

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In re Petition of )  
 )  
The Christian Broadcasting Network )  
 )  
For Declaratory Ruling )  
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DECLARATORY RULING

Adopted: May 1, 2008

Released: May 1, 2008

By the Assistant Chief, Policy Division, Media Bureau:

1. In this Order, we grant in part a petition for declaratory ruling filed by the Christian Broadcast Network, Inc. (“CBN”), producer of a 60-minute television program entitled “The 700 Club.” This program airs weekdays on 100 television stations in the United States, as well as on the ABC Family Channel cable network, FamilyNet, and Trinity Broadcasting Network.<sup>1</sup> In its petition, CBN asks the Commission to declare that the subject program qualifies in its entirety as a *bona fide* newscast within the meaning of Section 315(a) of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 315(a), or, in the alternative, that the news segments aired on “The 700 Club” qualify as *bona fide* newscasts and the news interview segments qualify as *bona fide* news interviews pursuant to Section 315(a).<sup>2</sup> For the reasons set forth below, we conclude that the newscast and news interview segments of “The 700 Club” qualify for the *bona fide* newscast and news interview exemptions under Section 315(a), respectively, and that these segments conducted on the program are exempt from equal opportunities.

2. Section 315(a) of the Act provides that, if a licensee allows a legally qualified candidate for public office to use a broadcast station, it must afford equal opportunities to other such candidates for that office. Section 315(a) also states, however, that appearances by legally qualified candidates on four categories of *bona fide* news programming, including *bona fide* newscasts (Section 315(a)(1)) and *bona fide* news interviews (Section 315(a)(2)), are exempt from equal opportunities requirements. Congress qualified all four categories of exempt news programming with the term “*bona fide*,” which “was intended to emphasize Congress’ intent that the program be of genuine news value and not be designed to serve the political advantage of any particular candidacy.”<sup>3</sup> In deciding that “Entertainment Tonight”

<sup>1</sup> We note that, subsequent to filing the petition for declaratory ruling, CBN filed a clarification to petition for declaratory ruling to clarify several statements made in the petition (“CBN Clarification”).

<sup>2</sup> 47 U.S.C. § 315(a). See 47 C.F.R. § 73.1941.

<sup>3</sup> *In re Request of Oliver Productions, Inc. For Declaratory Ruling*, 4 FCC Rcd 5953, 5953 (1989), citing *Henry Geller*, 95 FCC 2d 1236 (1983).

qualified as a *bona fide* newscast, the Mass Media Bureau stated that its “role is not to decide, by some qualitative analysis, whether one kind of news story is more *bona fide* than another.” It further stated that, “[s]o long as the program characteristics set out by Congress are met, [its] role is properly limited to determining whether a broadcaster was reasonable in deciding that a program fits within an exemption.”<sup>4</sup>

3. In considering whether the format of a program qualifies as a “*bona fide* newscast,” the Commission considers “whether the program reports news of some area of current events, in a manner similar to more traditional newscasts.”<sup>5</sup> The Commission considers the following factors when determining whether a program qualifies as a “*bona fide* news interview”: (1) whether the program is regularly scheduled; (2) whether the broadcaster or an independent producer controls the program; and (3) whether the broadcaster’s or independent producer’s decisions on format, content, and participants are based on newsworthiness rather than on an intention to advance or harm an individual’s candidacy.<sup>6</sup>

4. CBN states that the entire program meets Section 315(a)(1)’s criteria for a *bona fide* newscast and is, therefore, exempt from the equal opportunities requirements of Section 315(a). It contends that “a major portion and, occasionally a majority, of each program consists of newscasts and news interviews,” and that “[i]t is unquestionable that *The 700 Club* reports news ‘of current events, in a manner similar to more traditional newscasts.’”<sup>7</sup> It asserts that its newscast segments include “anchor readers,” reporter packages and/or interviews. Regarding its news interview segments, CBN states that “all questions are prepared by a CBN employee based upon journalistic news principles, . . . [I]ive guests speaking on news and political subjects are not given advance notice of the questions to be asked,”<sup>8</sup> and interviewees are selected based on newsworthiness and other factors. It further states “that *The 700 Club*, its newscasts and news interviews, are not designed to further any candidate’s campaign, and the appearances of candidates during those newscasts and interviews is designed to inform CBN viewers and not to further any candidate’s campaign.”<sup>9</sup> CBN describes the program as including news segments, as well as “live and taped interviews with guests, special features, music, coverage of financial issues, and religious ministry.”<sup>10</sup> In an attachment to its petition, CBN lists the news topics contained in six airings of *The 700 Club*, indicating that the total news content of these programs ranged in length from 13 minutes, 30 seconds to 18 minutes, 25 seconds.

5. In the event that the Commission does not agree that the entire program should be exempt, CBN argues that the newscast and interview segments of the program should be considered exempt. For reasons already set forth, including that that *The 700 Club* reports news ‘of current events, in a manner similar to more traditional newscasts,’ CBN argues that the newscast segments should be

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<sup>4</sup> *Paramount Pictures Corp.*, 3 FCC Rcd 245, 245-46 (MMB 1988) (“*Entertainment Tonight*”). See Rev. Donald L. Lanier, 37 FCC 2d 952 (B/c Bur. 1972) (granting newscast exemption to a program dealing entirely with current religious news).

<sup>5</sup> *Oliver*, 4 FCC Rcd at 5953, citing *Entertainment Tonight*, 3 FCC Rcd at 246.

<sup>6</sup> *In Re Request of ABC, Inc. For Declaratory Ruling*, 15 FCC Rcd 1355, 1358 (1999).

<sup>7</sup> CBN Petition at 12 quoting *Entertainment Tonight*.

<sup>8</sup> CBN Petition at 5-6. CBN notes, however, that, “for feature interviews, sample questions and the topics to be covered may be discussed in advance [with the live guest] in order for the interview to fit within the time constraints of the show.” *Id.* at 6.

<sup>9</sup> CBN Clarification at 2-3.

<sup>10</sup> CBN Petition at 3.

considered *bona fide* newscasts. CBN also contends that the news interview segments of *The 700 Club* should be considered *bona fide* news interviews because: the news interview segments are regularly scheduled—airing each weekday on a program “in continuous production since 1966”; CBN, an independent producer, “controls all decisions as to format, content, and participants; and those decisions are based on newsworthiness rather than on an intention to advance or harm an individual’s candidacy.”<sup>11</sup>

6. Based on the record before us, we conclude that the newscast portions of the subject program qualify for the *bona fide* newscast exemption under Section 315(a)(1) because they report news of some area of current events, in a manner similar to more traditional newscasts. In addition we conclude that the news interview portions of the subject program qualify for the *bona fide* news interview exemption under Section 315(a)(2) of the Act because they are regularly scheduled; their producer controls them; and the producer’s decisions on format, content, and participants are based on newsworthiness and not on an intention to advance or harm an individual’s candidacy. In addition, we have no evidence before us of bad faith or unreasonableness on the part of CBN. Therefore, appearances by candidates on the aforementioned segments of this program are exempt from the equal opportunities requirements of Section 315(a). In light of these findings, we do not address whether the entire subject program is exempt from Section 315.

7. We note that, whenever a news exemption is sought for an independently produced program, individual “licensees must still make a determination to air individual programs in the exercise of their *bona fide* news judgment.”<sup>12</sup> Accordingly, the licensees of the stations on which the subject program airs remain ultimately responsible for a determination to air a particular program and should not do so for the political advantage of a candidate for public office.<sup>13</sup>

8. Accordingly, CBN’s petition for declaratory ruling IS GRANTED IN PART because we find that the newscast portions of the program and the news interview portions of the program qualify for the *bona fide* newscast exemption and the *bona fide* news interview exemption, respectively, under Section 315(a).

FEDERAL COMMUNICATIONS COMMISSION

Robert L. Baker  
Assistant Chief  
Policy Division  
Media Bureau

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<sup>11</sup> CBN Petition at 2, 13.

<sup>12</sup> *Request for Declaratory Ruling on Independently Produced News Interviews*, 7 FCC Rcd 4681, 4685 (1981).

<sup>13</sup> *Id.*