



1101 Connecticut Ave., NW, Ste. 330 · Washington, DC 20036
tel (202) 736-2200 · fax (202) 736-2222
www.campaignlegalcenter.org

February 9, 2004

VIA Electronic Filing

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

**Re: Public Interest Obligations of TV Broadcast Licensees,
Notice of Inquiry, MM Docket No. 99-360
Second Periodic Review of the Commission's Rules and Policies Affecting the
Conversion to Digital Television, MB Docket No. 03-15 (see also MM Docket
Nos. 99-360, 00-167, 00-168)
Carriage of Digital Television Broadcast and Implementation of the Satellite
Home Viewer Improvement Act of 1999; Amendments to Part 76 of the
Commission Rules, et al., CS Docket No. 98-120 (see also CS Docket Nos. 00-96
and 00-2)**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's Rules, this letter is to provide notice of an *ex parte* meeting regarding the above-referenced proceedings. On February 9, 2004, Norm Ornstein, a Resident Scholar at the American Enterprise Institute for Public Policy Research and one of the Campaign Legal Center's advisory board members, and Amy Wolverton, Associate Legal Counsel and Media Program Director of the Campaign Legal Center, met with Commissioner Kathleen Q. Abernathy and her Mass Media Legal Advisor, Stacy Robinson Fuller, and Jane E. Mago, Chief of the Office of Strategic Planning and Policy Analysis, and Attorneys, Lauren (Pete) Belvin and Erin Boone.

During these meetings, Mr. Ornstein and Ms. Wolverton expressed the Campaign Legal Center's (CLC) concern with the continual decline in the amount of broadcast news coverage of campaign and election issues, particularly in recent years. They urged the Commission to challenge broadcast and cable entities to voluntarily increase coverage of campaign and election issues; to encourage broadcasters to post political public file information on their websites; and, to provide opportunity for comment on political broadcasting regulation as a part of the Commission's localism initiative. (Corrected and updated summaries and charts of issues presented and supporting data were distributed at the meetings and are attached to this letter.)

Ms. Wolverton highlighted the results of a recent survey by the Pew Research Center for People and the Press indicating broadcast television continues to be the primary source of campaign and election information for the American public. Moreover, separate studies by the Norman Lear Center at the Annenberg School of Communication and by the Center for Media and Public Affairs document dramatic decreases in both local and national coverage of election and campaign issues.

In support of CLC's proposal for a voluntary challenge, Mr. Ornstein and Ms. Wolverton noted the success of a similar voluntary program in 2000. Stations agreeing to air five minutes of candidate centered discourse for 30 nights preceding elections (as suggested in the report by the President's Advisory Committee on Public Interest Obligations of Digital Television Broadcasters) aired three times as much as the stations with no such voluntary commitment. Mr. Ornstein and Ms. Wolverton suggested that the Commission advocate a similar minimum threshold for broadcasters. Alternatively, CLC's representatives stated that the Commission could require the industries themselves to set the minimum standard by agreement or code of conduct.

While stressing that coverage of political discourse is part of broadcasters' *current* obligations, Mr. Ornstein and Ms. Wolverton urged the Commission to also complete its pending action on public interest obligations for digital broadcasters. Mr. Ornstein noted that the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters' 1998 Report, "*Charting the Digital Broadcasting Future*," contained several ideas for the Commission to consider with respect to such obligations in the digital era. Mr. Ornstein and Ms. Wolverton then suggested that the Commission use the voluntary challenge to evaluate broadcasters' political coverage efforts and determine if additional regulation is necessary for the analog spectrum, digital spectrum, or both. Further, although not advocating a position in the must-carry and multicast carriage proceedings, Mr. Ornstein stated that those proceedings also present opportunities for the Commission to provide broadcasters with guidance on public interest obligations.

In addition to discussing political broadcasting coverage, Mr. Ornstein and Ms. Wolverton asked that the Commission require disclosure of political public file information on broadcasters' websites. Such website posting of political file records would reduce the amount of time broadcasters spend responding to requests for information during busy pre-election periods. Representatives of CLC requested disclosure of more information on the precise broadcast times and sponsors of political advertisements and public service announcements. Mr. Ornstein and Ms. Wolverton commented that website posting would enhance candidates' abilities to take advantage of equal time opportunities and likely promote discourse and public comment, potentially reducing the need for further regulation. Moreover, facilitating access to true sponsorship identification via a website would assist in addressing recent concerns regarding section 527 organizations placing issue advertisements. Finally, CLC's representatives noted that even the Supreme Court has given its approval for disclosure of campaign and election information in *McConnell v. FEC*. (Supporting news articles and press release regarding disclosure issues are attached to this letter.)

With regard to the transition to digital television, the parties discussed the need for the Commission to find better and cheaper ways to provide television those who do rely solely on analog broadcast signals. Additionally, Mr. Ornstein suggested that the Commission develop ways to encourage broadcasters to turn back the analog spectrum as early as possible via incentives and penalties for delay. As a member of the board of PBS, he discussed the idea, now before Congress, of having public television stations turn back their analog spectrum early in return for a public broadcasting trust fund, so that urgent public safety and homeland security needs can be met.

Pursuant to the Commission's Rules, this *ex parte* notice is being electronically filed through the Commission's Electronic Comment Filing System procedures. Please do not hesitate to contact me at 202-736-2200 should you have any questions regarding this filing.

Sincerely,

/s/

Amy R. Wolverton

Attachments

cc: Commissioner Kathleen Q. Abernathy
Jane E. Mago, Chief of the Office of Strategic Planning and Policy Analysis
Stacy Robinson Fuller, Mass Media Legal Advisor
Lauren (Pete) Belvin, Attorney Advisor
Erin Boone, Attorney Advisor