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December 5, 2018

By Email cela@fec.gov and Overnight FedEx

Jeff S. Jordan, Esq.
Assistant General Counsel
Federal Election Commission, Complaints
Examination & Legal Administration
1050 First Street, NE
Washington, D.C. 20463

Re: Timothy McGowan v. WBOY/Nexstar Broadcasting, Inc.
MUR 7544

Dear Counsel:

This office represents Nexstar Broadcasting, Inc. dba WBOY ("Nexstar" or "WBOY"). Please accept this letter as Nexstar's response to Timothy McGowan's Federal Election Campaign Act (the "Act") Complaint (the "FEC Complaint"), MUR 7544.

On October 20, 2018, in Bridgeport, WV, a number of political figures, including Vice President Mike Pence, spoke at a rally. Nexstar's local affiliate, WBOY, reported on this news event, as did a number of local, regional and national news media. The following are links to examples of the coverage of this news event:

- <https://www.wboy.com/news/vice-president-mike-pence-visits-bridgeport/1538711911>
- <https://www.wsaz.com/content/news/VP-Pence-visits-West-Virginia-for-Morrissey-rally-Manchin-responds-498130511.html>
- <http://wvmetronews.com/2018/10/20/vice-president-mike-pence-makes-pitch-for-morrissey-days-ahead-of-early-voting-opening/>
- <https://www.wdtv.com/content/news/Vice-President-Pence-coming-to-Bridgeport-498115301.html>

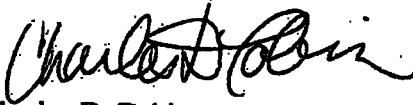
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- https://www.timeswv.com/news/mike-pence-talks-midterms-federal-affairs-in-bridgeport/article_4131fa04-d4e8-11e8-ba03-7f3c164ff971.html
- <https://www.usnews.com/news/best-states/west-virginia/articles/2018-10-20/vice-president-pence-morrisey-ask-west-virginians-to-vote>

Mr. McGowan's Complaint to the FEC contends that WBOY's televised news coverage of the rally, and specifically the televising of Vice President Mike Pence's remarks, constituted a "32 minute political advertisement for [U.S. Senate candidate Patrick] Morrissey." To the contrary, WBOY's programming constituted a "bona fide newscast" and "on-the-spot coverage of [a] bona fide news event" pursuant to 47 U.S.C. § 315(a)(4). Indeed, the federal courts recognize that under this congressional safe harbor, "the focus is on a news event that is being covered, with the candidate's appearance expected to occur as part of the event being covered." *Branch v. FCC*, 824 F.2d 37, 45 (D.C. Cir. 1987).

Nothing in WBOY or Nexstar's conduct violates the FEC's regulations or governing statutes. For these reasons, the FEC should take no action on Mr. McGowan's meritless Complaint. We would be pleased to answer any questions the FEC may have.

Very truly yours,



Charles D. Tobin

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