Dear Chairman Pai:

We write to urge the Federal Communications Commission (FCC) to reassure broadcasters that the FCC will not revoke licenses for airing legally protected speech. Consistent with the Constitution and the Communications Act, the FCC must refrain from censoring or interfering with broadcasters’ discretion to air legally protected content.\(^1\)

As we are sure you are aware, on March 25, President Trump’s campaign sent letters to certain broadcasters regarding the airing of an advertisement critical of the President’s response to the coronavirus pandemic.\(^2\) In the letter to broadcasters, the Trump campaign wrote that continuing to air the advertisement “could put [the] station’s license in jeopardy.”\(^3\) Such threats against broadcasters are contrary to the law.\(^4\) At a time when autocratic governments around the world are using the coronavirus pandemic as an excuse to suppress press freedoms,\(^5\) we must reaffirm – not undermine – America’s commitment to a free press.

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\(^1\) See 47 U.S.C. §326; U.S. CONST., amend. I.

\(^2\) Letter from Alex W. Cannon, Esq., Special Counsel, Donald J. Trump for President, Inc. (March 25, 2020); assets.donaldjtrump.com/2017/web/hero_images/Redacted_PUSA_Letter.pdf.

\(^3\) Id.

\(^4\) 47 U.S.C. §326; U.S. CONST., amend. I.

By remaining silent, the FCC sends a disturbing signal that it sanctions these threats and that broadcaster licenses could be in jeopardy. Section 326 of the Communications Act and the First Amendment to the Constitution prohibit the FCC from interfering with the programming decisions of licensees to air legally protected content.6 As a result, the FCC itself has recognized that it cannot second guess the judgment of broadcasters.7 Broadcasters also are afforded broad discretion regarding the airing of advertisements.8

Unfortunately, this is not the first time President Trump has threatened a broadcaster’s license in response to coverage with which he disagrees.9 On October 11, 2017, the President threatened the licenses of broadcasters because he disagreed with their news coverage. Citing the First Amendment, you appropriately assured broadcasters and the public that the FCC could not revoke a broadcaster’s license based on the content of the broadcaster’s programming.10

We believe the FCC has a duty to provide clear guidance to broadcasters and the public that threats by politicians about protected speech will not influence the agency or broadcaster licenses. To stay silent could undermine the First Amendment and the Communications Act. Therefore, we ask that you once again stand firm on your commitment to adhere to constitutional and statutory law. I appreciate your attention to this important matter. Should you have any questions, please contact Gerald Leverich of the Committee staff at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.
Chairman

Mike Doyle
Chairman
Subcommittee on Communications and Technology

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6 Id.


8 Id.
