



FAQ: MEDIA ACCESS PROJECT PETITION FOR RULEMAKING REGARDING IDENTIFICATION OF BROADCAST SPONSORS

WHO?

Media Access Project (MAP) is a non-profit, public interest law firm working in media and telecommunications policy. For over 38 years, MAP has promoted the public interest before the Federal Communications Commission and the U.S. Courts, promoting the public's First Amendment right to have access to diverse viewpoints in the marketplace of ideas.

WHAT?

MAP filed a petition for rulemaking asking to update and strengthen the FCC's sponsorship identification rules for political commercials. Because the petition invokes existing statutory authority, it does not require Congressional action.

WHY?

In the wake of *Citizens United v. Federal Election Commission* and other recent judicial decisions involving campaign finance laws, there has been a new wave of spending for political advertisements by organizations which are not required to disclose the identities of their donors under the Internal Revenue Code or the Federal Election Campaign Act. Moreover, although the Communications Act of 1934 does require on air sponsorship identification, the FCC has interpreted the law so that it has been possible for funders to hide behind "front" groups.

WHEN?

The petition was filed on Tuesday, March 22.

WHERE?

The petition was filed with the Federal Communications Commission. The FCC is an "independent" agency with 3 Democratic and 2 Republican members.

WHAT DOES MAP SEEK?

MAP asks the FCC to require TV ads to list all persons who provide 25% or more of the funds that pay for a political TV ad, or one-third of funds that pay for a radio ad. In addition, a list of persons who provide 10% or more of the funds for a commercial must be placed in a TV station's public file. Broadcasters already have a duty to exercise reasonable diligence in identifying sponsors, but under current interpretation of the FCC's rules, they need not inquire deeply into sources of funding. MAP also seeks to update rules requiring listing of sponsors in the stations' public files. MAP seeks better enforcement by requiring advertisers to submit a sworn statement as to the source of their funding. (The full text of the proposed rule is contained in Attachment A to the rulemaking petition.)

DOES THE FCC HAVE THE POWER TO DO THIS?

Yes. Section 317 of the Communications Act of 1934 says that:

All matter broadcast by any...station for which any money, service or other valuable consideration is directly or indirectly paid,...shall, at the time the same is so broadcast, be announced as paid for...by such person....

The FCC has repeatedly said that this means that “listeners are entitled to know by whom they are being persuaded.”

DOES THIS APPLY TO POLITICAL MESSAGES?

Yes. The FCC has said that accurate identification is especially important in the case of political messages. In fact, existing FCC rules implementing Section 317 already say that political messages should:

fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised.

WHAT IS WRONG WITH EXISTING FCC RULES?

The current rules, which remain essentially unchanged since 1944, need to be updated to accommodate current practices, especially with respect to the use of “front groups” to hide the true source of funds. Current FCC interpretations focus excessively on who has editorial control of a message, rather than who provides the funds for that message, as the law contemplates. The public file rules are similarly obsolete because they do not require identification of the sources of funds.

WHAT HAPPENS NOW?

The FCC must solicit public comment on the petition. It has no deadline for doing this. Once it considers the comments, it can then decide whether to propose new rules or dismiss the petition. Here, too, there is no deadline for such action.

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