



MEDIA ACCESS PROJECT WELCOMES FREE TIME LEGISLATION

Leading Public Interest Advocates Say Plan Is “Legitimate Exercise of Legislative Power, Well Grounded in Judicial Precedent”

Media Access Project (“MAP”) today expressed its pleasure at the announcement of new legislation designed to require broadcast licensees to carry debates and election-related programming and to provide free air time to candidates for public office.

Responding to broadcast industry claims that such measures are unconstitutional, MAP issued the following statement:

As the Supreme Court has emphasized, the First Amendment requires that spectrum be used to advance the public’s “collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount.” *Red Lion Broadcasting Co. v. FCC*, 395 US 367, 390 (1969).

The airwaves are public property; indeed, Section 304 of the Communications Act specifically requires broadcasters to execute a written waiver of any property right in the spectrum as a condition for receiving a license. *See FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 475 (1940).

There is strong Supreme Court precedent to support a law which would direct that those permitted to use public airwaves to promote democratic discourse by carrying two hours per day of electoral programming. One such case is a 1978 opinion which upheld the validity of the law which requires broadcasters to sell time to federal candidates and to provide them “reasonable access.” *CBS, Inc. v. FCC*, 453 F.2d 367 (1981).

It is of particular relevance that the Supreme Court has specifically contemplated held that “[A]t some future date Congress or the Commission - or the broadcasters - may devise some kind of limited right of access that is both practicable and desirable.” That is precisely what Senators McCain and Feingold and Representative Meehan have proposed to do.

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Media Access Project is a thirty year-old non-profit public interest law firm which promotes the public’s First Amendment rights to speak and to receive information in the electronic mass media.

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