

fully to create monopoly in any line of commerce; nor shall any person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire messages by any cable, wire, telegraph, or telephone line or system (a) between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any other State, Territory, or possession of the United States; or (b) between any place in any State, Territory, or possession of the United States, or the District of Columbia, and any place in any foreign country, by purchase, lease, construction, or otherwise, directly or indirectly acquire, own, control, or operate any station or the apparatus therein, or any system for transmitting and/or receiving radio communications or signals between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such radio station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce.

(June 19, 1934, ch. 652, title III, §314, 48 Stat. 1087.)

Editorial Notes

REFERENCES IN TEXT

For effective date of this chapter, see section 607 of this title.

This chapter, referred to in text, was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 315. Candidates for public office

(a) Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues discussion opportunities

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) bona fide newscast,
- (2) bona fide news interview,
- (3) bona fide news documentary (if the appearance of the candidate is incidental to the

presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Charges

(1) In general

The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

(A) subject to paragraph (2), during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(B) at any other time, the charges made for comparable use of such station by other users thereof.

(2) Content of broadcasts

(A) In general

In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this chapter, unless such reference meets the requirements of subparagraph (C) or (D).

(B) Limitation on charges

If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

(C) Television broadcasts

A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broad-

cast there appears simultaneously, for a period no less than 4 seconds—

- (i) a clearly identifiable photographic or similar image of the candidate; and
- (ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

(D) Radio broadcasts

A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

(E) Certification

Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

(F) Definitions

For purposes of this paragraph, the terms "authorized committee" and "Federal office" have the meanings given such terms by section 30101 of title 52.

(c) Definitions

For purposes of this section—

- (1) the term "broadcasting station" includes a community antenna television system; and
- (2) the terms "licensee" and "station licensee" when used with respect to a community antenna television system mean the operator of such system.

(d) Rules and regulations

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(e) Political record

(1) In general

A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

- (A) is made by or on behalf of a legally qualified candidate for public office; or
- (B) 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.

(2) Contents of record

A record maintained under paragraph (1) shall contain information regarding—

- (A) whether the request to purchase broadcast time is accepted or rejected by the licensee;
- (B) the rate charged for the broadcast time;
- (C) the date and time on which the communication is aired;
- (D) the class of time that is purchased;
- (E) 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);

(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(G) in the case of any other request, 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.

(3) Time to maintain file

The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.

(June 19, 1934, ch. 652, title III, § 315, 48 Stat. 1088; July 16, 1952, ch. 879, § 11, 66 Stat. 717; Pub. L. 86-274, § 1, Sept. 14, 1959, 73 Stat. 557; Pub. L. 92-225, title I, §§ 103(a)(1), (2)(B), 104(c), Feb. 7, 1972, 86 Stat. 4, 7; Pub. L. 93-443, title IV, § 402, Oct. 15, 1974, 88 Stat. 1291; Pub. L. 107-155, title III, § 305(a), (b), title V, § 504, Mar. 27, 2002, 116 Stat. 100, 101, 115.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2)(A), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-155, § 305(a), (b), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted "subject to paragraph (2)," before "during the forty-five days" in par. (1)(A), and added par. (2).

Subsec. (e). Pub. L. 107-155, § 504, which directed addition of subsec. (e) and redesignation of former subsecs. (e) and (f) as (f) and (g), respectively, was executed by adding subsec. (e) to reflect the probable intent of Congress. Section did not contain subsecs. (e) and (f).

1974—Subsec. (c). Pub. L. 93-443, § 402, struck out provisions respecting station use charges upon certification of nonviolation of Federal limitations of expenditures for use of communications media; redesignated former subsec. (f) as (c); incorporated former par. (1)(A) and (B) provisions in clauses designated (1) and (2) and struck out subpar. (C) definition of "Federal elective office" and par. (2) definition of "legally qualified candidate".

Subsec. (d). Pub. L. 93-443, § 402(a), struck out provisions respecting station use charges upon certification of nonviolation of State limitations of expenditures for use of communications media and conditions for application of State limitations and redesignated former subsec. (g) as (d).

Subsecs. (e) to (g). Pub. L. 93-443, § 402(a), struck out subsec. (e) provisions respecting penalties for violations and inapplicability of sections 501 through 503 of this title and redesignated former subsecs. (f) and (g) as (c) and (d).

1972—Subsec. (a). Pub. L. 92-225, § 103(a)(2)(B), inserted "under this subsection" after "No obligation is imposed".

Subsec. (b). Pub. L. 92-225, §103(a)(1), substituted in introductory text “by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office”, for “for any of the purposes set forth in this section”, added par. (1), designated existing provisions as par. (2), inserted therein the opening words “at any other time.” and substituted “by other users thereof” for “for other purposes”.

Subsecs. (c) to (g). Pub. L. 92-225, §104(c), added subsecs. (c) to (f) and redesignated former subsec. (c) as (g).

1959—Subsec. (a). Pub. L. 86-274 provided that appearances by legally qualified candidates on bona fide newscasts, interviews and documentaries and on on-the-spot coverage of bona fide news events shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

1952—Act July 16, 1952, designated existing provisions as subsecs. (a) and (c) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-155, title III, §305(c), Mar. 27, 2002, 116 Stat. 102, provided that: “The amendments made by this section [amending this section] shall apply to broadcasts made after the effective date of this Act [Nov. 6, 2002].”

Amendment by Pub. L. 107-155 effective Nov. 6, 2002 (notwithstanding section 305(c) of Pub. L. 107-155, set out above), but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

REPEALS

Repeal of title I of Pub. L. 92-225, cited as a credit to this section, by Pub. L. 93-443, title II, §205(b), Oct. 15, 1974, 88 Stat. 1278, has been construed as not repealing the amendments to this section made by sections 103(a)(1), (2)(B), and 104(c) of such title I.

REEXAMINATION OF 1959 AMENDMENT; DECLARATION OF CONGRESSIONAL INTENT

Pub. L. 86-274, §2, Sept. 14, 1959, 73 Stat. 557, provided that:

“(a) The Congress declares its intention to reexamine from time to time the amendment to section 315(a) of the Communications Act of 1934 [subsec. (a) of this section] made by the first section of this Act, to ascertain whether such amendment has proved to be effective and practicable.

“(b) To assist the Congress in making its reexaminations of such amendment, the Federal Communications Commission shall include in each annual report it makes to Congress a statement setting forth (1) the information and data used by it in determining questions arising from or connected with such amendment, and (2) such recommendations as it deems necessary in the public interest.”

SUSPENSION OF EQUAL TIME PROVISIONS FOR 1960 CAMPAIGN

Pub. L. 86-677, Aug. 24, 1960, 74 Stat. 554, suspended that part of subsec. (a) of this section, which requires any licensee of a broadcast station who permits any person who is a legally qualified candidate for any public office to use a broadcasting station to afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, for the period of the 1960 presidential and vice presidential cam-

paings with respect to nominees for the offices of President and Vice President of the United States. The Federal Communications Commission was directed to make a report to the Congress, not later than March 1, 1961, with respect to the effect of the provisions of Pub. L. 86-677 and any recommendations the Commission might have for amendments to this chapter as a result of experience under the provisions of Pub. L. 86-677.

§316. Modification by Commission of station licenses or construction permits; burden of proof

(a)(1) Any station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with. No such order of modification shall become final until the holder of the license or permit shall have been notified in writing of the proposed action and the grounds and reasons therefor, and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice.

(2) Any other licensee or permittee who believes its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(3) A protest filed pursuant to this subsection shall be subject to the requirements of section 309 of this title for petitions to deny.

(b) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2), such burdens shall be as determined by the Commission.

(June 19, 1934, ch. 652, title III, §316, as added July 16, 1952, ch. 879, §12, 66 Stat. 717; amended Pub. L. 98-214, §4(a), Dec. 8, 1983, 97 Stat. 1467.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

PRIOR PROVISIONS

A prior section 316 of act June 19, 1934, related to lotteries and similar devices, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1304 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-214, §4(a)(1), (2), designated existing provisions as par. (1), substituted “and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved,