

**FEDERAL COMMUNICATIONS COMMISSION**

**Office of Public Affairs**

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*Campaign Finance Reform  
Free TV*

DATE: May 23, 1996

Attached is a speech Chairman Hundt delivered today on the issue of free  
airtime for political candidates.

For more information, please call Susan Lewis Sallet at 202/418-0505.

Thank you

*This fax is seven pages long. If you do not receive all of the pages, please call 202/418-0500.*

**SPEECH BY REED E. HUNDT  
CHAIRMAN  
FEDERAL COMMUNICATIONS COMMISSION  
AMERICAN UNIVERSITY/TCI NEWS SYMPOSIUM  
NATIONAL PRESS CLUB  
WASHINGTON, D.C.  
May 23, 1996  
(as prepared for delivery)**

**FREE TIME AND FREE TV**

I am pleased to be with you today. I'd like to thank Sandy Ungar and John Andrews for putting this symposium together and for focusing our attention on one of the most important issues facing us as we enter the digital era: what TV can do for our democratic process.

John Andrews deserves, from all of us, the thanks of the American public. Last Labor Day, when the short-form presidential news event was still a gleam in Rupert Murdoch's eye, it was John and his team at TCI News who, under the leadership of John Malone, first gave free airtime to the presidential candidates to speak directly to the American people.

TCI's bold new program, Race for the Presidency, is a weekly, hour-long show that weaves free airtime together with commentary by syndicated columnist Clifford May and political analysts like Brent Bozell and Sandy Ungar himself. The show is a success. Not only does it give the presidential candidates free airtime, it also gives them several minutes apiece to deliver their messages to the public. In an era dominated by the sound-bite and the fifteen-second attack ad, this approach encourages candidates to address the substance of the issues important to the future of our nation.

By November, Race for the Presidency will have given the various presidential candidates over 25 hours of free airtime, far more than the amount proposed by all of the commercial broadcast networks combined.

What's wrong with this picture? Who really is delivering on a promise to serve America's civic life: cable TV or free over-the-air TV? Putting aside the decision of a few public television stations to carry Race for the Presidency, why is cable TV beating free TV in promoting civic values?

The issue is important even for cable viewers because, even though two-thirds of Americans are hooked up to cable, the channels that Americans actually watch during prime time are, by a margin of almost three to one, broadcast channels. Broadcasting is still king of content, but maybe this king should take more care of community and the campaign process.

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Last November, Paul Taylor invited me to Princeton University to speak at what now turns out to be the kickoff of his campaign to improve America's electoral process. It turns out that I was present at the creation of something historic: a national consensus that, yes, we will hold broadcasters to their commitment to serve the public interest by giving political candidates direct and costless access to the people they aspire to lead.

When Paul started his crusade four months ago, everyone thought he was just another Don Quixote tilting at the network windmills. But he picked up support from a glittering roster of Sancho Panzas: Walter Cronkite and Chuck Manatt, Frank Fahrenkopf and Norman Ornstein, John McCain and Bill Bradley. And together they formed the Free TV for Straight Talk Coalition and began urging the networks to make good on their promise of civic trusteeship. First Fox proposed to give free airtime to the presidential candidates this fall, then the rest of the major networks joined in.

It's beginning to look like this Don Quixote has found his Dulcinea.

Let me add a disclaimer. Paul is a friend of mine from when we worked on our college newspaper together, and I'm proud of what he's done.

But it is true that Paul's success has created some work for us at the FCC. A few weeks ago, Fox asked us to issue a declaratory ruling that its free-time proposal complies with the Communications Act. Under the Act, if a broadcaster permits one candidate to appear on its station, it must afford the same opportunity to every other legally qualified candidate for the same office, unless the first candidate's appearance falls within the scope of four statutory news exemptions. Fox has asked us to rule that its free time proposals fall within the exemptions.

Because official FCC action on this subject is so important, the Straight Talk Coalition has urged the FCC to hold a public hearing on the ways in which federal law and FCC regulations may mistakenly discourage the voluntary provision of free airtime to political candidates.

We will take the Coalition up on its offer. We will hold a public hearing on June 18. That hearing will be about how to write our rules so as to make it easier for broadcasters to make *voluntary* provision of free airtime to political candidates. I applaud these private initiatives -- by Paul Taylor, by TCI News, by Fox, and now by the rest of the networks. The last thing we in the government should do is get in their way.

But Paul would be the first to admit that his work is not yet done. His coalition asked for significant chunks of prime-time programming in "talking head" format, aired simultaneously on all the major networks, and the networks haven't yet promised that.

And, as yet, the very idea of providing free time to candidates for the House or Senate is, it appears, still off the broadcast networks' radar screen.

And that raises again the question that has perplexed me since I took this job. Why do broadcasters view talking about their public interest obligations -- which justify their free use of the public airwaves -- as similar to discussing a trip to the dentist?

In 1968, Senator Al Gore, Sr., observed that "[t]he public owns the airwaves which we give the television and radio stations permission to use, and . . . we could reserve a certain percentage of time for civic purposes." In 1988, his son -- now our Vice President -- introduced a bill to require broadcasters to provide a total of 6 1/2 hours of free airtime in the weeks before a presidential election.

As the communications revolution makes America an information society, it's high time and the right time to apply these good old ideas to the new media scene. When I got my job 2 years ago, everyone told me that it was impossible to change TV, but I think healthy changes can become inevitable.

One agent of change is digital broadcasting. Digital TV is just around the corner. Within a couple years or even sooner, digitally broadcast programs will be offered on currently unused spectrum. Digital technology will permit broadcasters to air at least five channels of video programming where existing analog technology, now permits only one channel. Digital broadcasters will have thousands of hours of new capacity to fill with entertainment, news, and -- if we take the right steps -- educational TV and enhanced access to candidates, issues, and public debate.

Suppose we required the digital TV stations to devote a certain amount of their new digital capacity to specific quantities of public interest programming, including a specific amount of free airtime for political candidates to speak directly to the people shortly before elections?

Could digital broadcasters fairly complain about such a set-aside? Federal law requires direct broadcast satellite operators to set aside as much as 7% of their transmission capacity to educational and informational programming. And cable providers must reserve a substantial number of channels for public and leased access programming. Why should broadcasters -- who don't pay franchise fees or winning auction bids -- be the only TV license holder with no meaningful and enforceable civic obligations?

Digital broadcasting is a new opportunity to ask not what TV has done to our country but to ask what TV can do for our country. No patterns or practices are set. This is the right time, and digital broadcasting could be the right place, to stake out a claim for free and fair political debate.

Most of digital TV's development should be driven by the marketplace. But we should doubt that the marketplace will give us free time. Candidates give broadcasters hundreds of millions of dollars to pay for their advertising time. They will continue to do so.

But -- except for the Free TV Coalition success -- broadcasters don't give candidates without war chests the chance to reach the millions of us who ought to be able to hear from all sides in political debate.

So suppose we reformed the campaign process by placing on digital broadcasters the same sort of obligation that, as a country, we have placed on digital satellite or cable TV.

Suppose we asked for five percent of the programming time for a digital TV licensee to be devoted to educational TV and political debate. Five percent of the programming time for digital TV license -- who will have five digital channels for every one analog channel --- is 1,750 hours or year. This is a very substantial number. With far, far less than that amount, we could make the biannual impossibility of campaign reform into an inevitable improvement of 21st century democracy.

Yet for some at the FCC the idea of any specific public interest commitment from broadcasters in return for billions of dollars' worth of free digital spectrum is beyond the pale -- even though we demand, and get, much more from cable. What accounts for the inequality in treatment of the different media by Congress and the FCC?

Take a look at our current conundrum at the FCC. We can't get broadcasters to agree or a majority of the Commissioners to vote for even 3 hours a week of educational TV. That is only about 2 percent of a licensee's time.

One of my fellow Commissioners even says that if the American people want educational TV, they should buy a VCR. That is a very quotable line. Another quotable line was Marie Antoinette's response to the starving French peasants on the eve of the Revolution: "Let them eat cake."

In fact, the Marie Antoinette school of thought has captured the votes of all FCC chairmen from 1981 up to the beginning of my term in November 1993.

Soon after I got the job, the Wall Street Journal called me a French bureaucrat. At the time I thought it was a criticism but now I realize they were just sorry I wasn't French royalty.

I'm not persuaded by either the FCC philosophy of the 1980s or the Marie Antoinette approach of the 1780s.

I trust markets and I admire and praise business competition. But when you've been in the private sector nearly your whole career -- as I have --- you get some sense of what marketplace competition isn't going to do and how citizenship can be promoted by a few reasonable rules encouraging social values. One such rule could be a guarantee of educational time on TV. Another would be a guarantee of free political time on TV.

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How could we ensure that a digital broadcaster would allocate its time to candidates in a way that would ensure the public would actually see them and hear their messages? One possibility, which I mentioned last December at Princeton, would be to establish a media time bank from which candidates for various federal offices could draw down during their campaigns. Greater values could be attached to campaign slots aired during periods of high viewership.

Should we limit how candidates could use the time they select under such a plan? Should we prohibit them, for example, from using that time on 30-second attack ads? It's a question worth further studying. But candidates, like it or not, compete for attention against the most creative people in the world: those who invent broadcast TV shows and ads. I tend to believe we have to give candidates and their advisers the room to use their own ingenuity to attract an audience and to get their messages across.

But at a minimum, wouldn't it be a good idea to give candidates a clear right to buy time in longer blocks than the much-maligned 30-second ads? Shouldn't we write rules that give broadcasters a real incentive to grant candidates requests to buy, say, 2 or 3 minute blocks?

Some FCC Commissioners have claimed that imposing any sort of public interest obligation on broadcasters, including any kind of spectrum set-aside requirement, is unconstitutional.

But if it's constitutional to take cable channels for broadcasters, how could it not be constitutional to borrow a minimal amount of broadcast time for the public interest?

A spectrum set-aside of the kind I have proposed would constitute a reasonable payment-in-kind by broadcasters for the private use of a valuable public resource: the digital spectrum. It would involve neither viewpoint discrimination nor any attempt to suppress speech on any particular topic. It would permit broadcasters to devote the vast majority of their programming day to whatever programs they wish to air. And the goal of such a set-aside -- reforming our political system to better inform and motivate the electorate to participate in our democratic system -- is of the highest order. It supports constitutional values; it doesn't conflict with them.

And, most important, the Supreme Court agrees. In its 1981 CBS decision, the Court upheld the Commission's authority to revoke the license of any broadcast station "for . . . failure to allow . . . access to . . . time" by a federal candidate.

The Court held that "[t]here is nothing in the First Amendment which prevents the Government from requiring a licensee to share his frequency with others" because -- and the Court emphasized this point -- "[i]t is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."

For that reason, the Court explained, the free speech interests at issue in that case were on the government's side, not the broadcasters' side. The Court's decision reaffirmed the views of James Madison, who helped draft the First Amendment. Madison observed that "[t]he right of electing the members of the government constitutes . . . the essence of a free and responsible government," and "[t]he value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for the public trust."

I side with the Madisonian view instead of the Marie Antoinette school of thought about the public's right to use the media to improve our democracy. In any event, whatever may be the amicable but clear disagreements at the Commission and elsewhere, these are exciting times for all of us who believe in the vast potential of television to help us fulfill the promise of representative democracy.

The arrival of digital TV and a host of other new communications technologies gives us all a chance to redefine the problem of how candidates can and should reach audiences of all ages and stripes and political persuasions.

Too much is at stake for us to give up on finding solutions. I believe that the communications media -- and in particular broadcasting -- can lead the way to a better system for citizens and public servants to revitalize democracy in the information age. All the potential of TV that seems impossible to tap can, I believe, inevitably be fulfilled, if we wish it so.

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THE WHITE HOUSE  
WASHINGTON  
May 2, 1996

*Paul  
Good work.  
Moms wants to do this  
So does GS.  
Campaign Finance -  
Free TV*

MEMORANDUM FOR LEON PANETTA  
HAROLD ICKES  
GEORGE STEPHANOPOULOS

FROM: Paul Weinstein  
SUBJECT: Free Television

There is a growing movement to provide Presidential candidates with free television air time during the fall campaign. There are two petitions before the Federal Communications Commission (FCC): the first from Fox chairman Rupert Murdoch, who has proposed providing candidates with ten minutes to address ten issues identified by the public and an additional one hour on election eve; the second, from a bipartisan coalition led by former journalist Paul Taylor, calls for the networks to provide the major candidates with two to five minutes of prime time television time every night during the last month of campaign. The Taylor petition was signed by: Senators Feingold, McCain, Roth, Simon, Pell, Thompson, Cohen, and Simpson; former DNC chairs Charles Manatt, Paul Kirk, and Robert Straus; former RNC chairs Bill Brock and Mary Louise Smith; Ralph Reed of the Christian Coalition; Bill Gray of the United Negro College Fund; and former news anchors Walter Cronkite, Howard K. Smith, and John Chancellor.

In addition, PBS announced today that it is willing to provide the major '96 Presidential candidates with "free, regular, prime-time opportunities to speak directly to American voters during this fall's election campaign."

The President has consistently made free TV a core component of his campaign finance reform agenda. In order to keep the President at the forefront of this issue, we would like to submit comments to the FCC in general support of these petitions.