No. 13-1124

In The
Supreme Court of the United States

MINORITY TELEVISION PROJECT, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF OF *AMICI CURIAE* CITIZENS UNITED, ATLANTIC LEGAL FOUNDATION, CENTER FOR CONSTITUTIONAL JURISPRUDENCE, REASON FOUNDATION, INDIVIDUAL RIGHTS FOUNDATION, NORTHWEST LEGAL FOUNDATION, MACKINAC CENTER FOR PUBLIC POLICY, GOLDWATER INSTITUTE, CENTER FOR COMPETITIVE POLITICS, CAUSE OF ACTION, AND SOUTHEASTERN LEGAL FOUNDATION SUPPORTING PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

Citizens United is a non-profit membership corporation that has tax-exempt status as a 501(c)(4), operated exclusively for the promotion of social welfare. Through a combination of education, advocacy, and grass-roots programs, Citizens United seeks to promote the traditional American values of limited government, free enterprise, strong families, and national sovereignty, and security. This case is of central concern to Citizens United because it implicates Citizens United's ability to air political messages on public television stations. Citizens United has challenged similar restrictions in the past, including the restrictions on corporate independent expenditures struck down in *Citizens United v. FEC*, 558 U.S. 310 (2010).

Atlantic Legal Foundation is a non-profit, nonpartisan public interest law firm. It provides legal representation, without fee, to scientists, parents, educators, other individuals, small business, and trade associations. The Foundation's mission is to advance the rule of law in courts and before administrative agencies by advocating for limited and efficient

[1] All parties have consented to the filing of this brief in letters on file with the Clerk of the Court, and the parties were notified of *amici*'s intention to file this brief at least 10 days prior to the due date. No counsel for a party has authored this brief in whole or in part, and no person other than *amici*, their members, and their counsel has made a monetary contribution to the preparation or submission of this brief. *See* Sup. Ct. R. 37.

government, free enterprise, individual liberty, school choice, and sound science. The Foundation's leadership includes current and retired general counsels of some of the nation's largest and most respected corporations, partners in prominent law firms, and distinguished scholars. This case is of particular interest to the Foundation because the decision below puts in doubt the protection of political and public issue speech that is essential to our democratic form of government. Atlantic Legal Foundation has a continuing interest in First Amendment issues. For example, it has filed an *amicus* brief in *Harris v. Quinn*, No. 11-681.

Center for Constitutional Jurisprudence was established in 1999 as the public interest law arm of the Claremont Institute. The mission of the Claremont Institute is to restore the principles of the American Founding to their rightful and preeminent authority in our national life, including the proposition that the Founders intended to prohibit government regulation of speech based on content. In addition to providing counsel for parties at all levels of state and federal courts, the Center for Constitutional Jurisprudence has participated as *amicus curiae* before this Court in several cases of constitutional significance, including *McCullen v. Coakley*, No. 12-1168; *Susan B. Anthony List v. Driehaus*, No. 13-193; and *Citizens United v. FEC*, 558 U.S. 310 (2010).

Reason Foundation (Reason) is a national, nonpartisan, and non-profit public policy think tank, founded in 1978. Reason's mission is to advance a free

society by developing, applying, and promoting libertarian principles and policies – including free markets, individual liberty, and the rule of law. Reason supports dynamic market-based public policies that allow and encourage individuals and voluntary institutions to flourish. Reason advances its mission by publishing Reason magazine, as well as commentary on its websites and by issuing policy research reports. To further Reason's commitment to "Free Minds and Free Markets," Reason selectively participates as *amicus curiae* in cases raising significant constitutional issues.

Individual Rights Foundation (IRF) was founded in 1993 and is the legal arm of the David Horowitz Freedom Center. IRF is dedicated to supporting free speech, associational rights, and other constitutional protections. To further these goals, IRF attorneys participate in litigation and file *amicus curiae* briefs in cases involving fundamental constitutional issues. IRF opposes attempts from anywhere along the political spectrum to undermine freedom of speech and equality of rights, and it combats overreaching governmental activity that impairs individual rights.

Northwest Legal Foundation was established in 1988 for the purpose of stopping government abuse of citizen's rights, specifically focusing on property rights. Northwest Legal Foundation strongly believes that property rights are fundamental rights that should be recognized as an individual right that is provided the same protections as other fundamental rights.

Mackinac Center for Public Policy (the Center), founded in 1988, is a Michigan-based non-profit, non-partisan research and educational institute that advances policies fostering free markets, limited government, personal responsibility, and respect for private property. The Center assists policy makers, scholars, business people, the media, and the public by providing objective analysis of policy issues. Throughout its history, the Center has advocated for free speech and for an expansive interpretation of the liberties professed in the First Amendment.

Scharf-Norton Center for Constitutional Litigation is part of Goldwater Institute, a 501(c)(3) tax exempt educational foundation. Goldwater Institute was founded in 1988 to advance non-partisan public policies of limited government, economic freedom, and individual responsibility. The integrated mission of Scharf-Norton Center for Constitutional Litigation is to preserve individual liberty by enforcing the provisions of the Arizona and Federal Constitutions that directly and structurally protect individual rights, including those enumerated in the Bill of Rights, the doctrine of separation of powers and federalism. To ensure its independence, Goldwater Institute neither seeks nor accepts government funds, and no single contributor may provide more than five percent of Goldwater Institute's annual revenue on an ongoing basis.

Center for Competitive Politics (CCP), founded in 2005, is a 501(c)(3) organization that seeks to educate the public about the effects of money in politics and

the benefits of increased freedom and competition in the electoral process. CCP works to defend the First Amendment right of speech, assembly, and petition through scholarly research and both state and federal litigation. It has participated in many of the notable cases concerning campaign finance laws and restrictions on political speech, including *McCutcheon v. FEC*, 572 U.S. ___ (2014); *Citizens United v. FEC*, 558 U.S. 310 (2010); and *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

Cause of Action (CoA) is a non-partisan, non-profit organization that investigates, exposes, and fights federal government waste, fraud, and cronyism. CoA uses investigative, legal, and communications tools to educate the public about how political and bureaucratic transparency and accountability protects taxpayer interests and economic opportunity. It publicly disseminates its findings through two periodical-newsletters – Cause of Action News and Agency Check, a high traffic website where it publishes investigative reports on agency activities, and through social media networks including Facebook and Twitter. CoA's work also has been featured extensively in high profile "traditional media" publications. As this Court has recognized, CoA has a unique perspective regarding the critical relationship between political transparency and robust free speech. *See McCutcheon v. FEC*, 572 U.S. ___ (2014). CoA strongly believes that the Constitution, and the public interest in good government, both require that all mediums of expression are afforded the same level

of First Amendment protection with respect to content-based restrictions, especially those that restrict political or public issue speech.

Southeastern Legal Foundation (SLF), founded in 1976, is a national non-profit, public interest law firm and policy center that advocates constitutional individual liberties, limited government, and free enterprise in the courts of law and public opinion. SLF drafts legislative models, educates the public on key policy issues, and litigates regularly before the federal circuit courts and the Supreme Court of the United States. SLF has an abiding interest in the protection of the freedoms set forth in the First Amendment – namely the freedom of speech. To that end, SLF has participated in litigation all over the country, including in this Court, in such cases as *McConnell v. FEC*, 540 U.S. 93 (2003), and most recently as *amicus curiae* in *Susan B. Anthony List v. Driehaus*, No. 13-193.

All *amici curiae* are profoundly committed to the protection of American legal heritage, which includes protecting the freedom of speech, a vital component to its system of laws. As such, to ensure that freedom of speech is protected for all mediums of expression, *amici curiae* request that this Court grant certiorari.

SUMMARY OF ARGUMENT

A law prohibiting a newspaper from printing an advertisement regarding local government candidates, a cable television operator from airing an advertisement regarding presidential candidates, or a website from displaying an advertisement regarding ballot initiatives can only stand if it is narrowly tailored to further a compelling government interest. This Court applies strict scrutiny review to laws that "suppress, disadvantage, or impose differential burdens upon speech because of its content." *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 642 (1994). Content-based restrictions have been referred to as "the essence of censorial power," *Austin v. Mich. State Chamber of Commerce*, 494 U.S. 652, 699 (1990) (Kennedy, J., dissenting), and as such, are nearly universally presumed to be invalid.

Recognizing the grave threats of censorship that content-based restrictions impose on the free trade of ideas, this Court requires that such restrictions pass the most exacting scrutiny – that is, unless the law censors broadcasters. Forty-five years ago, in *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969), reasons of technological scarcity led the Court to afford governmental restraints on broadcast a higher level of deference than restrictions on other mediums of expression. *See also FCC v. League of Women Voters*, 468 U.S. 364, 380 (1984). Thus, if the aforementioned examples prohibited broadcasters, rather than newspapers, cable television operators or website providers, from airing advertisements based on their content,

such laws need only be narrowly tailored to further a substantial government interest to withstand constitutional challenge. Application of this lower level of scrutiny to laws that prohibit or limit expression in broadcast radio or television based on content forecloses an entire medium of expression, and in doing so, conflicts with this Court's traditional First Amendment jurisprudence.

Nowhere is this conflict more dangerous than when the content-based restriction prohibits public discourse including, but not limited to, speech regarding political candidates and matters of public interest, because "public discussion is a political duty." *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring). "Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs." *Brown v. Hartlage*, 456 U.S. 45, 51-52 (1982) (quoting *Mills v. Alabama*, 384 U.S. 214, 218-19 (1966)).

When a law burdens political or public issue speech this Court applies the most exacting scrutiny available and will uphold such restrictions only if they are narrowly tailored to serve a compelling government interest. *Buckley v. Valeo*, 424 U.S. 1, 44-45 (1976) (per curiam). Recent precedent indicates that this is true even when the law restricts broadcasters from airing political or public issue content. *Citizens United v. FEC*, 558 U.S. 310, 340 (2010) (applying strict scrutiny to law restricting political

speech aired in any "broadcast cable, or satellite communication"); *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 465 (2007) (same); *McConnell v. FEC*, 540 U.S. 93, 205-07 (2003) (same) (overruled on other grounds). Thus, despite *Red Lion*, under recent precedent, the greater deference afforded to broadcast content-based regulations does not apply when political or public issue speech is at issue.

These conflicting precedents leave lower courts and litigants struggling to ascertain the level of scrutiny applicable to content-based restrictions that prohibit or limit political or public issue speech on the broadcasting medium – strict scrutiny as required under a content-based or political speech approach, or intermediate scrutiny as applied under a medium of expression approach? By granting certiorari, this Court has an opportunity to reconsider *Red Lion* and its progeny and ensure that all mediums of expression are afforded the same level of First Amendment protection with respect to content-based restrictions, especially those that limit political or public issue speech. The nature of the speech at issue in this case – political and public issue speech – makes this Court's review all the more urgent.

ARGUMENT

I. The First Amendment strict scrutiny standard of review should be applied to all constitutional challenges of content-based restrictions.

The First Amendment provides "Congress shall make no law abridging the freedom of speech." U.S. Const. amend. I. It does not make distinctions among print, broadcast, and cable media. *Denver Area Educ. Telecomms. Consortium, Inc. v. FCC*, 518 U.S. 727, 812 (1996) (Thomas, J., concurring in judgment in part). Applying different levels of scrutiny to constitutional challenges of content-based restrictions solely because those regulations apply to different mediums of expression is inconsistent with this Court's traditional First Amendment principles. The medium-based approach applied by the Court in *Red Lion* and its progeny, and by the Ninth Circuit in this case, violates this Court's traditional First Amendment jurisprudence and causes unnecessary confusion for courts and litigants when any law regulating media is at issue.

A. This Court's traditional First Amendment jurisprudence demands that content-based restrictions be narrowly tailored to serve a compelling government interest, regardless of the medium of expression being regulated.

"[A]bove all else, the First Amendment means that government has no power to restrict expression

because of its message, its ideas, its subject matter, or its content." *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 95 (1972).[2] "The First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic." *Consol. Edison Co. v. Pub. Serv. Comm'n*, 447 U.S. 530, 537 (1980); *accord Simon & Schuster, Inc. v. Members of the N.Y. State Crime Victims Bd.*, 502 U.S. 105, 116 (1991). The government has no business choosing "which issues are worth discussing or debating." *Id*. at 537-38 (internal quotations omitted). Allowing the government to choose permissible subjects for public debate and speech in general would restrict the very marketplace of ideas that our Founding Fathers fought to keep free and open. *Id*.

"Content-based restrictions are the essence of censorial power." *Austin*, 494 U.S. at 699 (Kennedy, J., dissenting). This Court has concluded time and time again that "[r]egulations which permit the Government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment." *Regan v. Time, Inc.*, 468 U.S. 641, 648-49 (1984) (citing *Carey v. Brown*, 447 U.S. 455, 466

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[2] *See also Cohen v. California*, 403 U.S. 15, 24 (1971); *Street v. New York*, 394 U.S. 576 (1969); *New York Times Co. v. Sullivan*, 376 U.S. 254, 269-70 (1964); *NAACP v. Button*, 371 U.S. 415, 445 (1963); *Wood v. Georgia*, 370 U.S. 375, 388-89 (1962); *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949); *De Jonge v. Oregon*, 299 U.S. 353, 365 (1937).

(1980); *Mosley*, 408 U.S. at 95-96). Traditional First Amendment principles mandate that "[w]here a government restricts the speech of a private person, the state action may be sustained only if the government can show that the regulation is a precisely drawn means of serving a compelling state interest." *Consol. Edison*, 447 U.S. at 540 (citing *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 786 (1978); *Buckley*, 424 U.S. at 25). "A less stringent analysis would permit a government to slight the First Amendment's role 'in affording the public access to discussion, debate, and the dissemination of information and ideas.'" *Id*. at 541 (quoting *Bellotti*, 435 U.S. at 783).

As Justice Kennedy explained in his separate opinion in *Denver Area Educational Telecommunications Consortium, Inc.*, "strict scrutiny . . . does not disable the government from addressing serious problems, but does ensure that the solutions do not sacrifice speech to a greater extent than necessary." 518 U.S. at 784-85 (Kennedy, J., concurring in part, concurring in judgment in part, dissenting in part). Recognizing and dispelling concerns that strict scrutiny acts as a straightjacket, the Court has held that the government may proscribe certain categories of private speech which are not protected by the First Amendment[3] and that the government may regulate

[3] Content-based restrictions on child pornography, incitement, obscenity and fighting words are presumably valid because these categories of speech are not protected by the First Amendment. *New York v. Ferber*, 458 U.S. 747 (1982) (child pornography);

(Continued on following page)

certain categories of speech because such regulations are narrowly tailored to serve a compelling government interest.[4]

Nearly half a century ago, the Court strayed from this Country's First Amendment principles and found that the government need only establish a substantial government interest – rather than a compelling one – to regulate the broadcast medium. *Red Lion*, 395 U.S. at 377. In "pluck[ing] broadcast stations out of the mainstream of First Amendment jurisprudence," Pet. App. 77a (Kozinski, C.J., dissenting), the Court based its holding on "the present state of commercially acceptable technology" which, at the time, resulted in "scarcity of radio frequencies." *Red Lion*, 395 U.S. at 388, 390.

Even though the laws at issue in this case are content-based restrictions on speech, the Ninth Circuit relied on *Red Lion* and its progeny for its analysis. The circuit court in this case analyzed the regulations' constitutionality under an intermediate level of scrutiny, rather than a strict scrutiny standard; therefore, determining the level of review based on the medium of expression – broadcast – instead of the type of speech restriction – content-based. Because

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Brandenburg v. Ohio, 395 U.S. 444 (1969) (incitement); *Roth v. United States*, 354 U.S. 476 (1957) (obscenity); *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942) (fighting words).

[4] *See*, *e.g.*, *Burson v. Freeman*, 504 U.S. 191 (1992) (upholding state law restricting political speech because it was narrowly tailored to serve a compelling government interest).

the scarcity rationale is no longer valid[5] and because a medium-based approach violates this Court's traditional First Amendment jurisprudence, this case presents an opportunity to revisit *Red Lion* and afford the broadcast medium the same protection from content-based restrictions as those afforded to other mediums of expression.

B. Unnecessary confusion results when courts apply different levels of scrutiny to constitutional challenges of content-based restrictions solely because those restrictions regulate different mediums of expression.

The speed of technological innovation is undeniable. As innovators create new mediums of expression, the government will likely promulgate new laws regarding them. These new laws – especially those that seek to regulate the content of speech – will face constitutional scrutiny. The question that remains is what level of constitutional scrutiny applies to the regulation of new mediums of expression – strict or intermediate?

Under a medium-based approach, litigants can only speculate as to the applicable level of scrutiny. This is because the level of scrutiny under such an approach depends on whether the courts will view the medium of expression as analogous to broadcast

[5] As shown in the Petition at 14-28.

(intermediate scrutiny), print (strict scrutiny), cable television (strict scrutiny), the internet (strict scrutiny) or some other medium of expression. In determining the applicable level of scrutiny to new mediums of expression, courts compare the different mediums and look to traditional First Amendment principles. *See Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241, 256 (1974) (invoking traditional First Amendment principles and requiring strict scrutiny be applied to content restrictions of print media); *Turner Broad. Sys.*, 512 U.S. at 638-41 (finding that "the rationale for applying a less rigorous standard of First Amendment scrutiny to broadcast regulation, whatever its validity in the cases elaborating it, does not apply in the context of cable regulation"); *Reno v. ACLU*, 521 U.S. 844, 869-70 (1997) (applying strict scrutiny to laws restricting content shown on the Internet and holding that the "[Court's] cases provide no basis for qualifying the level of First Amendment scrutiny that should be applied to this medium").

This approach results in unnecessary confusion for litigants and courts alike. It is "unnecessary" because the Court's traditional First Amendment jurisprudence, which provides for the application of strict scrutiny to all content-based restrictions, is available and preferable. In expressing the benefits of standards, Justice Kennedy explained that "the creation of standards and adherence to them, even when it means affording protection to speech unpopular or distasteful, is the central achievement of [the Court's] First Amendment jurisprudence." *Denver Area Educ.*

Telecomms., 518 U.S. at 785 (Kennedy, J., concurring in part, concurring in judgment in part, dissenting in part). He continued, "Standards are the means by which we state in advance how to test a law's validity, rather than letting the height of the bar be determined by the apparent exigencies of the day. They also provide notice and fair warning to those who must predict how the courts will respond to attempts to suppress their speech." *Id*.

In *Citizens United*, this Court declined to distinguish between mediums of expression when assessing the constitutionality of the law at issue, instead opting for a content-based approach. In doing so, the Court explained: "While some means of communication may be less effective than others at influencing the public in different contexts, any effort by the Judiciary to decide which means of communication are to be preferred for the particular type of message and speaker would raise questions as to the courts' own lawful authority." *Citizens United*, 558 U.S. at 326. This case presents an opportunity for this Court to not only reconsider *Red Lion*, but to reduce future confusion and ensure that all mediums of expression enjoy full First Amendment protection.

II. This case presents an opportunity for the Court to reaffirm that content-based restrictions of political or public issue speech are always subject to strict scrutiny review.

Even if this Court declines to reconsider *Red Lion* and its progeny, it should grant certiorari because this case presents an opportunity for the Court to reaffirm its more recent precedent which holds that content-based laws restricting political speech, even when aired over the broadcast medium, are subject to the most exacting scrutiny. This reaffirmation is warranted for three reasons, the first two of which have already been discussed in detail: (1) traditional First Amendment jurisprudence mandates that all content-based restrictions be judged by a strict scrutiny standard; (2) determining the applicable level of scrutiny based on the medium of expression causes unnecessary confusion; and (3) the protection of political and public issue speech is a major purpose of the First Amendment and, given its position as a fundamental principle of the American Government, it should at all times and in all mediums be afforded the highest protection available.

When interpreting the First Amendment, "[w]e should seek the original understanding." *McIntyre v. Ohio Election Comm'n*, 514 U.S. 334, 359 (1995) (Thomas, J., concurring). Since 1724, freedom of speech has famously been referred to as the "great Bulwark of liberty[.]" 1 John Trenchard & William Gordon, Cato's Letters: Essays on Liberty, Civil and

Religious 99 (1724), reprinted in Jeffrey A. Smith, Printers and Press Freedom: The Ideology of Early American Journalism 25 (Oxford University Press 1988). The First Amendment "was understood as a response to the repression of speech and the press that had existed in England." *Citizens United*, 558 U.S. at 353. Through the First Amendment, our Founding Fathers sought to ensure complete freedom for "discussing the propriety of public measures and political opinions." Benjamin Franklin's 1789 newspaper essay, reprinted in Smith, at 11. "Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law – the argument of force in its worst form." *Whitney*, 274 U.S. at 375-76 (Brandeis, J., concurring).

A major purpose of the First Amendment was to protect public discourse, broadly defined. "Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs." *Brown*, 456 U.S. at 52 (quoting *Mills*, 384 U.S. at 218-19). "The freedom of speech and of the press guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment." *Meyer v. Grant*, 486 U.S. 414, 421 (1988) (quoting *Thornhill v. Alabama*, 310 U.S. 88, 101-02 (1940)). "The First Amendment 'was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes

desired by the people.'" *Id*. (quoting *Roth v. United States*, 354 U.S. 476, 484 (1957)). "For speech concerning public affairs is more than self-expression; it is the essence of self-government." *Garrison v. Louisiana*, 379 U.S. 64, 74-75 (1964). This free discussion necessarily "includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes." *Mills*, 384 U.S. at 218-19.

When a law burdens political or public issue speech, this Court applies the most exacting scrutiny and upholds such restrictions only if they are narrowly tailored to serve a compelling government interest. *Buckley*, 424 U.S. at 44-45; *see also Consol. Edison*, 447 U.S. at 540-41; *Bellotti*, 435 U.S. at 786. This Court's recent precedent holds that this is true even when the law restricts broadcasters from airing political or public issue content. *Citizens United*, 558 U.S. at 340 (applying strict scrutiny to law restricting political speech aired in any "broadcast cable, or satellite communication"); *Wis. Right to Life, Inc.*, 551 U.S. at 465 (same); *McConnell*, 540 U.S. at 205-07 (same) (overruled on other grounds). "The people determine through their votes the destiny of the nation. It is therefore important – vitally important – that all channels of communication be open to them during every election. . . ." *United States v. Int'l Union United Auto., Aircraft and Agric. Implement Workers of Am.*, 352 U.S. 567, 593 (1957) (Douglas, J., dissenting). Consistent with this principle, the Court in

Citizens United expressly "decline[d] to draw, and then redraw, constitutional lines based on the particular media or technology used to disseminate political speech from a particular speaker." *Citizens United*, 558 U.S. at 326. Simply put, when political or public issue speech is at issue, the greater deference afforded to content-based regulations of the broadcast medium does not apply.

Application of intermediate scrutiny or rational basis review, both less stringent standards, "would permit a government to slight the First Amendment's role 'in affording the public access to discussion, debate, and the dissemination of information and ideas.'" *Consol. Edison*, 447 U.S. at 541 (quoting *Bellotti*, 435 U.S. at 783). "The First Amendment affords the broadest protection to such political expression in order 'to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'" *Buckley*, 424 U.S. at 14 (quoting *Roth*, 354 U.S. at 484). Thus, requiring the government to establish that its content-based restriction on political or public issue speech is narrowly tailored to serve a compelling interest ensures that the American people "retain control over the quantity and range of debate on public issues." *Id.* at 57.

This Court should grant certiorari to protect the vitality of political and public issue speech by reaffirming that laws restricting political or public issue speech are unconstitutional unless they are narrowly tailored to meet a compelling governmental

interest, regardless of the medium of expression being regulated.

CONCLUSION

For these reasons, *Amici Curiae* respectfully request that this Court grant certiorari.

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