

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Complaint of)
)
Issue One and)
Campaign Legal Center)
)
Against)
)
Cox Media Group, licensee of)
WSB-TV, Atlanta, GA)
)
For Violations of the Communications Act)
§ 315 and FCC Regulation § 73.1212)

To: Enforcement Bureau

COMPLAINT

Issue One and Campaign Legal Center file this complaint regarding violations of the Communications Act and the Federal Communications Commission regulations by the Cox Media Group licensee of WSB-TV. In March and April 2017, WSB-TV ran a political ad sponsored by the National Republican Congressional Committee (“NRCC”). The station failed to disclose information about NRCC and the ad in its online political file as required by the Communications Act and Commission regulations.

I. Facts

a. Parties

Issue One is a nonpartisan, nonprofit organization that seeks to “strengthen democracy and return government to the American people” through “political reform and government ethics.”¹ The Campaign Legal Center is a nonpartisan, nonprofit legal

¹ Issue One, About Us, <https://www.issueone.org/about/> (visited August 9, 2017).

organization that seeks “to improve our democracy and protect the fundamental right of all Americans to participate in the political process” by, among other things, seeking the enforcement of media and campaign laws.²

WSB-TV is an ABC-affiliated broadcast station in Atlanta, Georgia. Atlanta is the 10th largest Designated Market Area in the country, serving more than 2 million households.³ Cox Media Group, licensee of WSB-TV, is headquartered in Atlanta, GA.⁴ Cox is a subsidiary of Cox Enterprises, and is a media conglomerate that operates newspapers, publishing, television stations and websites on local and national scales.⁵

b. The Advertisement

In March and April 2017, WSB-TV broadcast a political ad sponsored by the NRCC, according to that station’s political files.⁶ The NRCC is a political committee associated with the Republican caucus in the U.S. House of Representatives “devoted to increasing the Republican majority in the U.S. House of Representatives.”⁷

The NRCC ad, entitled “It’s Clear,” calls on Republicans to vote in the special election on April 18 to fill the U.S. House seat in Georgia’s Sixth Congressional District,

² Campaign Legal Center, About Us, <http://www.campaignlegalcenter.org/about/who-we-are> (visited August 9, 2017).

³ *Nielsen DMA Rankings – 2017 Television Season*, Lyons Public Relations Broadcast PR Solutions, (2016), <http://www.lyonspr.com/latest-nielsen-dma-rankings/>.

⁴ Cox Enterprises, Locations: Cox Media Group Corporate Headquarters, <http://locations.coxinc.com/divisions/cox-media-group/cox-media-group/cox-media-group-corporate-headquarters/> (visited August 9, 2017).

⁵ Cox Media Group, Roots, <https://www.coxmediagroup.com/our-roots/> (visited August 9, 2017).

⁶ See Political Files, WSB-TV, Federal Communications Commission, <https://publicfiles.fcc.gov/tv-profile/wsb-tv/political-files/2017/non-candidate-issue-ads/national-republican-congressional-campaign-committee/6027e746-8739-bd63-0f9f-2c49faaabd7f/> (last visited August 9, 2017).

⁷ National Republican Congressional Committee, About, <https://www.nrcc.org/about/> (last visited August 9, 2017).

arguing that the district is crucial to continuing Republican success in Congress.⁸ The ad states:

[Narrator:] This year, April 18th is Tax Day, but it's also Election Day and Republicans face a crucial vote. Nancy Pelosi and liberal politicians are flooding into Georgia to try and stop our Republican majority that's getting things done.

Republicans need your help to defend our values, bring back jobs and lower taxes. On April 18th, the stakes are too high to stay home. Get out and vote Republican for Congress. The NRCC is responsible for the content of this advertising.

The NRCC claimed that it spent \$304,100 airing the advertisement on WSB-TV.⁹ In the agreement form in WSB-TV's political file, the NRCC failed to answer the question "Does the programming (in whole or in part) communicate 'a message relating to any political matter of national importance.'"¹⁰

II. Argument

The NRCC ad triggers WSB-TV's political disclosure requirement for programming that "communicates a message relating to any political matter of national importance."¹¹ However, WSB-TV failed to disclose the proper information.

a. The Communications Act and Commission regulation requirements.

When broadcasters run political ads, they must meet specific disclosure requirements set forth in the Communications Act and Commission regulations.

⁸ Exhibit A, attached, is a screenshot of the ad and a *Hill* article confirming that the "It's Clear" ad ran on stations across Atlanta. The ad is available at <https://www.youtube.com/watch?v=uwB9uYkqL2k>;

⁹ Exhibit B at 1.

¹⁰ Exhibit C at 2.

¹¹ 47 U.S.C. § 315(e)(1)(B) (2017).

Section 315(e)(1) of the Communications Act requires that broadcast licensees maintain records regarding any request to purchase broadcast time that “communicates a message relating to any political matter of national importance, including (i) a legally qualified candidate; (ii) any election to Federal office; or (iii) a national legislative issue of public importance.”¹²

For such requests, the licensee must disclose, among other things, “the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable),”¹³ as well as “the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.”¹⁴

Similarly, Commission rules require that, when a station broadcasts paid ads that concern a “political matter” or discuss a “controversial issue of public importance,” and the ads are paid for by “a corporation, committee, association or other unincorporated group, or other entity,” then “the station shall . . . [maintain] a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group . . . for public inspection.”¹⁵

b. The NRCC ad triggers the disclosure requirements of the Communications Act and Commission regulations.

¹² *Id.* § 315(e)(1)(B)(i)—(iii).

¹³ *Id.* § 315(e)(2)(E).

¹⁴ *Id.* § 315(e)(2)(G).

¹⁵ 47 C.F.R. § 73.1212(e).

The NRCC ad run by WSB-TV triggers the disclosure requirements of section 315(e)(2) of the Communications Act and section 73.1212(e) of the Commission’s rules for two reasons. First, the advertisement communicates a message relating to an “election to Federal office” by expressly encouraging its audience to vote for Republicans in the 2017 special election for Georgia’s Sixth Congressional District, which was a federal election.¹⁶

Second, the ad communicates a message relating to both a “political matter of national importance” and a “controversial issue of public importance” for purposes of the Communications Act and the Commission’s regulations. The ad discusses the balance of power in Congress, labeling the election a “crucial vote,” with “stakes [that] are too high to stay home.”¹⁷ The ad refers to lower taxes, a policy of “national importance” since federal tax rates apply to all Americans.¹⁸

c. WSB-TV failed to disclose the information required by law.

WSB-TV uploaded a number of documents to its online political file for the sale of airtime for “It’s Clear,” including but not limited to: the contract,¹⁹ which discloses rates, dates, and times the ad ran, in compliance with section 315(e)(2)(A)-(D); and the National Association of Broadcasters (NAB) Form PB-18, “Agreement Form for Non-Candidate/Issue Advertisements” (“NAB Agreement”).²⁰

The NAB Agreement provides the space for stations to meet the disclosure requirements of section 315 of the Communications Act. The form asks whether the ad

¹⁶ See Exhibit A.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Exhibit B.

²⁰ See Exhibit C.

communicates a “message relating to any political matter of national importance.” If yes, then the station must, in the next section, disclose the name of the candidate, the office being sought, the date of the election and/or the issue to which the ad refers. The form gives several examples of legislative issues of national importance, including the “Affordable Care Act.”

WSB-TV failed to answer whether “the programming (in whole or in part) communicate[s] ‘a message relating to any political matter of national importance.’”²¹ The following questions for programming that does communicate a message relating to a political matter of national importance were left unanswered. As a result, WSB-TV failed to properly disclose the office being sought by the candidates as well as other information required by law. This constitutes a violation of the Communications Act.

Conclusion

The Communications Act and Commission rules are intended to inform the public about the amount of spending and source of funding when broadcast stations air paid programming concerning candidates, elections, and political matters of public importance. WSB-TV has failed to disclose this important information. Thus, Issue One and Campaign Legal Center respectfully request that the Commission take prompt action to ensure that this information is made available to the public through WSB-TV’s public file. We further request that the Commission take other measures, such as assessing forfeitures and issuing a Public Notice reminding broadcast stations of their obligations, to ensure that this and other broadcast stations include all of the legally required disclosures in the future.

²¹ Exhibit C at 1.

August 21, 2017

Respectfully submitted,



Issue One, by
Meredith McGehee
1401 K Street, NW,
Washington, DC 20005, Suite 350
(202) 888-6820



Campaign Legal Center, by
Brendan M. Fischer
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200

Tyler Cole
Issue One
1401 K Street, NW, Suite 350
Washington, DC 20005
Counsel to Issue One

Brendan Fischer
The Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20002
Counsel to the Campaign Legal Center