

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

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**MAR 27 2000**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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**In the Matter of Public Interest Obligations**  
**of Television Broadcast Licensees**  
\_\_\_\_\_

MM Docket No. 99-360

**COMMENTS OF AMERICAN FEDERATION OF  
LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS**

The American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”) respectfully submits these comments in response to the Commission’s “Notice of Inquiry” released on December 20, 1999 concerning the public interest obligations of television broadcast licensees.

The AFL-CIO is the national federation of 68 national and international unions representing 13 million union members throughout the United States in the private and the public sectors and in virtually every occupation and industry. The AFL-CIO and its affiliates engage in substantial legislative and issue advocacy at the federal, state and local level on matters of particular concern to working families, such as Social Security, Medicare, education, labor standards, health care, pension security, workplace safety and health, trade, immigration, the right to organize, regulation of union governance, campaign finance and the role of unions and corporations in electoral politics. The AFL-CIO and its affiliates regularly engage in substantial efforts to familiarize their members with these and other issues, the performance of public officeholders in addressing them, and the positions that candidates for public office have taken on them.

The AFL-CIO, its affiliates and union members have a considerable stake in a public

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electoral system that operates freely and openly, and that facilitates the distribution of as much information as possible on issues and candidates through television broadcast and other media. In 1997 the AFL-CIO adopted a formal policy regarding political and campaign finance reform that includes support for the proposition that substantial free television and radio time ought to be provided to all bona fide candidates in order that public access to political candidates is not solely a function of privately amassed wealth, and that there is robust and wide debate about the people's business in the course of electoral campaigns.

The Commission's Notice of Inquiry solicits comments on a number of issues, including how the Commission may and ought to act to improve candidate access to television and, as a result, related public discourse. The Commission asks whether it possesses the authority to act in this area and about the merits of particular proposals for free television time that have been proposed in recent years, including the December 1998 report of the President's Advisory Committee on Public Interest Obligations of Digital Television Broadcasters.

The AFL-CIO believes that the Commission possesses legal authority to require free television broadcast access to electoral candidates. The AFL-CIO has reviewed the combined submission in this matter by the Alliance for Better Campaigns and 18 other organizations, and generally agrees with its analysis of the applicable legal principles. Specifically, as the Supreme Court has repeatedly held, the status of television broadcasting under the First Amendment is distinct from that of other forms of communication due to its preferential government treatment and the scarcity of the broadcast media under the broadcast license framework dating back to the original Radio Act of 1927 and the Communications Act of 1934. We further observe that technological changes in the broadcast industry in recent years, the rise and explosive growth of

the Internet and other developments have not changed that basic legal structure. Meanwhile, despite the proliferation of communications outlets, the broadcast industry itself has become increasingly concentrated in a few corporate hands, and television remains the single most powerful and pervasive common ground for public information and debate on political issues.

The AFL-CIO has not endorsed a specific proposal regarding the amount of air time that television broadcasters should be required to make available to electoral candidates or the particular requirements concerning format and other matters that should be attached to such access. As a general principle, however, the AFL-CIO believes that the Commission can and should prescribe such access with respect to bona fide federal, state and local candidates for specific blocks of time in particular proximity to elections, and with reasonable requirements that will maximize clarity, dignity and comparability of candidate presentations, while preserving within that framework candidate control over content and flexibility for broadcasters.

The AFL-CIO also notes that the provision of television broadcast access to candidates is sometimes linked with broader election regulation or proposals to revise campaign finance laws. See, e.g., Vote Choice v. DiStefano, 4 F.3d 26, 40-42 (1st Cir. 1993) (holding lawful a state law requiring free television time by public and community antenna television stations to candidates who comply with eligibility requirements for public financing). The AFL-CIO supports, for example, the public financing of all federal elections and believes that a requirement of free television time for candidates would complement such a system. But such a broadcast requirement would also complement other systems of campaign finance, including the current system under the Federal Election Campaign Act, which includes public financing for presidential campaigns and private financing for congressional campaigns. In our view the

Commission can and should proceed to devise a broadcast access rule without specific reference to any particular assumption as to how applicable federal (or state) election law now or in the future may operate more generally.

The AFL-CIO notes that during the past few election cycles a number of broadcasters have voluntarily provided free television time for political candidates, and that at least four television station groups have announced their intention to do so this year. However, these groups comprise a small fraction of the industry, and the scope of their commitment is impressive only in comparison with the refusal by the great majority bulk of the industry to afford such access. But these examples and the economics of the broadcast industry, including substantial profits from the sale of political advertisements and increasingly concentrated media ownership, underscore that candidate access to television broadcast time should be a requirement of television broadcast licenses.

The AFL-CIO requests that the Commission devise a specific proposal for requiring television broadcasters to provide air time to electoral candidates and issue it for public comment so that the AFL-CIO, the broadcast industry, other interested organizations and the general public may consider this matter and provide more specific information and recommendations for a rule that will be practical, effective and lawful.

Respectfully submitted,



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Laurence E. Gold  
Associate General Counsel  
AFL-CIO  
815 16th Street, N.W.  
Washington, D.C. 20006  
(202) 637-5130

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