

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

In re Request of)
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Telepictures Productions Inc.)
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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 a request for declaratory ruling filed by Telepictures Productions Inc. (“Telepictures”), co-producer of a television program entitled “TMZ.”¹ Telepictures states that this program airs every weekday for 30 minutes and also airs in a 60-minute format on weekends. It states that “TMZ,” a series based on TMZ.com (an online entertainment news source), airs on all Fox-owned broadcast television stations. In its request, Telepictures asks the Commission to declare that the subject program qualifies as a *bona fide* newscast and, is therefore, exempt from the equal opportunities provisions of Section 315 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 315.

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)), 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.”² In deciding that “Entertainment Tonight” (and its 60-minute weekend version “Entertainment This Week”) qualified as a *bona fide* newscast in 1988, 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

¹ Telepictures Request for Declaratory Ruling (July 18, 2007) (“Telepictures Request”). At the time the request was filed, “TMZ” was in the planning stage. On March 7, 2008, counsel for Telepictures submitted a supplement to its request stating that the show had begun broadcasting on September 10, 2007, and is now being aired by 242 stations.

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

met, [its] role is properly limited to determining whether a broadcaster was reasonable in deciding that a program fits within an exemption.”³

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.”⁴ Telepictures states that “TMZ” meets the Section 315(a)(1) criteria for a *bona fide* newscast and is, therefore, exempt from the equal opportunities requirements of Section 315(a). It contends that, like “Entertainment Tonight” and “Entertainment This Week,” “the TMZ weekday and weekend broadcasts...constitute ‘respectively 30 and 60-minute programs in a newscast format, incorporating news interviews, news documentaries, and on-the-spot coverage of entertainment news events...in addition to...regular up-to-the-minute coverage of late-breaking entertainment news.’”⁵ Telepictures also states that stories on “TMZ” are “selected by the show’s producers based on determinations of newsworthiness, and not for the purposes of advancing or harming any candidate for public office.”⁶

4. Based on the record before us, we conclude that “TMZ” does qualify as a *bona fide* newscast because it reports news of some area of current events, in a manner similar to more traditional newscasts. In addition, we have no evidence before us of bad faith or unreasonableness on the part of Telepictures. Therefore, appearances by candidates on “TMZ” are exempt from the equal opportunities requirements of Section 315(a).

5. 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.”⁷ 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.⁸

³ *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). See also *In Re Request of TTT West Coast, Inc. For Declaratory Ruling*, 9 FCC Rcd 6168 (MMB1994) (program “Extra” found to be *bona fide* newscast exempt from equal opportunities provision).

⁴ *Oliver*, 4 FCC Rcd at 5953, citing *Entertainment Tonight*, 3 FCC Rcd at 246.

⁵ Telepictures Request at 2 quoting *Entertainment Tonight*.

⁶ Telepictures Request at 2.

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

⁸ *Id.*

6. Accordingly, Telepicture's request for declaratory ruling IS GRANTED because we find that "TMZ" qualifies for the *bona fide* newscast exemption under Section 315(a)(1).

FEDERAL COMMUNICATIONS COMMISSION

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