

FCC Needs to Reevaluate Meaning of Publicly Available

As the FCC mulls a rule change with major implications for networks and local stations, it needs to evaluate what the word “public” means. Right now, with regards to public disclosure of political ad spending, the interpretation on the books is an embarrassment.

Broadcasters are required to maintain a “public file” with an assortment of information about how they are serving a community. Not much is that interesting, save the logs showing how much political candidates and interest groups pay for ad time.

The detail is striking. At local stations, the exact costs politicians pay for the late news or “Judge Judy” is available. If a pro-Gingrich super PAC were to advertise on “Face the Nation,” CBS would have to make the cost open to public inspection.

But, the information is a pain to access. Interested parties need to call a station or network; make an appointment to visit; then comb through filing cabinets to obtain the oft-confusing log sheets; and pay to make copies.

Broadcasters like the muddle and the hurdles. And they should.

Clearly, there is a competitive advantage to a car dealer or furniture company to be able to view exactly what a candidate is paying for ad time. The transparency can help in future negotiations.

The spirit of the decades-old disclosure rule is rooted in some mix of broadcasters using the public airwaves and public entitlement to insight into how much money is flowing through them.

On one level, it also serves as a check to prevent stations from gouging candidates who need to be on the air. Rules require broadcasters to charge them a lowest unit rate, though there are all kinds of exceptions.

It does give candidates a chance to ensure they aren’t paying huge amounts more than the opposition.

But the FCC should explore a way to ensure candidates are not unduly being taken advantage of on pricing, while limiting the breadth of the disclosure requirement. Painful as it is to argue for less sunshine, buying and selling of ad time is a private transaction.

It is not the government’s role to give one side a possible leg up in an unregulated process. Buying a spot on “Wheel of Fortune” is not paying the home electricity bill.

More reason comes in the famed Citizens United Supreme Court case, which found that corporations can spend as much as they want in political ads under First Amendment protection. Wise or not, that decision effectively privatized political spending. So, why should a company have to disclose how much it chooses to invest?

While political ad watchdogs might want Citizens United overturned, they needn't fear the FCC will move to cut back on the broadcast disclosure requirements. How much Massachusetts Sen. Scott Brown may pay for a spot during a New England Patriots game on Fox this fall will continue to be available.

The FCC is actually considering a type of expansion. It is considering implementing a rule that would require the paper political files be made available online and easily searchable. The FEC has a robust online search engine for candidate contributions, so the FCC would be catching up.

Recently, eight Democratic Senators wrote the FCC chairman lobbying to rapidly make the records available electronically. With the rise of super PACs, they argue making the documents available at "a time of increasing campaign-finance secrecy" is critical.

Networks and station owners have filed their opposition with FCC and argue in part it would cost them considerably more to electronify their records. Clearly, though, they want to consider the darkness. They don't want an ad agency thinking of buying time to be able to run a quick search to find out what a particular spot cost has been going for.

The FCC needs to take a stand and be consistent. If the information is to be made public, it needs to ensure the spirit of that is observed.

Publicly available should mean easily accessible.

It is laughable that an interested party - be it a business looking for a better deal, another candidate monitoring what another is doing, or a journalist - needs to visit a station and scroll through paper these days.

No broadcaster would want its employees spending valuable time doing that when a few clicks of the mouse would offer the same option.