
UPDATE
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FCC Releases AI-Generated Political Advertising Proposal

Do you Know Your Political Advertising Requirements?

Today, FCC Chairwoman Jessica Rosenworcel [shared](#) a new agency proposal that, if adopted, would look into whether the FCC should require disclosure when there is AI-generated content in political ads on radio and TV. Among other things, the FCC would look into whether to require:

- On-air and written disclosures when there is AI-generated content in political ads;
- Applying disclosure rules to both candidate and issue advertisements; and
- Applying any disclosure requirements to broadcasters and entities that engage in origination programming, including MVPDs, satellite TV and radio providers.

With this proposal in mind and the fall election season approaching, now is the perfect opportunity for MVPDs to take the time now to review key political advertising requirements before receiving requests from candidates for advertising time. While MVPDs are **not** obligated to provide political candidates access to cable systems, if an MVPD permits “use” of its system by a legally qualified candidate, it must afford “equal opportunities to all other candidates for that office.”

For those MVPDs that do permit political advertising, or engage with a 3rd party to insert advertisements on its system(s), key provisions include:

- 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.
- 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.

If you have questions about political advertising, your public inspection recordkeeping requirement, or the adoption of political advertising policies, please contact Bruce Beard at (314) 394-1535 or bbeard@cinnamonmueller.com or Scott Friedman at (314) 462-9000 or sfriedman@cinnamonmueller.com.

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