

United States Senate

WASHINGTON, DC 20510

September 14, 2011

The Honorable Julius Genachowski, Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C., 20554

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Dear Chairman Genachowski,

Thank you for your efforts thus far to implement the Commercial Advertisement Loudness Mitigation ("CALM") Act, which was enacted into law on December 15, 2010 in order to end the pervasive presence of excessively loud commercial advertisements on television. As you know, consumers have long complained about loud commercials, and particularly commercials that are dramatically louder than the programming that contains them.

We write to emphasize our agreement with certain findings in your Notice of Proposed Rulemaking (NPRM) dated May 27, 2011 with regard to the intent and scope of the statute. We introduced the CALM Act in the Senate, and saw it signed into law, with complete confidence that the Act would apply to all excessively loud commercials regardless of what audio systems certain TV broadcasters, cable operators and other multichannel video programming distributors ("MVPDs") used and whether certain commercials were or were not created or inserted into the programming by the station or MVPD.

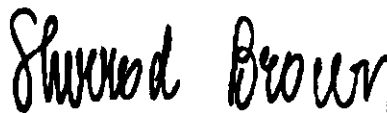
The NPRM correctly notes that "[t]he statute . . . expressly applies to all stations/MVPDs regardless of the audio system they currently use," and goes on to say that "[n]ot only would limiting the statute's scope to stations/MVPDs that use AC-3 audio systems be inconsistent with the express language of the statute, we think such a reading would undermine the statute's purpose." The NPRM is also correct in noting that "[t]he statute expressly applies to commercials transmitted by a station/MVPD and makes no exception for commercials not inserted by the station/MVPD" and that "[n]othing in the statutory language or legislative history distinguishes between different sources of commercial content or suggests any intent to limit a station/MVPD's responsibility only to those commercials 'inserted' by it."

We urge you to continue to proceed through the implementation process on the view that, as stated in the NPRM, "[l]imiting regulations to only certain commercials would undermine the statute's purpose."

Sincerely,



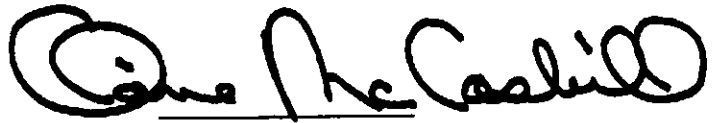
Sheldon Whitehouse
United States Senator



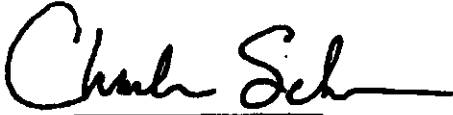
Sherrod Brown
United States Senator



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