

## **FACT SHEET ON FCC POLITICAL AD DISCLOSURE RULE**

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### **BACKGROUND**

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On April 27<sup>th</sup>, The Federal Communications Commission approved a rule requiring TV broadcasters to put public ad disclosure documents online. These documents are currently only available as hard-copies in the station's files and require members of the public to travel to the stations and make copies.

On June 5<sup>th</sup>, House Republicans released their [Financial Services and General Government Appropriations bill for FY13](#). The bill contains a legislative rider blocking the FCC from implementing the new rule. Ranking Member Jose Serrano (D-NY) offered an amendment at subcommittee consideration to strip the bill of this language. The amendment failed on a party line vote, with all Republicans voting to retain the language. The bill will be marked up by at Full Committee [on Wednesday](#).

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*"It is obvious what this is all about and it is embarrassing, frankly...It looks like you are trying to cover up the fact that these fat cats are coming into these elections and they don't want their names known" – [Rep. Norm Dicks \(D-WA\) Comments at Subcommittee](#)*

*"This information is already available in paper format, and it is entirely reasonable to make it accessible online, especially when there is little actual cost to doing so" – [Rep. José Serrano \(D-NY\) Comments at Subcommittee](#)*

*"Placing detailed information about political advertising online is fundamental to broadcasters satisfying their responsibility to serve the needs of their communities in exchange for the use of the public spectrum. Little is more fundamental to the functioning of our democracy than voters' understanding of who is influencing our elections" – [Sunlight Foundation](#)*

*"...it is more important than ever that we have some information regarding the identities of those who are trying to influence our votes... Approving this rule to require TV stations to post political advertising data online is not a panacea, but it will be a valuable tool allowing the public and good governance groups like CREW to keep an eye on who is spending money to influence our elections" – [Citizens for Responsibility & Ethics in Washington \(CREW\)](#)*

*"Some members of Congress, working at the behest of the broadcast industry, want to keep the public in the dark" – [Free Press Action Fund](#)*

*"The FCC's ruling was encouraging for anyone hoping to shed light on the shadowy groups and campaign operatives that are funneling billions of dollars to local TV stations this year" – [Timothy Karr, Campaign Director, Free Press & Save the Internet.com](#)*

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## **PUBLIC ACCESS TO PUBLIC FILES**

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“A Commission-hosted online public file will allow consumers to easily find the public files of all stations in their viewing area, making the Commission’s website a one-stop shop for information about all broadcast television stations in a viewer’s market and eliminating the need to access multiple stations’ websites.”

“...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... political ad spending is rapidly increasing, and often the only way to track such expenditures is through stations’ political files.” – [FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)-Pg. 8 & 9](#)

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## **BROADCASTERS MADE A PROPOSAL MORE COSTLY AND BURDENSOME THAN THE FCC RULE**

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“It should be noted that the broadcasters’ own proposal would result in the creation of two separate filing regimes. One ‘public file’ would be created on paper and stored in-file cabinets and would include the complete and detailed information required by law. The second ‘public file’ would be online, but would contain only aggregated and redacted information. Not only is such a proposal internally inconsistent, but it undercuts one of the main objections the broadcasters have offered in opposition to this rule making—that online filing would be too burdensome.” – [Sunlight Foundation \(April, 20 2012\)](#)

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## **THE FCC BEARS THE BURDEN OF ESTABLISHING THE ONLINE DATABASE**

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“In particular, the Commission will itself import to the online public file any document or information now required to be kept in the public file and that must already be filed with the Commission electronically in the Consolidated DataBase System (‘CDBS’), so that stations do not need to post that information...we will provide an organized file system for uploading documents so that the resulting public file for each station is orderly, and organizationally similar for all stations, thus promoting ease of use by stations and the public. ” – [FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)- Pg. 2](#)

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## **BROADCASTERS OVERSTATE COSTS & BURDEN OF THE RULE**

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- Once the file is uploaded to the Commission’s website through an easy-to-use, drag-and-drop online system, public inspection will require no further effort at all on the part of station employees. The Commission will host the online public files, creating a one-stop-shop for consumers, researchers and journalists, while reducing the burdens on broadcasters.
- The FCC estimates the disclosure to amount to roughly 2 dozen pages uploaded per day during the busiest times of the year and much less than that on a typical day.
- Clicking a button to upload a document electronically is not more burdensome than having staff print, photocopy and place in a filing cabinet, as well as having to accommodate members of the public who access it.
- Broadcasters will no longer need to keep paper copies of most of the items currently found in the public files. [\[Clarification provided to the Appropriations Committee by the FCC\]](#)

“...scanning existing paper a document does not constitute an extraordinary burden, as it is a rote process that can be affordably outsourced if necessary. In addition, if the documents are currently maintained in electronic form, as some are likely to be, the one-time burden will be de minimis.”

“...while stations can outsource such work for approximately \$.50 per page. Based on this assumed cost of \$.10 to \$.50 per page, we calculate a range of the average cost for a station to upload their existing public file in accordance with this Order, with the average cost per station ranging from approximately \$80-\$400 per station.” [- FCC Second Report and Order - pg. 13 & 14 \(April 27<sup>th</sup>, 2012\)](#)

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## **THE RULE WILL REDUCE BROADCASTERS COSTS OVER TIME**

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“This updating of our rules harnesses current technology to make information concerning broadcast service more accessible to the public and, over time, reduce broadcasters’ costs of compliance.”

“Further, while broadcasters will incur a modest, one-time transitional cost to upload some portions of their existing public file to the Commissions online database...Over time, moreover, broadcasters will benefit from the lower costs of sending documents electronically to the Commission, as opposed to creating and maintaining a paper file at the station.”

“...We further conclude that it will be efficient for the public and ultimately less burdensome for stations to have their public files available in a centralized location.” [- FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)- Pg.7](#)

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## **THE RULE IS NOT DUPLICATIVE OF FCC DISCLOSURE**

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“...broadcasters will be responsible for uploading only those items now required to be in the public file but not otherwise filed with the Commission or available on the Commission’s website.” [- FCC Press Release \(April 27<sup>th</sup>, 2012\)](#)

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## **THE BIPARTISAN CAMPAIGN REFORM ACT CLEARLY GIVES FCC AUTHORITY FOR DISCLOSURE**

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- The broadcaster’s argument that the FEC is the central repository of campaign information is an argument against the underlying statute, and has no bearing on where the records should be retained. Shifting responsibility to the FEC would require Congress to change the law. [\[Clarification provided to the Appropriations Committee by the FCC\]](#)

Statute in the [Bipartisan Campaign Reform Act of 2002](#) giving FCC responsibility for disclosure:

*“(b) Responsibilities of Federal Communications Commission.--The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.”*

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## **THE RULE IS NOT RETROACTIVE**

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“Broadcasters will not be required to upload existing materials in these “political files” to the online website. Rather, stations will need only to upload new political file documents going forward.” –[FCC Press Release \(April 27<sup>th</sup>, 2012\)](#)

“...because many stations’ existing political files are large, and the retention period for the political file is shorter than for other portions of the public file, we will not require stations to incur the cost of upload their existing political files to the online public file. Rather, stations may upload documents in that portion of the public file only prospectively.”

“...they will be permitted to maintain at the station those documents placed in their political file before the effective date of our rules, and only upload documents to the online political file on a going-forward basis.” – [FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)Pg.7](#)

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## **THE RULE IS NOT ANTI-COMPETITIVE**

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- Today, competitors or advertisers can-and do-walk into TV stations to view the already publicly available political file and see what rates were charged for candidate ads.
- The Commission is not asking TV broadcasters to disclose any information that is not already required to be publicly available. [\[Clarification provided to the Appropriations Committee by the FCC\]](#)

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## **BROADCASTERS CAN EITHER SUBMIT EXISTING FORMAT OR .PDF – WHICHEVER IS EASIER.**

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“Fourth, we do not impose specific formatting requirements on broadcasters at this time, although stations should upload relevant documents either in their existing electronic format or in a simple, easily created electronic format such as .pdf.” – [FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)-Pg.2](#)

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## **THE RULE WILL BE PHASED-IN OVER TIME**

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“For the next two years we will only require stations that are affiliated with the top four national networks (ABC, NBC, CBS and Fox) and that are licensed to serve communities in the top 50 Designated Market Areas (“DMAs”) to post political file documents online. We exempt all other stations from posting their political file documents to their online public file until July 1, 2014. The Media Bureau will issue a Public Notice no later than July 1, 2013 to seek comment on the impact of this posting requirement, to enable us to consider whether any changes should be made before it takes effect for the other stations.” – [FCC Second Report and Order \(April 27<sup>th</sup>, 2012\)-Pg. 2&3](#)

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