfoundation.com/2012/question-6-causes-dispute-over-ad>.

³¹ Jake Harper, *Mystery PAC Drops \$1.7 Million Before Revealing Adelson Connection*, SUNLIGHT FOUND. REPORTING GRP. (Nov. 1, 2012), <http://reporting.sunlightfoundation.com/2012/pop-groups>.

³² Jacob Fenton, *‘Tis the Season: Ads Targeting 2014 Senate Candidates Already on Air*, SUNLIGHT FOUND. REPORTING GRP. (Nov. 30, 2012), <http://reporting.sunlightfoundation.com/2012/issue-ads-already-targeting-2014-senate-election>.

³³ Jake Harper, *Emergency Committee for Israel Keeps Spending in Fight Against Hagel*, SUNLIGHT FOUND. REPORTING GRP. (Feb. 8, 2013), <http://reporting.sunlightfoundation.com/2013/eci-keeps-spending-fight-against-hagel>.

on both sides of the gun debate after the shootings at Sandy Hook.³⁴ ProPublica also used the political file data to report on specific campaigns and issues.³⁵

The initiatives of the Sunlight Foundation and ProPublica provided tools and information for reporters at other media outlets.³⁶ Some media outlets also took advantage of the data reported on the FCC database. For example, Minnesota Public Radio reporter Catharine Richert used data from the FCC's website to analyze political ad buys at the four network affiliates in the Twin Cities television market. She reported on air and online that as of October 5, 2012, more than \$13 million had been spent on at least 11,634 television spots for eight races and two constitutional amendments.³⁷ Her article includes a chart breaking down the spending by congressional race and group. She found that in the 8th Congressional district that "it's not the candidates that are spending most of the ad cash; it is third-party political groups keen on

³⁴ Ryan Sibley, *Gun Ads in Illinois Primary a Harbinger of Things to Come?*, SUNLIGHT FOUND. REPORTING GRP. (Feb. 26, 2013), <http://reporting.sunlightfoundation.com/2013/gun-ads-increasing-races-and-ahead-votes>.

³⁵ See, e.g., Theodoric Meyer, *Outside Groups Dominated Las Vegas Airwaves in the 2012 Campaign*, PROPUBLICA. (Nov. 13, 2012), <http://www.propublica.org/article/outside-groups-dominated-las-vegas-airwaves-in-2012-campaign>; Theodoric Meyer, *Big Electric Companies Behind 'Grassroots' Ad Campaign in Florida*, PROPUBLICA. (Oct 15, 2012), www.propublica.org/article/big-electric-companies-behind-grassroots-ad-campaign-in-florida; Amanda Zamora, *Free the Files Track \$294 Million in TV Ads, With Obama Topping Buyer List*, PROPUBLICA (Oct. 12, 2012), <http://www.propublica.org/article/free-the-files-tracks-294-million-in-tv-ads-with-obama-topping-buyer-list>.

³⁶ E.g., Joe Garofoli, *Protesting Big Money in Politics at the Denver Debate*, SFGATE POLITICS BLOG (Oct. 3, 2012), <http://blog.sfgate.com/nov05election/2012/10/03/protesting-big-money-in-politics-at-the-denver-debate-video>; Dave Scott, *Volunteers Pry Loose Who's Spending Money on Political Ads*, AKRON BEACON J. ONLINE (Oct. 19, 2012), <http://www.ohio.com/news/local/volunteers-pry-loose-who-s-spending-money-on-political-ads-1.343547>.

³⁷ Catharine Richert, *The Campaign on Your TV Is Expensive, but Cheaper than '08*, MINN. PUB. RADIO (Oct. 11, 2012), <http://minnesota.publicradio.org/display/web/2012/10/11/politics/campaign-television-advertisements>.

keeping [Republican Representative Chip] Cravaack in office or installing [Democratic candidate Rick] Nolan in Washington.”³⁸

A journalist for the *Pittsburgh Post-Gazette*, Tim McNulty, used the online political file data to inform voters about a contested mayoral race in early 2013. At the time, the outgoing mayor was Luke Ravenstahl. The Democratic nominee was Bill Peduto who, as a city council member, frequently challenged Ravenstahl. An outside group, “Committee for a Better Pittsburgh,” began buying anti-Peduto ads in the lead-up to the election. By looking at the online political file for the local CBS station, McNulty discovered that Ravenstahl himself was chairman of the Committee that was buying the anti-Peduto ads. Political observers has pointed out that the “story wouldn’t have come to pass in the first place if McNulty hadn’t taken advantage of access to TV stations’ public files on political ad buys ‘It was huge, *huge!*’ McNulty said about being able to access the [online file.]”³⁹

In Hawai’i, reporters for the online news service *Honolulu Civil Beat* used data from station political files in over thirty articles reporting on state and local politics. Their review of the public files found that candidates and non-candidate committees spent more than \$13.8M total airing political ads on television during the 2012 election season.⁴⁰

³⁸ *Id.*

³⁹ Anna Clark, *In Pittsburgh Campaign, Ad Buy Files Prove Mayor’s Involvement*, COLUMBIA JOURNALISM REV. (May 22, 2013), http://www.cjr.org/united_states_project/in_pittsburgh_campaign_ad_buy_files_prove_mayors_involvement.php. For McNulty’s article covering the story, see Tim McNulty, *Outside/Ravenstahl Spending Targets Peduto*, EARLY RETURNS POST-GAZETTE BLOG (Apr. 29, 2013), <http://earlyreturns.post-gazette.com/home/early-returns-posts/5464-outside-ravenstahl-spending-targets-peduto>.

⁴⁰ Alia Wong, *The Public File: \$13.8M Spent on Local TV Ads*, HONOLULU CIV. BEAT (Nov. 9, 2012), <http://www.civilbeat.com/articles/2012/11/09/17637-the-public-file-138m-spent-on-local-tv-ads>.

In addition to professional journalists, journalism students also used the online public file data. For example, University of Colorado Boulder journalism students used the online political files to report campaign spending in Denver, a highly active political spending area.⁴¹ The students calculated that almost \$41 million was spent on over 35,000 ads in Denver leading up to Election Day 2012. Much of the Denver information, including number of ads purchased and total money spent, has been aggregated and shared online through various media outlets.⁴²

Placing political file data online furthered both the Commission's goal of increasing public access to the political files and of providing the public with critical information regarding elections. Nonetheless, the experience that Free Press and Sunlight had with Political Ad Sleuth exposed several problems that should be remedied as soon as possible and prior to July 2014.

II. The Online Filing Process Can and Should Be Improved Before the Effective Date for Filing by the Remaining Television Stations

While requiring all stations to post their political files online will provide noteworthy benefits, the experience to date suggests that additional steps need to be taken to make the data easier to analyze and to improve the quality of the information by reducing errors and omissions.

A. The Political File Data Is Difficult to Aggregate, Search, and Analyze

Free Press and Sunlight found that the FCC's current database for online political files is cumbersome and difficult to navigate.⁴³ Searches can only be conducted by station name,

⁴¹ CU News Corps, *Campaign Overload: Denver TV Stations Will Have Aired 18,956 Election Ads by November*, DAILY CAMERA (Sept. 15, 2012), http://www.dailycamera.com/2012election/top-stories/ci_21552347/campaign-overload-denver-tv-stations-will-have-aired.

⁴² E.g., CU News Corps, *A Huge Haul for TV in Final Colorado Election Day Ad Blitz*, COMMUNITY RADIO OF NORTHERN COLORADO (Nov. 21, 2012), <http://www.kunc.org/post/huge-haul-tv-final-colorado-election-day-ad-blitz>; CU News Corps, *TV Blitz: Campaigns, PACS Spent \$41M on 35, 225 Ads in Colorado*, TIMES-CALL (Nov. 20, 2012), http://www.timescall.com/ci_22035475/tv-blitz-campaigns-pacs-spent-41m-35-225.

⁴³ ProPublica makes similar critiques of the process. Theodoric Meyer, *What We Learned from Free the Files—and How to Make it Better*, PROPUBLICA (Nov. 14, 2012),

network affiliation, or channel number. This makes it nearly impossible to get an overall picture of spending by a single campaign, super PAC, or other outside group.⁴⁴

To make the data more useful, volunteers for Political Ad Sleuth spent countless hours putting the FCC online political file data into a database. For each document, they had to open the data entry form in one screen, open the PDF of the contract in another, and flip back and forth to transcribe contract numbers, dollar amounts, and ad flight dates. Since stations use different forms, this information is located in different places and it may take some time to locate. It would take an experienced user between two and four minutes to complete the entry of one contract. For those without experience, it could take much longer. Thus, to make the online political data more accessible and easy to analyze, it required a substantial effort and commitment by staff and volunteers to get Political Ad Sleuth up and running. ProPublica similarly found that extracting the key data from the online political ad contracts filed by television stations was very challenging.⁴⁵

By the end of Election Day, our crowd managed to log more than \$650 million in ad buys in swing markets — a number that continues to grow. All told, 880 people helped review at least one file. But 10 people led the pack, collectively reviewing nearly 30,000 documents (half of all those reviewed) and playing a critical role in making Free the Files the most successful crowdsourcing effort ProPublica has ever attempted.⁴⁶

<http://www.propublica.org/article/what-we-learned-from-free-the-files-and-how-to-make-it-better>.

⁴⁴ E.g., Keenan Steiner, *Broadcasters Put Political Ad Buy Files Online Today*, SUNLIGHT FOUND. REPORTING GRP. (Aug. 2, 2012); Justin Elliott, *Political Ad Data Comes Online – But It’s Not Searchable*, PROPUBLICA (Aug. 2, 2012), <http://www.propublica.org/article/political-ad-data-comes-online-but-its-not-searchable>; Keenan Steiner, *Broadcasters Put Political Ad Buy Files Online Today*, SUNLIGHT FOUND. REPORTING GRP. (Aug. 2, 2012), <http://reporting.sunlightfoundation.com/2012/broadcasters-start-putting-political-tv-ads-online-today>.

⁴⁵ Amanda Zamora, *Meet the 10 People Leading ProPublica’s Free the Files Effort*, PROPUBLICA (Nov. 1, 2012), <http://www.propublica.org/article/meet-the-10-people-who-led-propublicas-free-the-files-effort>.

⁴⁶ *Id.*

These kinds of Herculean efforts are not sustainable over time and would be unnecessary if the Commission implemented its plan to make the public file data “available in a structured or database-friendly format that can be *aggregated, manipulated, and more easily analyzed.*”⁴⁷ In the *Second Report and Order*, the Commission made this type of searchable format the “ultimate goal,” but did not adopt such a requirement at the time in order to expedite the process of online posting.⁴⁸ As the political file online posting requirement is expanded beyond the non-top-four stations and stations outside of the top 50 DMAs, the Commission should try to achieve its “ultimate goal” of ensuring that information from the political file can be readily searched, aggregated, and analyzed. Part III below describes how this might be achieved.

B. Some Stations Failed to File in a Timely Manner or to Supply All of the Information Required

Posting political files online improved the public’s ability to determine if and when stations were violating the law by either failing to file or failing to provide the required information. A Sunlight Foundation reporter discovered that a television station in Florida, one of the major battle ground states in the 2012 election, “failed to post any political files between Aug. 2 and Sept. 27, when dozens of files were posted. After Sept. 27, no more political files were posted again until Jan. 8, when 465 more political files went up.”⁴⁹ This did not comply with the requirement that stations upload records to the online political file “immediately absent unusual circumstances.”⁵⁰

Even for the vast majority of stations that uploaded the data in a timely manner, much of the data was incomplete. The Communications Act and FCC rules set out what information must

⁴⁷ *Second Report and Order*, 27 FCC Rcd. 4535, at 4575, ¶ 85 (emphasis added).

⁴⁸ *Id.*

⁴⁹ Jacob Fenton, *Ad Snafu Raises Questions About FCC Oversight*, SUNLIGHT FOUND. REPORTING GRP. (Jan. 17, 2013), <http://reporting.sunlightfoundation.com/2013/ad-site-snafu-raises-questions-about-fcc-oversight>.

⁵⁰ *Second Report and Order*, 27 FCC Rcd. 4535, ¶ 55.

be included in political files. Among other things, Section 315(e), which was added as part of the 2002 Bipartisan Campaign Finance Reform Act (“BCRA”), requires that in the case of requests to communicate a message relating to any national legislative issue of public importance, “the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive offices or members of the executive committee or of the board of directors of such persons.”⁵¹ Spot checks undertaken by the Sunlight Foundation found numerous instances where television stations did not provide all the information required. For example, a document uploaded by a Chicago television station indicated that Smart Media Group had requested time for airing issue ads relating to a political matter of national importance on behalf of Freedom Works, but failed to list the chief executive offices or members of the executive committee or of the board of directors of such persons.⁵²

Sunlight Foundation found that in some records examined, “advertisers explicitly refused to provide the required information but were still allowed to place their ads.”⁵³ In other cases, stations used a standard reporting form distributed by National Association of Broadcasters (“NAB”), which does not include all of the information required by the FCC. Problematically, the NAB form “invites filers to list the name of an ‘authorized agent’ instead of the groups’ principals.”⁵⁴ Sunlight explains why this matters:

An “authorized agent” can be (and often is, in the filings Sunlight reviewed) a professional media buyer who works for dozens of committees and whose name reveals

⁵¹ 47 U.S.C. § 315(e)(2)(G).

⁵² Jacob Fenton, *TV Stations Ignore Ad Disclosure Requirements*, SUNLIGHT FOUND. REPORTING GRP. (Mar. 5, 2013), <http://reporting.sunlightfoundation.com/2013/tv-stations-ignore-ad-disclosure-requirements>.

⁵³ *Id.*

⁵⁴ *Id.*

nothing about a group's ideology or funding sources. The identities of a group's officers or trustees generally are much more informative.⁵⁵

Section 315(E) also requires political advertisers to disclose “the name of the candidate to which the communication refers,” but in practice this rarely happens. For example, the American Chemistry Council has been running ads in support of Sen. Kay Hagan this summer.⁵⁶ The ad, which ran on WFMY in Greensboro, N.C., was disclosed in the FCC database but failed to disclose the name of the candidate supported.⁵⁷ Without listing the candidate’s name, it is difficult to tell who is supporting or opposing federal candidates.

These omissions and mistakes would be reduced and more easily identified and corrected if the Commission were to adopt data standards and require stations to file machine-readable data as proposed in Part III.

III. The Commission Should Adopt Data Standards and Require Stations to File Machine-Readable Data⁵⁸

To fully realize the benefits from increased access to the political file, and to ensure the data contained in the political file can be used for its intended purposes, the Commission should

⁵⁵ *Id.* There are more examples. Strategic Media Services has signed on behalf of the American Petroleum Institute. NAB Form of WCPO-TV in Cincinnati, OH (Apr. 22, 2011), [https://stations.fcc.gov/collect/files/59438/Political%20File/2013/Non-Candidate%20Issue%20Ads/AMERICAN%20PETROLEUM/NAB/API%20NAB%20\(13760693844801\).PDF](https://stations.fcc.gov/collect/files/59438/Political%20File/2013/Non-Candidate%20Issue%20Ads/AMERICAN%20PETROLEUM/NAB/API%20NAB%20(13760693844801).PDF). The disclosure form of another political advertising group, Target Enterprises Inc., does not even include a space to list the name of the group purchasing the ad. Agreement Form for Non-Candidate/Issue Advertisements by Target Enterprises, *available at* https://stations.fcc.gov/collect/files/68569/Political%20File/2012/Non-Candidate%20Issue%20Ads/Freedom%20PAC/NAB%20%2813506819505592%29_.pdf.

⁵⁶ James Hohmann & Manu Raju, *Mitch McConnell Gets Boost from Chemistry Group*, POLITICO (Aug. 13, 2013), <http://www.politico.com/story/2013/08/mitch-mcconnell-gets-boost-from-chemistry-group-95486.html>.

⁵⁷ NAB Form of WFMY in Greensboro, N.C. (Aug. 1, 2013), <https://stations.fcc.gov/collect/files/72064/Political%20File/2013/Non-Candidate%20Issue%20Ads/American%20Chemistry%20Council/American%20Chemistry%20Council%20NAB%20%2813759106527440%29.pdf>.

⁵⁸ PIPAC would like to thank Daniel Cloud, Software Developer, and Jacob Fenton, Editorial Engineer (both of Sunlight Foundation) for their hard work on this section and on the form.

move forward with its goal of creating a “structured or database-friendly format that can be aggregated, manipulated, and more easily analyzed.”⁵⁹ The database for online political files should provide an easy-to-use graphic interface as well as an application programming interface (API), both of which permit searching and downloading of the documents and metadata *en masse*.

A. The Federal Communications Commission Should Utilize a Process Similar to the Process Successfully Employed by the Federal Election Commission

The Federal Election Commission (“FEC”) has been collecting campaign finance reports electronically for a decade now. While the FEC collects different data for different uses, its process provides a helpful guidepost. Instead of just producing software for political action committees to use, the FEC also adopted written public data standards and a set of validation criteria. That has allowed the software vendor market to meet the needs of campaign committees. Because the data collected by broadcasters for their political files is considerably simpler than the wide array of campaign finance reports collected by the FEC,⁶⁰ it should not be difficult for the FCC to adopt a similar approach.

Campaign committees use third-party software to upload their campaign finance reports to their individual FEC accounts. It is the software vendors’ job to transform data from the campaign’s accounting system to the FEC data format. In addition, the FEC publishes validation criteria. For instance, a filing that leaves out the ID number of its corresponding campaign committee will be rejected. Third party software also requires the user to provide valid login information, provided by the FEC, in order to submit a report.

⁵⁹ *Second Report and Order*, 27 FCC Rcd. 4535, ¶ 85.

⁶⁰ For example, Version 8.0 of the FEC specification includes 48 different filing schedules, some of which have more than 90 separate fields each.

The FEC's validation rules vary depending on the data submitted. While leaving out a committee ID will prevent the report form being accepted, leaving out the filing start date will only generate a warning. Omitting the address of a campaign contributor will not prevent a report from being submitted, even though the law requires committees to attempt to provide this data. Nevertheless, because the submission is electronic, FEC staff can easily create a report that shows filing anomalies that may require follow-up such as when a filer neglects to include all the statutorily required information.

When a report is successfully uploaded, the FEC assigns it a unique filing number, which is reported back to the software that created it. This is necessary because it is common for campaign finance reports to be amended. The data format requires the filing to include the number of the original and that the amended filing entirely replace the original. Campaign finance software makes this relatively painless. Campaign staffers simply change the details that need to be updated, and resubmit the report. Behind the scenes, the filing software resubmits the entire new report, along with the original report number.

In addition to the public data standard, the FEC also maintains a web interface that allows for online filing of several simple forms, which makes it easy for committees to report transactions that must be reported within 24 hours.⁶¹

B. An Example of How Electronic Filing Could Work

To demonstrate how the FCC might improve its political file database, the Sunlight Foundation built a simple form, located at <http://assets.sunlightfoundation.com/fcc-political-form/index.html>, that hews closely to the data collection required by BCRA.⁶² The web form

⁶¹ For more information, see On-line Filing, FEC (May 27, 2005), <http://www.fec.gov/electfil/online.shtml>. The forms are only visible with a password, however.

⁶² The FCC could easily add additional fields to the form to account for other disclosure requirements under the FCC's rules.

itself simply transforms ad data into an electronic format (the data format itself is visible if you click the “view example data” button). The demonstration form, which is pictured below, is intended to illustrate the ease with which broadcasters can comply with their statutory requirements and the ease with which the Commission can release the data to the public. For a more detailed description of the form, see Appendix I.

DEMONSTRATION POLITICAL FILE FORM

This form was designed by the Sunlight Foundation on behalf of the Public Interest Public Airwaves Coalition as a demonstration of the information that **needs to be collected** from political ad sponsors.

The example data comes from an **2013 ad buy** at WABC-TV in New York City.

[Load Example Data](#)

[View Example Data](#)

Purchase information

Station Callsign

XXXX

Was the request to purchase broadcast time accepted?

Yes No

Total Amount

\$ 0000.00

Subject of ad

Does this ad refer to any candidate for office?

Yes No

Issue or Election name

Candidate, issue, or election name

Ad Sponsor Details

Enter information about the *sponsor*, not the media buyer.

Was this ad purchased by or on behalf of a candidate, or by or on behalf of their authorized political committee?

Yes No

Sponsor Organization

Name of organization commissioning ad

Contact Address

Address line 1, Address line 2, City, State
Zipcode

Contact Phone Number

XXX-XXX-XXXX ext. 2121

Principals

A list of the chief executive officers or members of the executive committee or of the board of directors. One per line.

Add dates and times of ads purchased

From: 1/1/2012 To: 1/1/2012

Timeslot: 4:00pm 5:00pm

\$ 00.00

Spots

Class of time

[Add Row](#)

[Submit](#)

[Reset](#)

Purchase information

Station Callsign

WNY|

- WNYW
- WNYB
- WNYI
- WNYS-TV
- WNYO-TV
- WNYT
- WNYA
- WWNY-TV

Yes No

Subject of ad

Does this ad refer to any candidate for office?

Yes No

Issue or Election name

Candidate, issue, or election name

Sponsor Organization

Name of organization commissioning ad

Contact Address

Address line 1, Address line 2, City, State
Zipcode

Contact Phone Number

XXX-XXX-XXXX ext. 2121

Principals

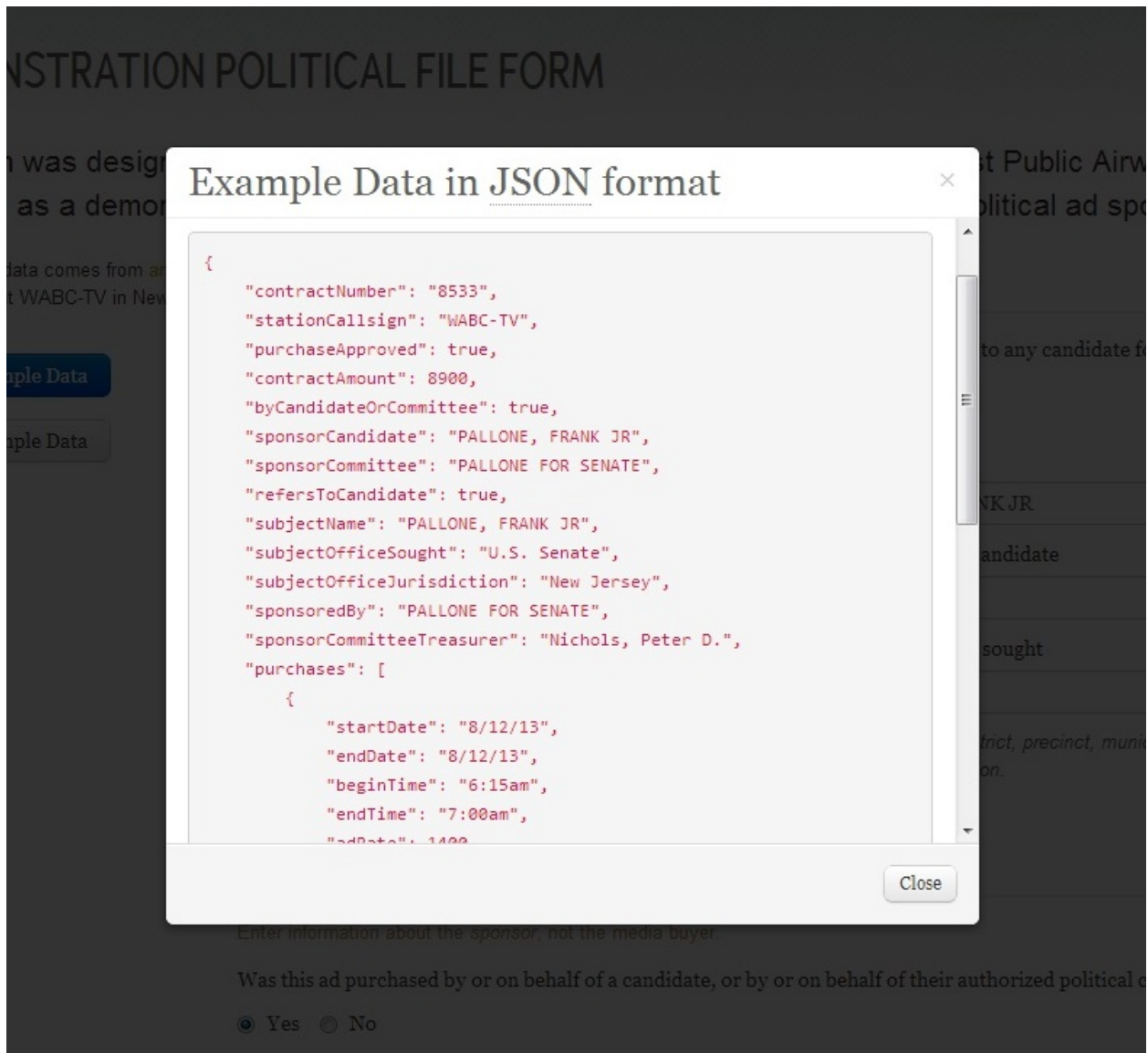
A list of the chief executive officers or members of the executive committee or of the board of directors. One per line.

Add dates and times of ads purchased

The form pictured above provides the user easy prompts, which must be completed. The prompts are based on the statutory requirements of 47 U.S.C. § 315(e). This ensures that the data required by the statute is collected. It could be expanded, however, to include other disclosures required by the FCC. Most advertising contracts already contain all of the information required by the form. Some of the fields auto-complete, like the station call sign and the candidate name. This allows for easier compiling, sorting, and searching of data (for instance, it will cut down on

misspellings of candidate names), but the fields do not require an auto-completed answer in case the pre-populated list does not contain what the user needs.

This form also generates output in machine-readable JSON that could be submitted to a central FCC database. This will enable users of FCC data to more readily, and accurately, compute the size of ad buys, thereby providing the public with up-to-date information on who is trying to influence opinion and how much they are spending to do so. It also allows enterprising users to cross-reference this information with other datasets, producing new stories and insights about the political process.



It is expected that this form would serve as a template for a fully electronic filing process, rather than a form that individual broadcasters fill out—which is what happened with the FEC web forms. In this way, broadcast stations could integrate the political filing function with their ad inventory system.

Once the information is uploaded, the Commission should make this information available in three ways: (1) via a searchable public web site for citizens to access the data, (2) in

aggregate files, updated daily or weekly, where the amended files have been removed, and (3) in the raw submitted filings on an immediate basis.

C. The Proposed Approach Would Assuage the Problems Identified and Further the Commission's Public Interest Goals

Collecting machine-readable data in the manner described above would further the Commission's goals and fix many of the problems that PIPAC has identified. It would facilitate public access by creating a more user-friendly and approachable database. It would also improve the quality and usefulness of the data by reducing errors. This function could be performed automatically by the station's software so that station personnel would not have to separately upload the political file data, which would also reduce the likelihood of mistakes. In addition, it would eliminate inaccuracies introduced by volunteer transcribing data for Political Ad Sleuth or Free the Files. Broadcasters also would not have to worry about the inadvertent disclosure of sensitive financial information that results from uploading complete contracts and bank checks.⁶³

Adoption of this proposal would permit data to be easily aggregated and analyzed. Not only would it be available to researchers and interested citizens, but organizations such as Sunlight Foundation and ProPublica, which would be relieved of having to recruit volunteers to enter the data into their own data bases, would have more resources to devote to analyzing spending data and trends and reporting their findings to the public. The public would benefit from being better informed about important electoral races, issues, and the political process in general.

Adoption of this proposal would permit the public as well as the Commission to better monitor whether broadcast stations are complying with important statutory and regulatory

⁶³ This was identified as a problem in Peter Overby, *Thieves Target Political Ad Consultants on New FCC Site*, NPR IT'S ALL POLITICS BLOG (Mar. 28, 2013), <http://www.npr.org/blogs/itsallpolitics/2013/03/28/175570650/political-ad-consultants-targeted-by-criminals-on-new-fcc-site?ft=1&f=1014>.

requirements such as affording equal access, affording reasonable access to federal candidates, and selling candidates time at the lowest unit rate. Finally, this approach would have the effect of reducing broadcasters' paperwork burden.

IV. The Commission Should Deny the Petition for Reconsideration

The Commission should deny the Television Station Group's Petition for Reconsideration proposing that stations should be able to choose whether to comply with the existing requirements or to submit aggregated spending data while maintaining information about specific purchases only in the public inspection file at the station. The goal of this proposal appears to be avoiding public disclosure of the lowest unit rate charged to political candidates. However, the law clearly requires disclosure of this information, and the information is necessary to ensure that candidates can buy time at the rates mandated by Congress.⁶⁴

Moreover, adopting this proposal would both increase the burden on the public and reduce the usefulness and accuracy of the data hosted by the FCC. To get the level of detail necessary to analyze what is going on in specific races or issues, as well as to verify the accuracy of aggregate data, the public needs access to granular spending data. Adoption of the Petitioners' proposal would represent a step backwards in the Commission's goal to modernize. In effect, it would mean that the public would have to return to the old way of viewing political files—having to visit the station during business hours, copying the paper files, and inputting the data into a database—for some unknown number of stations. This change would place substantial burdens on the public. Moreover, if some broadcasters were to file aggregate data, while others filed the more granular data, doing any sort of aggregation and comparative analysis would be virtually impossible.

⁶⁴ See *Stay Opp. and Notice of Ex Parte*, MM Docket No. 00-168 (Feb. 11, 2013), <http://apps.fcc.gov/ecfs/document/view?id=7022120633>.

CONCLUSION

For the foregoing reasons, PIPAC urges the Commission to continue implementing its online political file requirements and to adopt a data standard that requires submissions to be machine-readable.

Respectfully Submitted,

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Appendix: Text Description of form

The form is available online at <http://assets.sunlightfoundation.com/fcc-political-form/index.htm>. All fields are required. Some fields change in response to prior answers. For instance, if an ad refers to any candidate, the name of the candidate, office sought by the candidate and location of office sought must be listed.

The demonstration form suggests answers for half-type fields from a dictionary of known possible answers. For instance, candidate names are matched to the FEC's list of current candidates. "Sponsoring organization" is matched to the FEC's list of political committees. If no suggestion matches, free text is allowed. We recommend that fields like this include type-aheads populated from a reasonable universe of popular answers, as data collected in this fashion is much more consistent.

Form text:

Purchase information

Station Callsign [Text]

Was the request to purchase broadcast time accepted? [Yes or No]

Total Amount [Dollars]

Subject of ad

Does this ad refer to any candidate for office? [Yes or No]

If Yes:

Enter the state, district, precinct, municipality, or applicable jurisdiction.

Candidate name [Text]

Office sought by candidate [Text]

Location of office sought [Text]

If No:

Issue or Election name [Text]

Ad Sponsor Details

Enter information about the sponsor, not the media buyer.

Was this ad purchased by or on behalf of a candidate, or by or on behalf of their authorized political committee? [Yes or No]

If Yes:

Candidate Name [Text]

Candidate's Authorized [Text]

Committee Treasurer [Text]

If No:

Sponsor [Text]

Organization [Text]

Contact Address [Text]

Contact Phone Number [Text]

Principals [A list of the chief executive officers or members of the executive committee or of the board of directors. One per line.]

Add dates and times of ads purchased

From: [Date]

To: [Date]

Timeslot:[Time]

Cost: [Dollars]

Number of spots [Number]

Timeclass [Text]