From: Justin Beaupre
Sent: Tuesday, February 16, 2016 1:22 PM
To: 'Gmail'
Subject: RE: Access request for political speech § 312(a)(7) Iowa Public Television | IPTV

Dear Mr. Levinson:

We received your voicemail and email yesterday, February 15, 2016. Your renewed request for reasonable access is respectfully declined on the basis that Iowa Public Television's stations are categorically exempt from Section 312(a)(7) as noncommercial educational broadcast stations.

Best,

Justin

Justin Beaupré
Director of Programming & Production
Iowa Public Television
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Johnston, IA 50131
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For more information on programs that educate, inform, enrich, and inspire Iowans, visit www.Iptv.org

From: Gmail [mailto:jacklegsjumpingup.lev@gmail.com]
Sent: Monday, February 15, 2016 7:10 PM
To: Justin Beaupre
Cc: Gmail
Subject: Re: Access request for political speech § 312(a)(7) Iowa Public Television | IPTV

Dear Justin
Beauport,

Monday February 15, 2016

When you returned my email access request of Iowa Public Television to deliver a political speech, stating you "are categorically exempt from Section 312(a)(7)" you knew you were going to air the Town Hall debate produced by your sister PBS station WETA, in Washington moderated by the two PBS News Hour moderators, Gwen Ifill and Judy Woodruff. Once that access door is open it cannot be shut, so Iowa Public television is in bad faith with the viewers and listeners of Iowa and this candidate, because you knew the PBS door was open.

The freedom of political speech is what distinguishes USA from all the other countries. In the event Iowa Public Teevision decides to destroy my First Amendment right the only reason is DISCRIMINATION, and upon that—Iowa Public Television broadcast license.

I recollect the Democrat Party wrote a letter to F.C.C. many years ago which was answered by F.C.C. and that letter became a famous oft cited Supreme Court case, *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94 (1973).

Let us either settle this matter between us and schedule my speech, which, besides world events and the solutions thereof I bring to the table, my Vehicle for World Peace and more, is focused on how Iowa can move the presidential caucus to the internet and be completely first in the nation, ahead of New Hampshire because Iowa os a caucus state. Or we can go to the F.C.C. Or we can go to the court of appeals. Over your refusal to allow a candidate for president to state his for nominatiuon and election?

Were Iowa Public Television be unwilling to schedule my speech and / or unwilling to seek an FCC opinion —in that case—showing bad faith with your constitutional obligation to the viewers and listeners of Iowa Public Television, I see clear grounds for congressional hearing or a courtroom procedure leading to license revocation. I don't want that. Does Iowa Public Television want a license challenge, or a court order? I suspect not.

I believe you, in your letter are referring to the following:

> *Miscellaneous Appropriations Act,* 2001 PUBLIC LAW 106-554—APPENDIX D 114 STAT. 2763A - 251 Sec. 148:
>
> (a) Section 312 (a)(7) of the Communications Act of 1934 47 U.S.C. 312(a)(7)) is amended by inserting ", other than a non- commercial educational broadcast station," after "use of a broadcasting station".
>
> (b) The Federal Communications Commission shall take no action against any non-commercial educational broadcast station which declines to carry a political advertisement.

It behooves Iowa Public Television to read selections from Section 312 of 47 United States Code which is as follows:

47 USC § 312 (a) The Commission may revoke any station license or construction permit

> (7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station, other than a non-commercial educational broadcast station, by a legally qualified candidate for Federal elective office on behalf of his candidacy.

The subject of the section in question is the F.C.C. "The Commission may revoke." The "amendment" you cite appears in (7). "The Commission may revoke any station license" . . ." other than a non-commercial educational broadcast station ". . . does not dissolve your obligation to the First Amednemnt rights of the viewers and listeners under the law. What is altered by the Congress is the Commission's power of statutory enforcement of the law, that being license revocation. Of course a license revocation won't take place without an Order To Show Cause first, giving the broadcast station an opportunity to cure. Again. Are we afraid of mass media political speech? Are our elections simply a mass media charade?

The "amendment" to 47 U.S.C. § 312(a)(7) entails jurisdiction over your obligation to public interest which is inherent in every broadcast license issued beginning with the Radio Act, 1927.

Were your interpretation of the statute amendment to hold, then Iowa Public television has the right to DISCRIMINATE against those you clearly do not know or like, which may be the case here, but you don't have that right.

"For the willful or repeated failure to allow reasonable access" . . ."for the use of a broadcasting station" . . . "the commission may revoke any station license" . . . "other than a non-commercial educational broadcasting station" refers not to Iowa Public Television's obligation to public interest and the codification of public interest in First Amendment protected political speech, as expressed in 47 U.S.C. § 312(a)(7), rather to the **F.C.C. jurisdiction** over (7) under §312 (a), relative to the enforcement of the law, not the law itself.

How do we know this? Look at (b) *supra*:

The subject of (b) is the Federal Communications Commission, not the broadcast stations. Section (b) of the Amendment unequivocally refers to F.C.C.'s jurisdiction. The commission "shall take no action against any non-commercial educational broadcast station which declines to carry a political advertisement."

An advertisement is not speech, but falls under the umbrella of speech, in this case political speech which is protected by the First Amendment in our Constitution. I believe the interpretation of the law you presented is clearly erroneous and furthermore there aren't any public hearings or discussion of this amendment in the Congressional record.

As you, the Director of Programming and Production of a non-commercial educational broadcast station must surely know, in the history of PBS there was only one candidate to ever utilize the PBS for a political advertisement. That was Senator Buckley. The case began in F.C.C. :

Buckley, James L.; Political Broadcast 63 F.C.C. 2d, at 954:

As the Commission has stated, "the test of whether a licensee has fulfilled its obligations under Section 312(a)(7) is one of reasonableness." Public Notice of June 5, 1974, entitled "Licensee Responsibility Under Amendments to the communications Act Made by the Federal Election Campaign Act of 1971." The "reasonableness" of the access afforded federal

candidates must be **determined on a case-by-case** basis in accordance with the facts and circumstances of each case.

. . . .

Without question, broadcast licensees have an obligation under Section 312(a)(7) of the Act, to **contribute to an informed electorate** by providing reasonable access for use by legally qualified candidates for Federal elective office. Public broadcasters have perhaps an greater obligation than commercial licensees since they are financed in part by Federal funds.

We find that under the particular facts and circumstances of this case, the licensees have not fully complied with their obligation to afford "reasonable access" to Senator Buckley. The one-half [sic] hour debate appearance or that appearance plus one additional appearance of 5 or 6 ½ minutes duration, (footnote omitted) in a major senatorial race, does not satisfy this obligation. The licensees are directed to comply with their remaining obligation and advise the Commission as to how that obligation has been met.

In light of the above, , "the test of whether a licensee has fulfilled its obligations under Section 312(a)(7) is one of reasonableness[,]" I query,in light of the Democrats PBS Town Hall sponsored bty PBS on February 11, 1016, was your Iowa Public Television Response reasonable? It was not. Rather it was / is an example of DISCRIMINATION.

As above, "Without question, broadcast licensees have an obligation under Section 312(a)(7) of the Act, to contribute to an informed electorate by providing reasonable access for use by legally qualified candidates for Federal elective office. Public broadcasters have perhaps an greater obligation than commercial licensees since they are financed in part by Federal funds.

You have a request for access under the law by a candidate for federal elective office. Let us be positive, not negative. I also have something to offer the viewers and listeners and Iowa Public Television can share in that, a plus for Iowa PBS.

Please get back to me. Thank you

Michael Stephen Levinson

PS: Please send me the email address of the key person at WETA. Again, Thank you.