



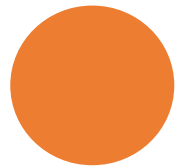
FCC Regulations and Compliance

Brad Deutsch | Foster Garvey PC | May 21, 2024



An Overview of the Federal Communications Commission

- Five Commissioners
 - Three (including Chair) from same political party as WH
- Staff has “Delegated Authority”





It's Really a LICENSE!

- Use of public airwaves in the “Public Interest”
 - Operate consistent with FCC regulations – lots of them!
 - All TV and radio licenses are issued for eight-year terms
 - All TV and radio licensee file Biennial Ownership Reports
 - FCC Online Public Files
 - EEO Requirements
 - Truthful and accurate statements to the Commission
 - Underwriting!

License Renewal Cycle & Ownership Reports



All TV and radio licenses are issued for eight-year terms

Applications for Renewal of License

- Radio License Renewals were due June 2019 – April 2022 (starts again June 2027!)
- TV was a year later – ended April 2023
 - Each cycle has its own “flavor”



All TV and radio licensee file Biennial Ownership Reports

Was due 12/1/2023 – based on 10/2/2023 “snapshot”

Will be due again at the end of 2025

Disclose current Board Members/owners

FCC crunches diversity data

FCC Online Public File

- Every FCC-licensed full-service radio and television station is required to maintain an Online Public Inspection File (OPIF)
- The OPIF is a collection of documents that the FCC requires licensees make available to the public
 - FCC applications
 - Quarterly Issues/Programs Lists
 - Ownership Reports
 - Annual EEO Reports



Sample of Other Requirements

- Closed Captioning
- Minimum Operating Schedule
- Station Logs (technical)
- EAS – New CAP rules. Cybersecurity Rulemaking.
- Tower Lights
- ATSC 3.0 (NextGen TV)



FCC Enforcement

- Complaints vs. Applications
 - NALs
 - Consent Decrees
- Pirate Radio





FCC Underwriting



Enhanced Underwriting Announcements vs. Advertisements

The FCC allows Noncommercial Educational Stations to broadcast “Enhanced Underwriting Announcements” but prohibits airing of “Advertisements.”

But what is the difference?!

Remember – Don’t focus on what YOU think the difference is (or what you think the difference should be); all that matters is what the FCC thinks the difference is.



At the Extremes

Advertisement

Come on down to Rocco's on Main Street for the best pizza in Phoenix. Bring the whole family in on a Tuesday and you can get two delicious extra-large pizzas for just \$15. Phoenix has been loving our amazing service and award-winning drinks since 1971!

Enhanced Underwriting Announcement

Sponsored by Rocco's on Main Street, serving pizza and drinks since 1971.

The extremes are easy to distinguish but when you get close to line between the two it can be very difficult to distinguish.





The FCC's Definition of Advertisement

An announcement that promotes a for-profit product, service or facility.

The station receives some form (any form!) of compensation for airing the announcement.



Promotion - Four No's and a Not

NO Price Information

NO Call to Action

NO Inducements

NO Qualitative or Comparative Language

NOT Too Long



No Price Information

No mention of any price, cost or value associated with a product or service.



No Call to Action

No mention of something the listener should do related to the product or service.

No Inducements

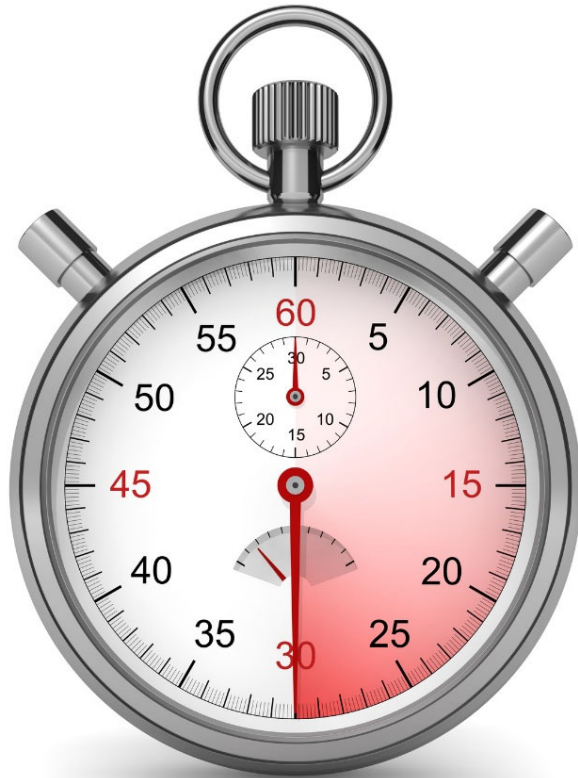
No mention of inducements to buy, sell, rent or lease.



No Qualitative or Comparative Language

No mention of how good a product or service is and no comparisons to other products or services.





Not Too Long

The FCC has indicated that any announcement longer than 30 seconds is likely to be promotional.

Also, any long list of goods or services, or even a long description runs the risk of becoming promotional.



Established Names & Slogans

Watch Out - This Can Get Tricky!



“For Profit”

Don't Forget About “For Profit”



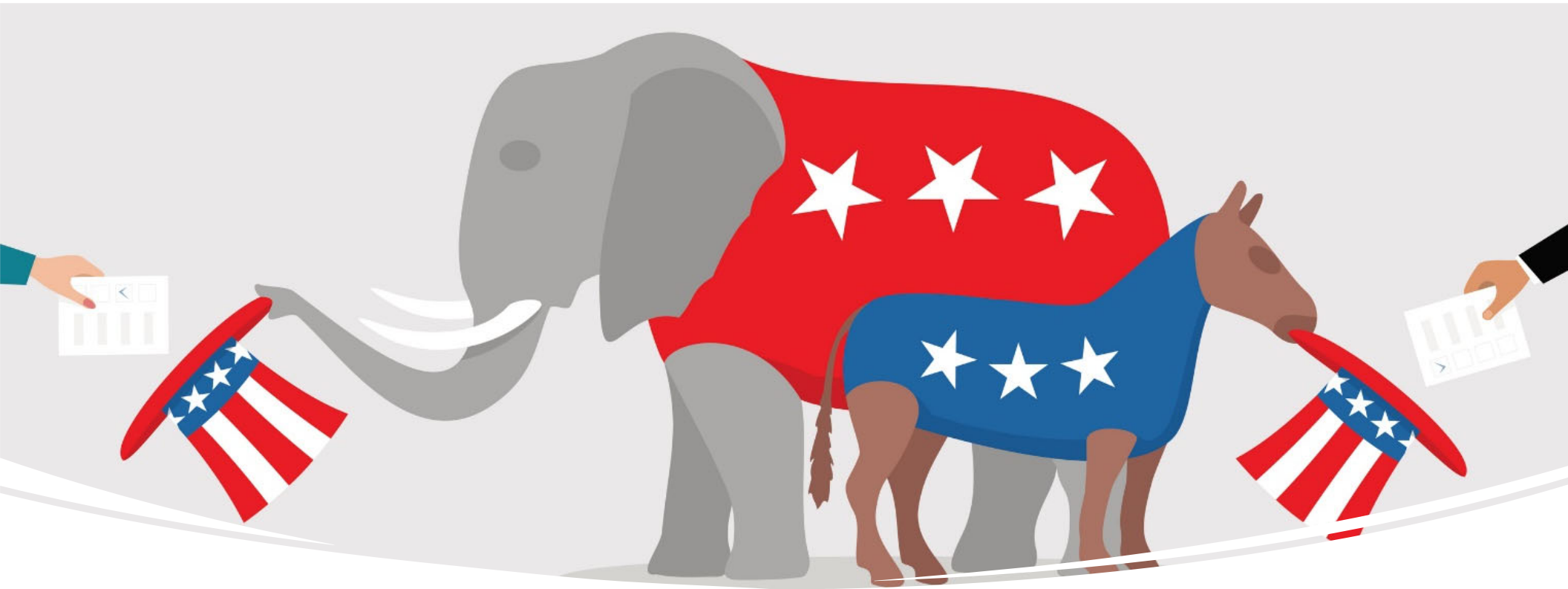
Compensation

The station receives some form (any form!) of compensation for airing the announcement.

Compensation – The question to ask is “What motivated the airing of the announcement?”

Clear and
Accurate
Sponsorship
Identification





Political Announcements

No Political Announcements Supporting or Opposing a Candidate.



Public Importance

No Paid “Issue Ads” Expressing a View on an Issue of
Public Importance

Fundraising

No Fundraising for Other Non-Profits



Why Does This Matter?

The FCC is watching and listening!



**THIS AREA
IS UNDER
SURVEILLANCE**



In a Nutshell

Announcements **may include**:

- Name and contact information such as, address, telephone number, or web address
- Brands or trade names of products or services offered
- Value neutral descriptions of product or services
- Non-promotional slogan
- Historical information

In a Nutshell

Announcements **may not include:**

- Price information
- Calls to action
- Inducements to buy, sell, or lease
- Comparative or qualitative language
- Excessive repetition of information



Putting It Into Practice



1. Sponsored by Main Street Toyota. I find the people at Main Street Toyota to be very accommodating, and the owner Joey to be delightfully honest. Located on the web at MainStreetToyota.com.
2. Sponsored by City Financial. City Financial reaches out to the business community to deliver quality financial services. Call Jenny at 867-5309.
3. Sponsored by Phone Home. Providing quick connection and clear sound, bringing you closer to a Galaxy Far Away. For inter-galaxy long distance service visit PhoneHome.net.

Putting It Into Practice



4. Sponsored by attorney John Smith. John believes that if his client does not recover damages, he should not collect a fee. Located at 123 Wall Street right here in Phoenix.
5. Brought to you by Hand Me Downs. We provide gently used housewares and clothing. Stop by our thrift store at One Penny Lane, Cheap Town, USA.
6. This traffic watch update is brought to you by CM Auto, now offering a discount on air conditioning recharge with a Pennzoil oil change and 14-point lube check. Come on down to 4444 Traffic Street, Phoenix.



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