

Political Advertising Sponsorship ID – How do I comply with the Sponsorship ID rules?

With Congress beginning the August recess, and its members returning home in an election year, political campaigning for the general election, and the few remaining primaries, is really going to heat up. With it comes a new and intense wave of political advertising. With such robust campaigning, it would be a good idea to review one of broadcasters' important obligations regarding that advertising.

(If you'd like a complete review, download our Political Broadcasting Manual at www.commlaw.com or www.wcsr.com/telecom)

The issue centers on the Communications Act requirement of Sponsor identification. As discussed a couple of weeks ago in the column on product placement, the Communications Act and FCC rules require a licensee to notify the public whenever there has been payment for any material that is broadcast. These rules are based in the statute and are meant to protect the public's right to know the identity of the sponsor when consideration has been provided in exchange for airing program material.

All advertisements, or any matter broadcast in exchange for consideration must carry a proper Sponsorship ID. Even for candidate ads, broadcasters must assure that there is proper sponsorship identification. In fact, the FCC sponsorship identification rule lists specific requirements for their ads, adopted in 1992 when the Commission codified many of its political programming policies. So, how can the broadcaster make sure there is proper sponsorship identification without censorship?

It is well settled that, as FCC licensees and trustees of the public interest, broadcasters are charged with responsibility for the material broadcast over their stations. They may review, edit and censor anything that is presented for them to broadcast . . . except for one category: a use of the station by a legally qualified candidate for any public office. In other words, a political advertisement cannot be censored. In addition, many candidate ads come in at the last minute and there may not be time to assure that the proper sponsorship ID is included.

Recognizing that broadcasters may not have enough time to preview the ad and still meet the candidate's requested timing, the Commission created an exception that allows the licensee to air the ad once without being subjected to liability for not having proper sponsorship ID. This identification requirement exception applies only to ads for political candidates -- and not for political issues or other types of ads.

Nothing alters the policy requiring all political advertisements to contain sufficient information to allow viewers to identify the real sponsor of the ad. After that first airing, the proper sponsor ID has to be in the ad, or the broadcaster could be liable for a rule violation. So, while the ad cannot be censored, the broadcaster may find it necessary to furnish the proper sponsor ID. The Commission has again provided relief. The broadcaster does not have to provide additional time for the ID. If it is missing, the FCC will permit you to add a proper ID, within the time purchased, even if you have to run it on top of the ad itself. That will not be interpreted as censorship and is allowable.

A proper sponsorship ID, political or otherwise, must use the “paid by” or “sponsored by” language of the FCC rule.

Other rules apply to and have consequences for the candidate, rather than the broadcaster. The Bipartisan Campaign Reform Act (McCain Feingold) discourages negative advertising by requiring every federal candidate political broadcast to carry a special statement to assign personal accountability to the candidate or other sponsor. Broadcasts by candidates or their authorized committees must identify the candidate and state that the candidate has approved the broadcast. On radio spots, the statement must be read by the candidate and state the office sought.