

United States Senate

WASHINGTON, DC 20510

February 6, 2012

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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Genachowski:

I am writing you today inquire about the potential costs associated with a recent proposal by the Federal Communications Commission (FCC). The proposal, "Order on Reconsideration and Further Notice of Proposed Rulemaking" (MM Docket Nos. 00-168 and 00-44) would require all television broadcast licensees to post virtually all of their public inspection files and sponsorship identification records in an online database to be maintained and monitored by the FCC.

As I understand the proposal, the Commission would develop and maintain this database that would host these public inspection and political file records of all 1,783 full-power commercial and noncommercial television stations in the United States. At the same time, it would require all television stations to develop and maintain electronic copies of their own public inspection file for "back-up purposes" in the event the federal database becomes "unavailable or disabled." The proposal also requires stations to make "near real-time" uploads of political file records onto the database even if a station is not currently transacting and tracking its political advertising business online.

The Commission further proposes to expand its sponsorship identification requirements by requiring stations to compile and upload to the new database a list of all sponsorship identifications that appear on-air during broadcast programming. This is a burdensome and unnecessary new recordkeeping requirement for stations. Although certain sponsorship identifications currently are required to be disclosed on the air during certain programs or advertisements, stations have never been required to create and maintain a separate log of all sponsorship identifications after they have been broadcast to the public or report them to the Commission.

The Commission's proposal makes no mention of the costs associated with the creation and ongoing maintenance that will be required with this new database. Given the unprecedented volume of information to be included in the database and the number of potential users, the new database appears to be a major new undertaking of the FCC's resources and taxpayer dollars.

Equally troubling is the Commission's refusal to consider the impact of its proposal on the 78 percent of television stations that qualify as "small entities" subject to the Regulatory Flexibility Act. Imposing these likely burdensome, duplicative and costly recordkeeping requirements on local television stations would contradict the stated view that "having the Commission host the public file will ease the administrative burdens on all broadcasters."

Although the Commission's proposal appears to create substantial new costs for both taxpayers and small businesses, none of these costs were included in the cost/benefit analysis described in your proposal.

In light of these concerns, I would appreciate your answer to the following questions:

- 1) At the time of the issuance of the *Order on Reconsideration and Further Notice of Proposed Rulemaking* in MM Docket No. 00-168 and MM Docket No. 00-44 on October 27, 2011, what did the FCC estimate the total costs would be to the government to implement the proposal in the first year? What did the FCC estimate the total costs to the government to be on an annual basis thereafter?
- 2) What did the FCC estimate the total costs would be to the private sector to implement the proposed regulations in the first year and each subsequent year?
- 3) What does the FCC identify as the average total costs to implement this proposal for both commercial and noncommercial television stations?
- 4) What is the cost for the FCC to develop and maintain this new database and given its current budget, how will it pay for this new database?

I thank you for your assistance in this matter and if I can be of any help please feel free to contact Walter Zaykowski, a member of my staff, at 202-224-3154.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Burr", with a stylized flourish at the end.

Senator Richard Burr