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THE GOVERNMENT ADMINISTRATION & ELECTIONS COMMITTEE

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HOUSE BILL 5528: AAC CHANGES TO THE PUBLIC FINANCING ACT & OTHER ELECTION LAWS

My name is Bill Durand and I am the Executive Vice President and Chief Legal Counsel for the New England Cable & Telecommunications Association (NECTA). NECTA represents Connecticut's cable companies which compete to provide advanced broadband, voice and video products to our state's business and residential consumers. NECTA respectfully submits this testimony in opposition to Section 20(j) of House Bill 5528.

The cable industry has a proven record of supporting efforts to utilize technology to increase transparency and accountability in government institutions and political campaigns. After all, it was the cable industry that invested its skills and resources in the creation of C-SPAN at the national level, and has been a strong supporter of the Connecticut Network (CT-N) here in our state.

Cable operators are already required by federal law to keep information about political advertisements that appear on broadcast and cable channels (the political file). These files are available and open to the public and include information that is easily gathered by the cable operator, including date and time the advertisement aired, name of the candidate, and the rate charged for the advertisement. Federal law also requires candidate disclaimers on television advertisements.

As currently drafted, Section 20(j) would impose a costly and burdensome new election campaign related mandate on cable providers and newspapers and require cable operators to gather information not easily obtainable by cable companies and more readily available from the campaigns themselves. Cable providers and newspapers would be required to create and maintain a searchable website database containing detailed information about "electioneering communication" from entities that use them for political advertising. The information obtained from these campaign entities would need to be available on these websites at least fourteen days before such communication is aired or printed. Information collected from these campaign entities would include a wide range of information, including dates and purpose of campaign expenditures and vendor name and contact information.

This proposal would unfairly saddle the cable industry (and newspapers) with unique political expenditure reporting obligations without similarly extending them to other media competitors—including satellite video providers, local radio and television broadcast stations, online (Internet-based) advertisers and other periodicals. NECTA believes it is inappropriate and likely unconstitutional (to impose discriminatory regulatory rules on only one subset of the media.

As currently written, this new reporting and disclosure mechanism is unlikely to achieve its desired public policy objective. As noted above, there are whole categories of "electioneering communications" which will not be captured on this new website, so the information contained on this site will be incomplete and potentially misleading. Advertisers could avoid the proposed obligations simply through choosing an alternative advertising channel. In addition, to the extent that accurate public disclosure of campaign advertising information is the goal, this mechanism establishes a disparate system that will not achieve that important objective. As a potential alternative, NECTA would respectfully suggest that the Committee should consider establishing a requirement that the entities placing the advertisements be responsible for any reporting, notice, data collection requirement, and that some neutral third party (ex. State Elections Agency) be responsible for the collection and disclosure of this information to the public.

Conclusion

NECTA opposes the adoption of Section 20(j) because current law already provides the public with information regarding political advertisements carried on cable systems. The current proposal will require cable operators to gather information better obtained from candidates. This proposal unfairly imposes a costly and burdensome new election campaign related reporting mandate on cable providers, discriminates against cable operators (and newspapers), and is unlikely to achieve its policy objective because the new mechanisms it creates will provide information that will be misleading and incomplete.