

Repairing the Presidential Public Financing System: *Bipartisan Consensus on Proposed Solutions*

More than a year away from the first primary, the 2008 presidential race is in full swing. Leading candidates from both parties have announced that they will forgo public financing in the primary and general elections and raise all of their campaign funds privately. President Bush's choice to opt out of the system in the primaries during his 2000 and 2004 campaigns indicated that the system was showing signs of age and not keeping pace with today's campaigns; candidates opting out of the system in the primaries and the general is an indication that the public financing system no longer meets the needs of candidates.

The presidential public financing system, part of the post-Watergate campaign finance reforms, has helped fund challengers and under-funded candidates. Every President since 1976 has used public money to fund their general election campaign.

The system has had many positive effects on presidential campaigns: it reduces the enormous fundraising burden on candidates; provides incentives for candidates to focus on small dollar donors; enables candidates who are not independently wealthy to participate effectively in the process; and encourages healthy competition in

Problems with Current Law

Primary Election

Publicly funded candidates do not receive enough money to compete with those who opt out of the system. Candidates in the system receive their primary election funding on January 1 of election year, which is too late when major fundraising efforts start a year before the first primary.

General Election

Candidates receive a grant of \$75 million to spend in the general elections, 2008 candidates have already announced that they will opt out of public funding for the general election. The system does not provide an escape hatch for candidates whose opponents opt out of the system.

presidential campaigns. These characteristics open the presidential process up in a way that promotes competition by democratizing presidential campaigns.

With candidates opting out, contribution "bundlers" -- individuals who collect campaign contributions from a large number of people -- will play an even more crucial role in the 2008 campaign. In his 2000 and 2004 campaigns, President Bush chose to disclose his campaign's bundlers. Disclosure of bundlers, however, is not required by law. A number of candidates have indicated that they will voluntarily disclose the names of their campaign's bundlers.

Presidential Funding Act of 2007

This bill would increase the amount candidates receive in the primaries by raising the matching rate from 1:1 to 4:1. Publicly funded candidates would also receive their matching funds much earlier in the cycle, six months before the first primary, to reflect the frontloaded campaign cycle.

This bill would raise the general election grant to \$100 million. A publicly funded candidate whose opponent opts out of the system and spends more than \$300 million in the primaries and generals would receive an additional \$100 million in the generals.

The presidential public financing system has been starved of the legislative maintenance necessary to accommodate the changing presidential campaign cycle. Described as the "crown jewel" of campaign finance regulation in this country, the public funding system is at risk of withering away.

Senators Russell Feingold [D-Wis.] and Barack Obama [D-Ill.] and Representatives Christopher Shays [R-Conn.], Marty Meehan [D-Mass.] and David Price [D-N.C.] have introduced legislation in the 110th Congress to repair the presidential system and again make it a viable option for even the most well-funded candidate. The legislation, the Presidential

Funding Act of 2007, would move the distribution date of primary matching funds to six months before the first primary in order to accommodate the frontloaded campaign cycle; increase the match of small-dollar donations from 1:1 to 4:1; provide an "escape hatch" for publicly funded candidates whose opponents opt out of the system; and increase the amount of public funds available to candidates. Under the legislation, changes to the public financing system would not take effect until after the 2008 presidential election. To see a comparison of current law and the bill visit: www.campaignlegalcenter.org/attachments/1660.pdf.

Election Costs Ad Up

In the 2006 elections, the nation's television stations took in an estimated \$2.25 billion for the seemingly endless television ads that besieged our households.

That's obviously good news for television stations and the corporations who own them. But is the current political advertising system good news for America? In a word, no.

What this heavy spending on TV ads really means is that politicians and their parties spent innumerable hours shaking every special-interest money tree they can find to raise money to communicate with the voters using the airwaves that voters own in the first place. This system enriches broadcasters but diminishes our democracy.

Let's be clear. The candidates and others seeking to advertise on the broadcast airwaves are not to blame for nature of the current system. After all, there are few means available for candidates to reach large numbers of voters. And there's really no other choice -- a candidate can't rely on the TV stations to inform voters about the candidates and their position on issues. Voters rely primarily on television for their political information, yet the amount of this information available in newscasts is paltry. Local television political news is overwhelmingly focused on national and statewide elections and stories on the game of politics.

The tragedy of this situation is that \$2.25 billion is being spent to gain access to airwaves owned by the American people. But the television stations have exclusive and free use of a significant portion of the publicly owned airwaves. The broadcasters' "payment" to the federal government for this cash cow is supposed to be the fulfillment of their public interest obligations. But these days, those obligations are a joke. The FCC, with the complicity of Congress, has allowed the broadcasters to essentially define for themselves what those obligations are and how to fulfill them.

There is a better way. In the 108th Congress, the "Our Democracy, Our Airwaves" bill was introduced to provide candidates access to the airwaves if they are able to raise small-donor money which is matched by a communication voucher. Candidates who wish to advertise can then "buy" airtime on broadcast TV stations with those vouchers. No government mandates, no government censorship, and a reduction in the incentives to sell oneself to the big-money donors.

A communication voucher system won't solve every problem with the political ads that turn off so many voters, but would begin to return some sanity to a system that has clearly slipped its moorings. Changing the way candidates get access to the public airwaves will strengthen our democracy and should be high on the "to-do" list for the 110th Congress.

- Meredith McGehee

Policy Director

This piece ran in the Baltimore Sun on Dec. 12, 2006.

Lobbying and Ethics Reform Still Pending in the House

In response to the powerful message sent by voters on Election Day, the Democratically-controlled 110th Congress came into office ready to act on lobbying and ethics reform in the opening days of the new Congress. The House passed their new, stronger ethics rules package on Jan. 4, 2007. The changes in the House package, which went into effect on March 1, include banning all gifts from lobbyists to Members and staff, and prohibiting lobbyists from traveling with Members on privately funded trips.

The Senate passed its lobbying and ethics reform legislation on Jan. 19, 2007. The Senate bill amends both Senate rules and laws relating to lobbyists; however neither the rules nor statute changes will go into effect until the bill is signed into law. The legislation would require lobbyists to file more frequent lobbying reports and would require lobbyists to disclose contributions to members of Congress and political parties.

The House Judiciary Committee took up lobbying disclosure reform proposals in early March. After the House passes its bill, the House and Senate bills will be sent to conference to resolve any differences between the two bills.

However, final action on lobbying and ethics reform in the 110th Congress is not guaranteed. The bills passed by the House and Senate in the 109th Congress never went to conference. Previous lobbying and ethics bills have met a similar fate.

Conspicuously missing in both the Senate and House efforts thus

far is any measure to replace the broken congressional ethics system with a more independent ethics entity within Congress, such as an Office of Public Integrity (OPI). Currently Members are prosecutor, judge and jury to each other. This peer review congressional ethics process has lost public credibility, made worse by a nearly seven-year ethics truce with Members unwilling to file complaints against each other. The lack of ethics enforcement is particularly troubling considering the significant ethics violations in the 109th Congress and that two Members are in jail for ethics-related crimes.

Speaker Nancy Pelosi [D-Calif.] and Minority Leader John Boehner [R-Ohio] have appointed a bipartisan task force to examine whether an outside panel should investigate ethics allegations against Members. The task force, headed by Representative Michael Capuano [D-Mass.], must report back to the Speaker by May 1. Representatives Marty Meehan [D-Mass.], Christopher Shays [R-Conn.] and Heather Wilson [R-N.M.] have introduced legislation to establish an OPI in the House. If established, the OPI would make recommendations to the congressional ethics committees on whether or not to pursue investigations on complaints filed. The ethics committees would still retain the power to make recommendations for any disciplinary action.

In the Senate the issue of an independent ethics system now falls to the Rules Committee headed by Senator Dianne Feinstein [D-Calif.].

FCC Commissioner Copps: A New American Media Contract

At the Free Press Media Reform Conference, Jan. 12, 2007, in Memphis, Tenn., Federal Communications Commissioner Michael Copps introduced his "American Media Contract." The following is an excerpt from his speech.

Half a trillion dollars. That's a conservative valuation of the airwaves that our country lets TV and radio broadcasters use for free. Any way you slice it, that's an awful lot of money. In fact, it's just about the biggest chunk of change that our government gives to any private industry.

And what do the American people -- who own the public airwaves, by the way -- get in return? Too little news, too much baloney passed off as news. Too little quality entertainment, too many people eating bugs on reality TV. Too little local and regional music, too much brain-numbing national play-lists. Too little of America, too much of Wall Street and Madison Avenue. That's what we get for half a trillion dollars...

I don't know about you. But I'm sick of this bargain and I'm sick of playing defense...

I'm here to propose that we replace the bad old bargain that past FCCs struck with the media moguls with a new American Media Contract. It goes like this. We, the American people have given broadcasters free use of the nation's most valuable spectrum, and we expect something in return. We expect this: 1) A right to media that strengthens our democracy; 2) A right to local stations that are actually local; 3) A right to media that looks and sounds like America; 4) A right to news that isn't canned and radio playlists that aren't for sale 5) A

right to programming that isn't so damned bad so damned often.

...Are any of you in this room getting all five of these today? I didn't think so. If you aren't getting them today, are you ready to go out and fight for them, starting now?

Here's how: First, let's make sure the FCC backs off any further loosening of the few media ownership protections we still have...

Second, let's make FCC license approval and renewal into more than a paper tiger. That means enforcing the American Media Contract every time a media company comes in to renew a license or get a new one. No more post-card license renewals -- but instead a requirement for license holders to prove they are fulfilling the Contract.

Third, give minorities a seat at the media table...

Fourth, expand the number of media outlets in each community. That means more support for Low Power, PEG programmers and community wireless-movements that defend the last bastions of localism as Big Media marches toward one-size-fits-all national programming and distribution.

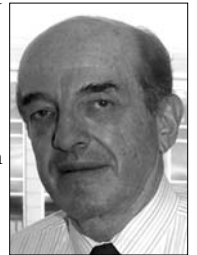
Fifth, protect new forms of media from the awful consolidation that ensnared traditional media. The Internet can be truly transformative -- or it can become another network monopoly...

It's up to you and me, brothers and sisters. Things aren't going to change without you. They can change with you. You beat Michael Powell's Rules for Media Catastrophe three years ago. Who thought that would happen? Who

says citizen action can't succeed in America? I see so much enthusiasm here in Memphis this week. I've seen it all across the country, in blue states and red, among liberals and conservatives, Democrats and Republicans. At hearings wherever we go, my colleague Jonathan Adelstein and I talk with people who are just plain out of patience with a status quo that serves them so poorly; angry about what they get for half a trillion dollars; and telling us with a new urgency to do something about it. We accept that charge. We welcome it. And now, with you, it's time to take it a step further. Together, we're going to

guarantee that our airwaves serve their masters -- we, the people. It's all there in the American Media Contract.

Take that Contract down to your broadcasters and let them know you expect them to follow it. Go out and talk about it, write about it, sing about it, blog about it. Sign up everyone you can and let your representatives know how much this means to you. Act like your future depends on it -- because it does! ...



Groups File License Challenges With the FCC

The Campaign Legal Center and the Media Access Project joined with the Oregon Alliance to Reform Media in filing petitions challenging the license renewals of television stations in Portland, Ore. The groups cited "market-wide failure" to serve the public interest as the basis for the challenge and urged the Federal Communications Commission to deny the stations' license renewals.

The petitions cited a study by the Center for Media and Public Affairs which analyzed the five highest-rated local commercial broadcasters' coverage of the 2004 elections in the four weeks preceding the 2004 elections in Portland. The results of the study show election coverage accounted for only 4.9 percent of total airtime devoted to news on locally

produced newscasts in Portland. The presidential race took the largest portion of election-related news: 78 percent. In stark contrast, local and state races accounted for less than two percent of election-related news.

Meredith McGehee, who submitted an affidavit for the petition, stated, "The dearth of local election coverage represents a market-wide failure of local television broadcasters in Portland. The broadcasters failed to provide citizens with the information they needed about local races. Such information enables members of the public to become informed voters who are essential to a healthy, working democracy. The FCC should not simply be a rubber stamp in the process of broadcasters' license renewals."

FCC Under Pressure from Congress

On Feb. 1, 2007, all five Federal Communications Commissioners appeared before the Senate Commerce, Science and Transportation Committee. The Republican-leaning Commission faces increased scrutiny from the Democratic-controlled Congress. The Commissioners answered questions on a variety of issues pending at the FCC including net neutrality, the Bell South Merger and the FCC's indecency policy.

Senators Byron Dorgan [D-N.D.] and John D. Rockefeller [D-W.V.] questioned the

Commissioners on their plans to hold broadcasters accountable for their public interest obligations. Chairman Martin indicated that he supports tougher reporting standards for broadcasters but the Commissioners gave no indication that they would move forward on establishing public interest obligations for digital broadcasters.

The House Subcommittee on Telecommunications and the Internet plans to hold a hearing with the Commissioners in March. Subcommittee Chairman Edward Markey [D-Mass.] and Commerce

Committee Chairman John Dingell [D-Mich.] have already sent questions to the Commissioners regarding several issues pending at the FCC. In their responses, Commissioners Adelstein and Copps stressed the need for the FCC to move forward in defining public interest obligations for digital broadcasters and to hold broadcasters accountable for their public interest requirements.

Commissioners Copps and Adelstein have long supported public interest obligations for

broadcasters and holding broadcasters accountable for the use of the publicly-owned airwaves. It remains to be seen, however, whether or not increased congressional scrutiny will motivate the Commission to take action on setting guidelines for the digital age.

With the analog to digital transition set for Feb. 18, 2009, just a few weeks after the newly elected President takes power, it is likely that digital broadcasting and the transition will have increasing political salience as Election Day 2008 draws closer.



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