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**UPDATE**  
**April 7, 2020**

**FCC Issues Political Advertising Clarification Regarding Lowest Unit Charge – MVPDs May Exclude Free Time**

On March 25, 2020, the FCC’s Media Bureau released a [Public Notice](#) instructing that regulates subject to Section 315(b) of the Communications Act, which include MVPDs, may exclude the free time that they provide to commercial advertisers when calculating their lowest unite charges for political advertising rates, provided the free time is not associated with an existing commercial contract for paid time or otherwise considered bonus spots.

Federal law and FCC regulations govern the rates and terms for candidate advertising. Although MVPDs are not obligated to provide political candidates access to their systems, if a cable operator permits “use” of its system by a legally qualified candidate, it must afford “equal opportunities to all other candidates for that office.” Key provisions of the FCC’s regulations include:

- 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 system 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 cable system 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, cable operators 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 3<sup>rd</sup> 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](mailto:bbeard@cinnamonmueller.com) or Scott Friedman at (314) 462-9000 or [sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com).

## **FCC Extends Truth-in-Billing Compliance Deadline to December 20, 2020**

On April 3, 2020, the FCC's Media Bureau released an [Order](#) extending the effective date of the new truth-in-billing obligations under the Television Viewer Protection Act of 2019 ("TVPA") until **December 20, 2020**, finding that the present national coronavirus emergency provides "good cause" for a blanket extension.

The TVPA originally set June 20, 2020 as the effective date of the truth-in-billing requirements, but it gave the FCC authority to extend this deadline up to six months for "good cause." The Media Bureau's Order grants the maximum six-month extension.

**Overview.** The new truth-in-billing provisions of the TVPA require MVPDs to "give consumers a breakdown of all charges related to the MVPD's video service" before entering into a contract with a consumer for service, and also provides consumers 24 hours in which to cancel such service without penalty. Moreover, the TVPA also requires MVPDs to provide greater transparency in electronic bills and prohibits MVPDs and providers of fixed broadband Internet access service from charging for the use of equipment owned by the consumer.

**MVPD Video Obligations.** The numerous duties imposed on MVPDs regarding the sale of MVPD services include:

Transparency Obligation. Before entering into a contract with a consumer, the MVPD must provide the consumer (by phone, in person, online, or by other reasonable means) with the total monthly charge for the service selected by the consumer, whether provided individually or as part of a bundle. The charge must include related administrative fees, equipment fees or other charges, and a good faith estimate of any taxes, fees, or government-imposed charges. If the service involves a promotional discount, the MVPD must also note the amount of the discount and when it will expire.

Formal Notice Obligation. Within 24 hours of entering into a contract with a consumer for a multichannel video programming service, the MVPD shall send the consumer by email, online link, or other reasonably comparable means, a copy of the information above.

Consumer Right to Cancel. A consumer shall have the right to cancel a contract without early cancellation or other disconnection fees or penalties within 24 hours of the MVPD sending the information to the consumer.

**E-Billing Disclosure Requirements.** If an MVPD provides a bill in electronic format, the bill must include (i) an itemized statement setting forth the amount charged for the provision of service and the amount of all related taxes, administrative fees, equipment fees, or other charges; (ii) the termination date of the contract between the MVPD and consumer; and (iii) the termination date of any applicable promotional discount.

**Consumer Rights to Accurate Equipment Charges.** Under the TVPA, an MVPD or provider of fixed broadband internet access service may not charge a consumer for (i) using covered equipment (such as a router) provided by the consumer, or (ii) renting, leasing, or otherwise providing covered equipment that the provider has not yet provided to the consumer or that the consumer has returned to the provider. A provider may assess charges for equipment that has been returned if the charges cover the period prior to its return.

If you have questions about the TVPA or billing in general, please contact Bruce Beard at (314) 394-1535 or [bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com) or Scott Friedman at (314) 462-9000 or [sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com).

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