Testifies Before Committee: "Every Time Freedom Gets An Up Or Down Vote In The People's House, Freedom Always Wins"

WASHINGTON, DC - U.S. Congressman Mike Pence gave the following testimony before the Rules Committee today, urging the Committee to allow the Walden-Pence Broadcaster Freedom Amendment to be considered along with the Financial Services Appropriations Bill. The testimony is as prepared for delivery:

Madam Chairwoman, Ranking Member Dreier and distinguished members of the Committee, thank you for the opportunity to provide testimony to you about Amendment #46 (revised) to H.R. 3170. I would also like to thank Congressman Greg Walden for partnering with me in this effort.

I urge this Committee to pass a rule that will allow for amendments to H.R 3170, and that such rule provide for consideration of our amendment. The Walden-Pence Amendment would reassure freedom-loving Americans that broadcast radio and television would remain free from censorship for at least the next fiscal year. Specifically, our amendment would prohibit the Federal Communications Commission (FCC), which gets its annual funding in this bill, from doing three things during Fiscal Year 2010:

Subsection 1) Reinstating the Fairness Doctrine which was rightly abrogated in 1987;

Subsection 2) Reinstating ascertainment or program log requirements which were eliminated in 1981 for radio and 1984 for;

Subsection 3) Imposing renewal application processing guidelines or Community Advisory Board requirements in the FCC "Report on Broadcast Localism and Notice of Proposed Rulemaking" (NPRM) adopted in December 2007 and released in January 2008.

The revised version filed today differs from the amendment filed yesterday only in that it makes technical and conforming changes in accordance with the good advice of the House Parliamentarian we received after the filing deadline.

Subsection 1 of the amendment dealing the Fairness Doctrine should be familiar to you. We offered the same language as an amendment to the FY08 Financial Services Appropriations bill in 2007 and it passed with an overwhelming, bipartisan vote of 309-115. In fact, six members of this Committee - two Democrats and four Republicans - are cosponsors of the stand-alone version of this amendment, the Broadcaster Freedom Act. That provision became law and was carried over by continuing resolutions that funded much of the federal government through March 11 of this year.

The American people cherish freedom, especially freedom of speech and of the press. That was why President Reagan repealed the so-called Fairness Doctrine back in 1987. For more than four decades, the federal government regulated the content of American talk radio and some of the most powerful Democrats in the House and Senate would like to see it restored. Bringing back the Fairness Doctrine today would amount to government control over political views expressed on the public airways.

Allowing Members to have an up or down vote on whether to renew the prohibition on reimposing the Fairness Doctrine is in the best interest of all who value free speech on America's airwaves. It is in the best interests of our cherished democracy and the storied institution in which we serve. Over 300 members have previously supported this language on the House floor and it is on their behalf that I ask the Rules Committee to allow them to do so again.

Subsections 2 and 3 of the Amendment are equally important.

Subsection 2 would ensure that ascertainment or program log requirements are not resurrected from the ash heap of broadcast history and imposed on American broadcasters. These requirements, repealed in 1981, required onerous and counter-productive polling to determine what programming broadcasters could air on their station. The lists tended to provide a minimum of information, and doubts about their effectiveness in encouraging broadcasters to program in the public interest were widespread. The lists were, however, often used mischievously to snatch away broadcast licenses by rivals.

As FCC Commissioner McDowell argued in his statement on the Broadcast Localism

NPRM:

"...the Commission eliminated ascertainment requirements for television and radio stations in 1984 after a thorough examination of the broadcast market. Today, we are again heading back in time -- in the wrong direction. Vigorous competition motivates broadcasters to serve their local communities. I do not believe that government needs to, or should, foist upon local stations its preferences regarding categories of programming. We risk treading on the First Amendment rights of broadcasters with unnecessary regulation..."

Today, we follow much more logical procedures, and broadcasters still maintain a public file containing basic documents pertaining to the licensee's operation and file quarterly reports describing community issues and the station's programming.

However, despite the lessons the previous FCC boards have learned about these rules in light of a competitive marketplace, the FCC's Broadcast Localism NPRM unwisely considers bringing these counterproductive rules back.

Subsection 3 of our amendment would block the FCC from imposing community advisory boards or renewal processing guidelines proposed in that same Broadcast Localism NPRM. There, the FCC tentatively concludes that broadcast licensees should convene permanent advisory boards made up of community officials and leaders to help the licensees ascertain the programming needs of the community. They also tentatively conclude that the Commission should adopt processing guidelines, such as minimum percentages to ensure that stations produce a certain amount of locally-oriented programming.

These regulations similarly hearken back to when government determined what kind of programming broadcasters could provide by threatening to remove their licenses if their programming did not toe the line created by federal bureaucrats. In the same way, mandatory community advisory boards could all but dictate what stations must air if they wish to continue broadcasting.

I encourage this committee to rule the Walden-Pence Amendment in order so that we can

ensure continued freedom from government control over the airwaves of America. I am confident that if the Walden-Pence Amendment gets an up or down vote on the House floor, it will pass overwhelmingly as the Pence Amendment did in the previous Congress-because when freedom gets an up or down vote in the People's House, freedom always wins. Thank you.