
UPDATE
October 1, 2019

Reminder: MVPDs Must Meet Numerous Website Disclosure Requirements

Multichannel video programming distributors (“MVPDs”) must ensure that certain policies, contact information or documentation is maintained on the MVPD’s website. Below, we summarize some of the key website disclosure requirements, as we have recently received a number of questions in this area.

FCC rules require some of the following documents to be linked on an MVPD’s main homepage. Consider placing or linking to all “policies” on one “legal” page.

Net Neutrality Disclosures. MVPDs who are also Internet service providers (“ISPs”) must publicly disclose accurate information regarding their network management practices, performance, and commercial terms so that consumers may make informed choices when purchasing broadband internet service. This must be done via a publicly available, easily accessible website.

Public Inspection File. All MVPD systems that serve greater than 1,000 subscribers must upload public inspection file documents to the FCC’s online database, and must provide a link to the public inspection file hosted by the FCC from the MVPD’s home page. In addition, the MVPD must provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files.

EEO. All MVPDs with six or more full-time employees must meet the FCC’s annual EEO filing requirements. Copies of the filed 396-Cs and certain related information must be placed on the MVPD’s website. Alternatively, this obligation can be satisfied by providing a direct link to the EEO page in the MVPD’s public inspection file hosted by the FCC.

Registered DMCA Agent. MVPDs who are also ISPs must designate an agent to receive notifications of claimed copyright infringement, submit the information to the copyright office and make the agent’s contact information available to the public on its website to qualify for the DMCA safe harbor from copyright infringement.

Notice of Availability of Talking Guides. All MVPDs must prominently display information about accessible navigation devices and separate solutions on their websites in a way that makes such information available to all current and potential subscribers, including contact information. This information must be provided in a format that is accessible to people with disabilities.

Closed Captioning. All MVPDs must have certain contact information on their websites regarding closed captioning. This contact information must also be submitted to the FCC.

If you have questions about your company’s required disclosures under FCC rules, or any of the obligations listed above, please contact Scott Friedman at (314) 462-9000 or sfriedman@cinnamonmueller.com.

Key Political Advertising Requirements to Remember as Election Season Approaches

With the fall election season approaching, MVPDs should take the time now to review key political advertising requirements before receiving requests from candidates for advertising time. Federal law and FCC regulations govern the rates and terms for candidate advertising. Key provisions include:

- MVPDs are not obligated to provide political candidates access to cable systems. If a MVPD permits “use” of its system by a legally qualified candidate, it must afford “equal opportunities to all other candidates for that office.”
- Candidate appearances on a bona fide newscast, bona fide news interview, bona fide news documentary (if the appearance of the candidate is incidental to the subject of the documentary), or on-the-spot coverage of bona fide news events (including political conventions) do not trigger the equal opportunity requirements.
- For candidate advertising – except for periods before a primary, general, or special election – the MVPD shall charge no more than the rates for comparable use of the system by commercial advertisers. Discounts and other terms offered to commercial advertisers must be disclosed and offered to political advertisers.
- During the 45 days before a primary, and the 60 days before a general or special election, the MVPD may charge legally qualified candidates for public office no more than the “lowest unit charge” for advertising time. The “lowest unit charge” is the amount that the system charges “its most favored commercial advertisers for the same classes and amounts of time for the same periods.” In calculating the lowest unit charge, MVPDs must take into account any practices offered to commercial advertisers that enhance the value of advertising spots, such as bonus spots, time-sensitive make goods, and preemption priorities.
- MVPDs providing political advertising must maintain a political advertising file of all candidate requests for time and the disposition of those requests, **even if the advertising insertion is done by a 3rd party**. Any records maintained in the file must be kept for two years.

If you have questions about political advertising, please contact Bruce Beard at (314) 394-1535 or bbeard@cinnamonmueller.com or Scott Friedman at (314) 462-9000 or sfriedman@cinnamonmueller.com.

Please visit our website at www.cinnamonmueller.com to learn more about our lawyers and practice. You can reach Cinnamon Mueller at (314) 462-9000. *This update is provided by the law firm of Cinnamon Mueller. The document is intended for informational purposes only as a service to clients of Cinnamon Mueller. It is not intended to provide specific legal advice or to substitute obtaining appropriate legal counsel. We encourage you to consult with counsel to address special compliance issues and for assistance in negotiating or handling any such matter referred to in the update.*