

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

In the Matter of Complaints Involving the Political Files of
WCNC-TV, Inc., licensee of Station WCNC-TV, Charlotte, NC
Scripps Media, Inc., licensee of Station KMGH-TV, Denver, CO
Fox Television Stations, Inc., licensee of Station KMSP-TV, Minneapolis, MN
New World Communications of Tampa, Inc., licensee of Station WTVT(TV), Tampa, FL
Media General Communications Holdings, LLC, licensee of Station WFLA-TV, Tampa, FL
NBC Telemundo License, LLC, licensee of Station WTVJ(TV), Miami, FL
WTVD Television, LLC, licensee of Station WTVD(TV), Durham, NC
CBS Broadcasting, Inc., licensee of Station WWJ-TV, Detroit, MI
Scripps Media, Inc., licensee of Station KNXV-TV, Phoenix, AZ
Hearst Properties, Inc., licensee of Station WMUR-TV, Manchester, NH; and
Graham Media Group, Michigan, Inc., licensee of Station WDIV-TV, Detroit, MI

MEMORANDUM OPINION AND ORDER

Adopted: January 6, 2017

Released: January 6, 2017

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order (Order), we resolve 11 complaints that were filed jointly by Campaign Legal Center and Sunlight Foundation (Complainants) against each of the

captioned commercial television broadcast station licensees.¹ The complaints allege that the licensees violated Section 315(e) of the Communications Act of 1934, as amended (the Act), and/or Section 73.1212(e) of the Commission's rules,² by failing to maintain certain information in their political files. Because the complaints raise similar issues, we consolidate our consideration of them.

2. Before addressing the individual complaints, we clarify certain disclosure obligations that the Act and the Commission's rules impose on broadcast licensees with respect to the purchase of broadcast time by legally qualified candidates for elective office and issue advertisers.³ We believe this guidance will facilitate licensees' compliance with the political file requirements and improve public access to information about political matters of national importance. Specifically, we clarify that:

- For each request to purchase broadcast time that triggers disclosure obligations under Section 315(e)(1)(B) of the Act, licensees must include in their political files the names of *all* candidates (and the offices to which they are seeking election), *all* elections, and *all* national legislative issues of public importance to which the communication refers.
- Under Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules, licensees must disclose *all* of the chief executive officers or members of the executive committee or board of directors of any person seeking to purchase broadcast time under Section 315(e)(1)(B). In cases where a station initially is given the name of a single official of a sponsoring entity, or otherwise has a reasonable basis for believing that the information initially provided is incomplete or inaccurate, the station is obligated to inquire whether there are any other officers or members of the executive committee or of the board of directors of such entity.
- We will consider context in determining whether an advertisement constitutes a "political matter of national importance" that triggers record-keeping obligations under Section 315(e)(1)(B) of the Act. A broadcast message must be "political" in nature and must be of "national importance" to trigger a licensee's record-keeping obligations under Section 315(e)(1)(B). For purposes of Section 315(e)(1)(B), an issue need not be subject to pending or proposed legislation in order to be considered a "national legislative issue of public importance." This term also encompasses other political issues that are the subject of continuing controversy or discussion at the national level.

3. Although some of the above-captioned licensees failed to make disclosures in a manner that was consistent with these clarifications, we do not take enforcement action with respect to those instances. We place entities subject to these requirements on notice that, going forward, they will be subject to enforcement action for willful and/or repeated failure to comply with their political file obligations, as clarified here. In addition, we admonish the licensees of nine stations for their willful and/or repeated violations of Section 315(e) of the Act for actions not implicated by the clarifications we

¹ Complaints filed by Campaign Legal Center and Sunlight Foundation on May 1, 2014. Each of the captioned licensees filed an Answer on May 27, 2014, and Complainants submitted a Consolidated Reply on June 3, 2014.

² 47 U.S.C. § 315(e); 47 CFR § 73.1212(e).

³ Several parties in this proceeding have asserted that the political file requirements are vague and that the Commission thus should issue a Public Notice or other advisory clarifying those requirements. KMSP-TV Answer at 3-4; WTVD(TV) Answer at 4; WTVT(TV) Answer at 3-4. Because we clarify those requirements herein, we find that no further action to clarify them is warranted at this time.

make in this Order.⁴

II. BACKGROUND

4. Broadcast licensees have long been required by the Communications Act and the Commission's rules to maintain political files for public inspection.⁵ The information in political files enables the public to obtain information about sponsoring entities and to verify that licensees have complied with their obligations relating to use of their broadcast facilities by candidates for political office and by others for specified political purposes.⁶

5. Section 315(e) of the Act requires licensees to maintain political files for certain types of advertisements. Specifically, pursuant to Section 315(e)(1):

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.⁷

As to each such request, Section 315(e)(2) requires broadcast licensees to place in their political files the following information:

- (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;

⁴ Those stations are KMSP-TV (Minneapolis, MN); WTVT(TV) (Tampa, FL); WFLA-TV (Tampa, FL); WTVJ(TV) (Miami, FL); WTVD(TV) (Durham, NC); WWJ-TV (Detroit, MI); KNXV-TV (Phoenix, AZ); WMUR-TV (Manchester, NH); and WDIV-TV (Detroit, MI).

⁵ Although the instant complaints involve only broadcast licensees, we note that the obligation to maintain political files for public inspection also applies to cable television system operators engaged in origination cablecasting (*see* 47 CFR § 76.1701); Direct Broadcast Satellite providers (*see* 47 CFR § 25.701(d)); and satellite radio licensees (*see* 47 CFR § 25.702(b)). The guidance provided in this Order is intended to assist all such entities in complying with their political file record-keeping obligations.

⁶ *In the Matter of Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691 (1998).

⁷ 47 U.S.C. § 315(e)(1). Congress adopted the current version of Section 315 as part of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81 (2002), which was signed into law in 2002. The BCRA, among other things, amended Section 315 by codifying the Commission's already-existing record-keeping requirements for any request to purchase broadcast time that "is made on or behalf of a legally qualified candidate for public office." The BCRA further amended Section 315 by expanding record-keeping requirements to include 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." *Id.*

- (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.⁸

6. In addition, Section 315(e)(3) of the Act provides, among other things, that “[t]he information required by [Section 315(e)] shall be placed in a political file as soon as possible.”⁹ Section 73.1212(e) of the Commission’s rules requires that, when a station broadcasts material that is “political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, 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.”¹⁰

7. All of the stations subject to the complaints we resolve in this Order are within the top 50 Designated Market Areas and are owned by or affiliated with one of the four major television broadcast networks. The stations, therefore, were required to place their political records in a Commission-hosted online public file beginning August 2, 2012.¹¹

III. DISCUSSION

A. Standing

8. Before addressing the merits of the complaints, we resolve the threshold procedural issue of whether Complainants have legal standing to bring the complaints.¹² The licensees of stations

⁸ 47 U.S.C. § 315(e)(2).

⁹ *Id.* § 315(e)(3).

¹⁰ 47 CFR § 73.1212(e). *See also id.* § 73.1943.

¹¹ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535 (2012) (*Enhanced Disclosure Order*). In addition to broadcast television licensees, the Commission requires broadcast radio licensees, Direct Broadcast Satellite providers, and Satellite Digital Audio Radio Services to upload their political files to the Commission’s online database. *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526 (2016) (*Expanded Online File Order*); *Effective Date Announced for Expanded Online Public Inspection File Database*, Public Notice, DA 16-536, rel. May 12, 2016.

¹² In general, standing refers to a complainant’s direct interest in the matter that is the subject of the complaint. *Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities*, WT Docket No. 96-198, Notice of Proposed Rulemaking, 13 FCC Rcd 20391, 20457, n.261 (1998). *See also* *Petition for Rulemaking to Establish Standards for Determining the Standing of a Party to Petition to Deny a Broadcast Application*, Memorandum Opinion and Order, 82 F.C.C.2d 89, 95–96 (1980) (“[T]o establish standing a litigant must allege a threatened or actual injury to himself, whether economic, aesthetic or otherwise, that is likely to be prevented or redressed by a favorable decision. So long as these requirements are satisfied, persons to whom Congress has granted a right of action may have standing to seek relief on the basis of the legal rights of others, and indeed, may invoke the general public interest in support of their claim.”) (citations omitted).

WTVT(TV) and KMSP-TV assert that the complaints against them are defective because Complainants have not demonstrated that they would be harmed by any failure of the stations to comply with the political file rules. In particular, they contend that the online public file requirements were intended to allow consumers to more easily locate the political and public files of stations within their viewing area and to access in one location information about all broadcast stations within a viewer's market.¹³ Because Complainants are not consumers within either station's viewing area, they assert, "the advertisement at issue was not intended to be viewed by Complainants and the Complaint should not serve as the basis for any FCC action."¹⁴

9. We conclude that Complainants have standing to bring the complaints. In contrast to contexts in which Congress or the Commission has established specific standing requirements,¹⁵ nothing in the Act, the Commission's public file rules, or Commission precedent requires a complainant to demonstrate that he or she resides within a station's viewing area to file a complaint for violation of the political file rules. As noted above, Section 315(e)(1) of the Act requires licensees to maintain, and make available "for public inspection," records of certain requests to purchase broadcast time.¹⁶ Because such records must be kept for inspection by the general public, and nothing in Section 315(e)(1) expressly limits the scope of entities entitled to bring complaints, we believe that Congress intended to permit any interested member of the public, including persons located outside of a station's market, to bring complaints for alleged violations of Section 315's record-keeping requirements.

10. In addition, we find that accepting complaints only by consumers within a station's viewing area would hinder the Commission's ability to ensure that stations are complying with the political and public file requirements and are properly discharging their duty to operate in the public interest.¹⁷ This conclusion is consistent with the Commission's previous determination that a station's public file not only serves members of a broadcast station's community of license, but also is "a tool for the larger media policy community," including "public advocacy groups, journalists, and researchers" who "act in part as surrogates for the viewing public in evaluating and reporting on broadcast stations' performance."¹⁸ A station's failure to comply with the political and public file rules could impede the

¹³ WTVT(TV) Answer at 3 n.8; KMSP-TV Answer at 3, n.8.

¹⁴ *Id.*

¹⁵ For example, the Commission has established standards by which consumers may qualify as parties-in-interest with standing to file a petition to deny a license application under Section 309(d)(1) of the Act. *See, e.g., Applications for Consent to Transfer of Control from License Subsidiaries of Allbritton Communications Co. to Sinclair Television Group, Inc.*, MB Docket No. 13-203, Memorandum Opinion and Order, 29 FCC Rcd 9156, 9162 (MB 2014).

¹⁶ 47 U.S.C. § 315(e)(1). *See also* 47 CFR § 73.1212(e) (requiring, among other things, that licensees "[make] available for public inspection" a list of the chief executive officers or other specified officials) (emphasis added).

¹⁷ *Id.*

¹⁸ *Enhanced Disclosure Order*, 27 FCC Rcd at 4545. *See also Expanded Online File Order*, 31 FCC Rcd at 528, para. 5 ("To provide the public with access to information about station operations, the Commission's rules have long required television and radio broadcast stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations. The purpose of the public inspection file requirement is to 'make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.'") (emphasis added). In an analogous case involving the Commission's broadcast contest rule, the Commission's Enforcement Bureau rejected a radio station's argument that only those individuals residing within a station's listening area have standing to file a complaint. *See CBS Radio Inc. of Philadelphia, Licensee of Station WIP(AM), Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 24 FCC Rcd 10993 (EB 2009). The Enforcement Bureau found that "the contest rule is designed to protect the general public" from

efforts of public interest or research groups to analyze information and report on how local stations serve their communities, to the detriment of the public. Complainants Campaign Legal Center¹⁹ and Sunlight Foundation²⁰ are among the entities the political and public file requirements are intended to serve.²¹ For these reasons, we find that Complainants have standing to bring the complaints.

B. Clarification of Political File Requirements

11. We clarify below certain disclosure obligations that the Act and/or the Commission's rules impose on broadcast licensees with respect to requests for the purchase of broadcast time by legally qualified candidates for elective office and issue advertisers.²² The complaints generally allege that the licensees failed to meet their obligations under Section 315(e)(2) of the Act and/or Section 73.1212(e) of our rules. Resolution of the complaints turns on the appropriate interpretation of those provisions, and the record reveals that parties have varying interpretations about the nature and extent of the obligations that they impose. Accordingly, we take this opportunity to clarify those obligations.²³ In so doing, we place licensees on notice that, going forward, they will be subject to enforcement action for willful and/or repeated failure to comply with their political file disclosure obligations, as clarified here.

1. Contents of Political Records Required by Section 315(e)(2)(E)

12. We clarify that, for each request to purchase broadcast time that triggers disclosure obligations under Section 315(e)(1), licensees are required, pursuant to Section 315(e)(2)(E), to include in their political record the names of *all* candidates (and the offices to which they are seeking election), *all* elections, and *all* national legislative issues of public importance to which the communication refers. Complainants maintain that Section 315(e)(2)(E) requires licensees to include all of these categories of information in their political records for each relevant request for air time and that several of the licensees failed to satisfy this obligation.²⁴ By contrast, licensees argue that the language of Section 315(e)(2)(E) indicates that Congress intended to afford licensees the discretion to selectively identify in their political record any one -- but not necessarily all -- of the categories of information listed in that provision.²⁵ As discussed below, we find that the text and design of Sections 315(e)(1) and (e)(2) support a broader

false or misleading contests and “does not preclude any member of the public from filing a complaint if they have information establishing that a contest rule violation has occurred.” *Id.* at 10994-95.

¹⁹ The Campaign Legal Center is a “nonpartisan, nonprofit organization that promotes awareness and enforcement of political broadcasting laws” whose mission is “to represent the public interest in the enforcement of media and campaign laws.” KMGH-TV Complaint at 1. Through public education, advocacy for federal rulemaking proceedings, and congressional action, the Campaign Legal Center “seeks to shape political broadcasting policies and promote effective enforcement of the public interest obligations of the media.” *Id.*

²⁰ The Sunlight Foundation is a “nonpartisan nonprofit that advocates for open government globally and uses technology to make government more accountable to all.” *Id.* at 2. The foundation seeks to accomplish these goals “by building tools that empower democratic participation and by working with policymakers and civil society organizations to employ a technology-centric and transparency-oriented approach to their work.” *Id.*

²¹ *Supra* n. 18.

²² We note that the requirements clarified in this section are alleged to have been violated by one or more licensees.

²³ As noted above, we do not take enforcement action in instances in which one or more of these licensees has failed to satisfy a requirement that we clarify in this Order.

²⁴ Complainants' Consolidated Reply at 2-3 (claiming that certain licensees disclosed the legally qualified candidates referenced in advertisements that they broadcast, but not other political matters of national importance referenced in those ads).

²⁵ WCNC-TV Answer at 2; WTVD(TV) Answer at 3-4; KMSP-TV Answer at 3; WDIV-TV Answer at 2; WWJ-TV Answer at 2, n.1; WFLA-TV Answer at 3-4.

interpretation that favors disclosure.

13. As a threshold matter, we note that Section 315(e)(1)(B) requires licensees to maintain a record of requests for broadcast time that “communicate[] a message relating to *any* political matter of national importance,”²⁶ including (i) a legally qualified candidate;²⁷ (ii) any election to Federal office;²⁸ or (iii) a national legislative issue of public importance.²⁹ As to each such request, Section 315(e)(2) requires broadcast licensees to place in their record certain information specified in Section 315(e)(2), including information identified in Section 315(e)(2)(E).³⁰ Section 315(e)(2)(E) states that the contents of a licensee’s record must include “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).”³¹ The three categories listed in that provision (i.e., candidate/election/issue) mirror the three kinds of messages listed in Section 315(e)(1)(B) that trigger Section 315(e)(2)(E)’s record-keeping requirement.³²

14. Based on the language and structure of the statute, we interpret Section 315(e)(2)(E) to require that, in cases in which a political broadcast message includes references to more than a single candidate, election, and/or issue, a licensee must disclose all such references that apply.³³ Because, as noted above, the record-keeping requirements in Section 315(e)(2)(E) are triggered by a request to purchase broadcast time that communicates any one of three kinds of messages listed in Section 315(e)(1)(B), the record that licensees are required to maintain under Section 315(e)(2)(E) must reflect the type of request made. Thus, for example, if the request to purchase broadcast time communicates a message relating to a “legally qualified candidate,”³⁴ then under Section 315(e)(2)(E), the record must contain “the name of the candidate to which the communication refers and the office to which the candidate is seeking election.”³⁵ Similarly, if the request to purchase broadcast time communicates a message relating to an “election to Federal office,”³⁶ then under Section 315(e)(2)(E), the record must contain information regarding “the election to which the communication refers.”³⁷ And if the request to purchase broadcast time communicates a message relating to “a national legislative issue of public importance,”³⁸ then under Section 315(e)(2)(E), the record must contain information regarding “the issue

²⁶ 47 U.S.C. § 315(e)(1)(B) (emphasis added).

²⁷ *Id.* § 315(e)(1)(B)(i).

²⁸ *Id.* § 315(e)(1)(B)(ii).

²⁹ *Id.* § 315(e)(1)(B)(iii).

³⁰ *See id.* § 315(e)(2)(A)-(E), (G).

³¹ Section 315(e)(2) prescribes the content of the political record for each request to purchase broadcast time that triggers disclosure obligations under Section 315(e)(1). *Id.* § 315(e)(1), (e)(2). The type of “issues” to which Section 315(e)(2)(E) refers are those involving “national legislative issues of public importance,” as referenced in Section 315(e)(1)(B)(iii).

³² *Compare* 47 U.S.C. § 315(e)(2)(E) *with* 47 U.S.C. § 315(e)(1)(B).

³³ Complainants’ Consolidated Reply at 2-3 (arguing that the phrase “as applicable” means that “stations must disclose the candidate, election, or issue in its political file *as each portion of the section applies* to the ad in question”) (emphasis in original).

³⁴ 47 U.S.C. § 315(e)(1)(B)(i).

³⁵ *Id.* § 315(e)(2)(E).

³⁶ *Id.* § 315(e)(1)(B)(ii).

³⁷ *Id.* § 315(e)(2)(E).

³⁸ *Id.* § 315(e)(1)(B)(iii).

to which the communication refers.”³⁹ We believe that use of the conjunction “or” in Section 315(e)(2)(E), coupled with the parenthetical “as applicable,” reflects Congress’s intent that the nature of the record should reflect the type of message that triggered the record-keeping requirement. Consistent with this interpretation, if the relevant request is for broadcast time that communicates a message relating to more than one type of political matter of national importance specified in Section 315(e)(1)(B), then the licensee’s record similarly must contain information concerning all of the types of messages communicated that are covered by the statute, “as applicable.”⁴⁰

15. We are not persuaded that the language of Section 315(e)(2)(E) compels a more limited interpretation of licensees’ obligations. Some licensees argue, for example, that because the items listed in Section 315(e)(2)(E) are connected by the word “or,” rather than “and,” those items represent alternatives, and that a licensee satisfies its Section 315(e)(2)(E) obligation by including in its political record any one of those listed items.⁴¹ We disagree with this interpretation. Although use of the word “or” in a statute typically carries a disjunctive meaning, the parallel language in Sections 315(e)(1)(B) and (e)(2)(E), together with Congress’s inclusion of the phrase “as applicable” in Section 315(e)(2)(E), lead us to adopt a different interpretation here. In particular, based on the text and design of Section 315(e)(1), we find that use of the word “or” in Section 315(e)(2)(E) was intended to signify that a licensee need only maintain a record of the information relevant to the particular triggering message. Thus, for example, if the triggering message relates only to a national legislative issue of public importance,⁴² then the licensee would be required to maintain in its record only information relating to that issue; it would not need to maintain information concerning a candidate or an election because neither is mentioned in the ad. We, therefore, agree with Complainants that Congress’s use of the word “or” was intended to account for the fact that not all messages subject to Section 315’s record-keeping requirements will mention a candidate, an election, and an issue.⁴³ Moreover, we conclude that the reading of Section 315(e)(2)(E) urged by licensees would be at odds with Congress’s directive that licensees disclose all “applicable” references to candidates (and their offices), elections, and/or issues to which the triggering message refers.

16. We also find that interpreting the statute to afford licensees the discretion to choose what information they will disclose under Section 315(e)(2)(E) would undermine the requirement that licensees maintain, and make publicly available, a “complete” record of certain requests to purchase broadcast time.⁴⁴ Under licensees’ interpretation, for example, a licensee that receives a request to purchase broadcast time that communicates messages relating to both a legally qualified candidate and a national legislative issue of public importance (such as proposals to balance the federal budget) could discharge its Section 315(e)(2)(E) obligation by keeping a record indicating that the relevant message related to balancing the federal budget, yet omitting the name of the candidate mentioned and the office sought by that candidate. We reject that interpretation. We believe that the more reasonable reading of Section 315(e)(2)(E) is that it requires licensees to identify in its record each and every category of information that is implicated by the message communicated (as signified by the phrase “as applicable”). As explained above, we are not persuaded that the word “or” was intended to authorize licensees to choose what information to include in their records. We agree with Complainants that such an interpretation of

³⁹ *Id.* § 315(e)(2)(E).

⁴⁰ *Id.* § 315(e)(2)(E).

⁴¹ *See e.g.*, WCNC-TV Answer at 2. *See also* WDIV-TV Answer at 2 (asserting that “use of the disjunctive indicates alternatives and requires [that the listed items] be treated separately unless such a construction renders the provision repugnant to the Act”).

⁴² 47 U.S.C. § 315(e)(1)(B)(iii).

⁴³ Complainants’ Consolidated Reply at 2, n.4.

⁴⁴ 47 U.S.C. § 315(e)(1).

Section 315(e)(2)(E)'s obligations could "mislead and misinform the public" by reducing the amount of information available about political broadcast messages.⁴⁵ No licensee has argued otherwise or put forth policy reasons that would support their interpretation of Section 315(e)(2)(E).

17. We also are not persuaded that, because each of the items listed in Section 315(e)(2)(E) is written in the singular tense, the Commission must construe that provision as requiring licensees to identify in their political record only one item from any of the three categories, even if a broadcast message references multiple candidates, elections, and/or issues.⁴⁶ Under basic canons of statutory construction, the use of singular tense generally includes the plural tense, and vice versa.⁴⁷ We find nothing to suggest that Congress intended a different result here. Thus, the fact that Section 315(e)(2)(E) is written in the singular tense is not dispositive of the question whether *all* of the categories listed in that provision must be identified in a licensee's record.

18. Finally, we are not convinced by the arguments of some licensees that requiring disclosure of all candidates, elections and issues referenced in each political broadcast message would be too onerous.⁴⁸ We find that requiring stations to make all such information, as applicable, available to the public is reasonable and not unduly burdensome for licensees. We note that licensees already are obligated to review the content of programming covered by Section 315(e) to confirm that information furnished by advertisers is complete.⁴⁹ Additionally, most advertisements, even those that cover multiple categories, are typically only 30 or 60 seconds in duration. Thus, reviewing the content of such ads for the purpose of identifying all candidates, elections, and issues, as applicable, would not be unduly burdensome for licensees. In any event, given that Section 315(e)(2)(E) requires licensees to identify all candidates, elections and/or issues, as applicable, we do not have discretion to permit licensees to provide less than the statutorily-required information.

19. Based on the above reasoning, we interpret Section 315(e)(2)(E) to require that licensees include in their political records: (i) the names of all candidates referenced in the broadcast message; (ii) the respective offices to which all such candidates are seeking election; (iii) all elections referenced in the broadcast message; and (iv) all national legislative issues of public importance referenced in such message. We find that this interpretation best achieves Congress's directive that licensees maintain "complete" political records containing all applicable information, and will most effectively ensure public access to comprehensive information memorializing the contents of each political broadcast message.

2. List of Officers or Other Officials Required by Section 315(e)(2)(G)

20. We clarify that Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the

⁴⁵ Complainants' Consolidated Reply at 3.

⁴⁶ See, e.g., WTVD(TV) Answer at 3-4.

⁴⁷ See 1 U.S.C. § 1; *Public Citizen, Inc. v. Mineta*, 340 F.3d 39, 54 (2d Cir. 2003).

⁴⁸ See, e.g., WTVD(TV) Answer at 3-4 (asserting that it would be impractical and inappropriate to impose on broadcasters the obligation to identify and describe every "political issue of national importance" to which a broadcast message refers because "political advertisements often include quick references to a myriad of issues and votes").

⁴⁹ For example, in order to ensure that they provide appropriate on-air sponsorship identification, licensees must necessarily review candidate and issue advertisements that they intend to broadcast. See 47 U.S.C. § 317 (requiring the licensee to identify, at the time of broadcast, those who furnished or paid for the broadcast, and exercise reasonable diligence to obtain from its employees information necessary to enable the licensee to make the required announcement); 47 CFR § 73.1212 (requiring the licensee that receives consideration for transmitting any matter to "fully and fairly disclose the true identity" of the person(s) or entity whom or for whom the consideration was supplied, and to exercise reasonable diligence in obtaining such information from its employees in order to make the announcement).

Commission's rules⁵⁰ require broadcast licensees to maintain a record that identifies, among other things,⁵¹ *all* of the chief executive officers or members of the executive committee or board of directors of any person seeking to purchase broadcast time under Section 315(e)(1)(B). The record reflects that parties have differing views of the obligations that these provisions impose on broadcast licensees. Although no party disputes that Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules require licensees to maintain a list of specified officials of the sponsor in their political files,⁵² at least one party suggests that those provisions impose no obligations on licensees beyond disclosing the information supplied by sponsoring entities.⁵³ Under that interpretation, if the sponsor provides the name of only one executive officer or board member, disclosure of that name suffices for purposes of these provisions. By contrast, Complainants assert that licensees are obligated to obtain the requisite information in cases where material provided by a sponsoring entity is insufficient.⁵⁴

21. Section 315(e)(2)(G) provides, with respect to requests for broadcast time other than those made by or on behalf of candidates, that a licensee shall maintain "a list of the chief executive officers or members of the executive committee or of the board of directors of" the entity requesting broadcast time.⁵⁵ In addition, Section 73.1212(e) of our rules provides that:

[w]here material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, the station shall . . . [make available for public inspection] 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. . . .⁵⁶

22. Given that Section 315(e)(2)(G) of the Act and Section 73.1212(e) of our rules expressly require that licensees maintain a "list" of specified officials, we conclude that, in cases where a licensee initially is given the name of a single official of a sponsoring entity,⁵⁷ or otherwise has a reasonable basis for believing that the information initially provided is incomplete or inaccurate, the licensee has an obligation to inquire whether there are any other officers or members of the executive committee or of the

⁵⁰ 47 U.S.C. § 315(e)(2)(G); 47 CFR § 73.1212(e).

⁵¹ Section 315(e)(2)(G) also requires licensees to disclose the name and certain contact information for the sponsoring entity. 47 U.S.C. § 315(e)(2)(G). None of the instant complaints alleged that any station failed to provide this additional information, and we believe that the requirement to provide such information is self-explanatory and requires no clarification.

⁵² A few licensees that are alleged to have violated these provisions by identifying only one official concede that their disclosure failed to meet the requirement to maintain a list. *See, e.g.*, KMGH-TV Answer at 1; KNXV-TV Answer at 1; WWJ-TV Answer at 2.

⁵³ WFLA-TV Answer at 4 (asserting that because the Federal Election Commission generally requires only one named officer to form a political action committee, the station had no way of knowing whether there were any other officials that needed to be disclosed, and that under Commission precedent, broadcasters are not obligated to act as "private investigators" to determine the identity of officers and directors).

⁵⁴ Complainants' Consolidated Reply at 4 ("The treasurer is not the chief executive officer, nor does identifying the treasurer constitute a *list* of members of the executive committee or of the board of directors.") (emphasis in original).

⁵⁵ 47 U.S.C. § 315(e)(2)(G).

⁵⁶ 47 CFR § 73.1212(e).

⁵⁷ For example, Complainants allege that Station WFLA-TV failed to meet its disclosure obligation under these provisions by maintaining in its political file only the name of the treasurer of the entity that purchased broadcast time. WFLA-TV Complaint at 7.

board of directors of such entity. We note that one of the principal purposes of the Bipartisan Campaign Reform Act of 2002, which expanded Section 315's record-keeping requirements, was "to promote the free and swift flow of information to the public regarding the activities of groups and individuals in the political process."⁵⁸ We find that requiring licensees to undertake reasonable efforts to ensure complete and accurate disclosure of the sponsoring entity's officials in the political file will best achieve Congress's goals in enacting BCRA by enabling the public to access information about broadcast political ads specifically identified in the statute.

23. Although some licensees argue that they are required to identify in their political files only those individuals whose names have been provided to them,⁵⁹ we believe the requirement that licensees maintain a "list" of specified officials obligates stations to inquire further in cases where the station has a reasonable basis for believing that the information provided appears to be incomplete, e.g., where the name of only one official has been supplied. Because Congress in BCRA amended Section 315 to require that licensees maintain specific information in their records, we find it reasonable to conclude that it intended to impose on licensees an obligation to take certain steps to obtain that information. We also find that requiring licensees to make this follow-up inquiry is not unduly burdensome, and is necessary to discharge their statutory duty to maintain a "list" of the required information.⁶⁰ For example, in cases where a purchaser of broadcast time has provided the name of only one official, licensees may discharge their obligation by asking the purchaser whether there are other officials of the sponsoring entity that must be identified under Section 315(e)(2)(G) of the Act and Section 73.1212(e) of our rules, or, alternatively, by informing the purchaser as to which officials must be identified under those provisions and asking it to provide that information. We note that under Section 315(e)(1), the responsibility to maintain the list of officials resides with licensees, not advertisers.⁶¹ Thus, the onus is on licensees to make reasonable efforts to obtain that information, regardless of whether the purchaser affirmatively has supplied such information.

24. We reject the suggestion that imposing the requirement above would improperly place stations in the role of "private investigators" contrary to Commission precedent.⁶² Media General Communications Holdings, LLC, the licensee of Station WFLA-TV contends, for example, that, "absent a claim that the listed officer/director information is incomplete or incorrect, stations have not been obligated to research issue group executive leadership."⁶³ Under our interpretation of Section

⁵⁸ Statement by President George W. Bush Upon Signing H.R. 2356, <http://www.presidency.ucsb.edu/ws/?pid=64503> (visited Dec. 13, 2016) (stating that the legislation creates new disclosure requirements that will provide the public with more accurate and timely information about the source of campaign contributions).

⁵⁹ See, e.g., WFLA-TV Answer at 4. Based on the record, it appears that a few licensees subject to complaints disclosed only one official, and that the official disclosed did not represent the complete list of officials required to be disclosed under the Act and the Commission's rules. See, e.g., KMGH-TV Answer at 1; KNXV-TV Answer at 1.

⁶⁰ 47 U.S.C. § 315(e)(2)(G); 47 CFR § 73.1212(e) (both requiring that licensees maintain and make publicly available a "list").

⁶¹ 47 U.S.C. § 315(e)(1) (providing that "a licensee shall maintain, and make available for public inspection" certain records) (emphasis added). See also Complainants' Consolidated Reply at 4 (asserting that Section 315 imposes the disclosure burden on licensees, not advertisers, and that if information supplied by an advertiser is insufficient, then it is the station's responsibility to obtain the requisite information).

⁶² WFLA-TV Answer at 4, citing *Trumper Communications of Portland, Ltd.*, 11 FCC Rcd 20415, 20417 (MB 1996) (asserting that *Trumper* supports interpreting the relevant provisions as not requiring stations to act as private investigators in an effort to identify every officer or director of an entity purchasing programming that communicates a political matter of national importance).

⁶³ WFLA-TV Answer at 4.

315(e)(2)(G) of the Act and Section 73.1212(e) of our rules, licensees need not conduct independent research to identify all of the officials of a sponsoring entity. Rather, as noted above, licensees must make a simple inquiry of the purchaser in cases where the purchaser has identified only one official of the sponsoring entity, or where the licensee has a reasonable basis for believing that the information initially provided is incomplete or inaccurate (e.g., where the licensee has sold time to the same purchaser in the past and the information now provided by the purchaser is inconsistent with its prior buys).

25. If, after such further inquiry, a licensee is provided with the names and titles of additional officials, it must identify those persons and their titles in its political file. We acknowledge that in some cases a sponsoring entity may in fact have only one officer or other official in the specified categories. In such instances, *after* the licensee has made the additional inquiry discussed above, we believe that the licensee will have satisfied its obligation to provide the “list” required by Section 315(e)(2)(G) of the Act and Section 73.1212(e) of our rules by identifying the one official, even if the purchaser has failed to supply a complete list of officials in response to the licensee’s further inquiry.⁶⁴

3. Political Matters of National Importance under Section 315(e)(1)(B)

26. For the purpose of applying Section 315(e)(1)(B) of the Act,⁶⁵ we clarify that we will consider context in determining whether an advertisement communicates a message relating to a “political matter of national importance.”⁶⁶ As discussed below, the record generated in response to the complaints reflects conflicting views regarding the meaning and scope of this phrase. Although fulfillment of a licensee’s disclosure obligations under this provision will be determined on a case-by-case basis, we provide examples below to assist broadcasters in evaluating their obligations.

27. As noted above, Section 315(e)(1) of the Act requires that licensees maintain records for two types of requests to purchase broadcast time.⁶⁷ The first type concerns requests for broadcast time that are “made by or on behalf of a legally qualified candidate for public office.”⁶⁸ The second type concerns requests for broadcast time that communicate a message relating to “any political matter of national importance.”⁶⁹ The clarification herein relates to the latter category of requests. When Congress amended Section 315 to include that category of broadcast messages, it provided in Section 315(e)(1)(B) three examples of the kinds of messages that may constitute “political matters of national importance.”⁷⁰ Specifically, Section 315(e)(1)(B) requires broadcasters to maintain a political file for any request for broadcast time that “communicates a message relating to *any* political matter of national importance,

⁶⁴ WFLA-TV’s licensee maintains that it “had no way of knowing whether there were any additional officers/directors that should have been disclosed” because “the rules of the Federal Election Commission only require one named officer to form a political action committee” *Id.*, citing the FEC website at <http://www.fec.gov/info/toolkit.shtml>. While we acknowledge that the FEC allows political action committees to be formed with, and to identify in FEC Form 1, Statement of Organization, just a treasurer and a custodian of records (which may be the same person), *see* 11 CFR § 102.7, it is nonetheless incumbent upon FCC regulatees to provide all of the information required by the Act and our rules relating to political files. As we clarify in this Order, if after further inquiry, a licensee reasonably determines that the sponsoring organization in fact has only one officer or other like official, its disclosure of that information would render it compliant with Section 315(e)(2)(G) of the Act and Section 73.1212(e) of our rules.

⁶⁵ 47 U.S.C. § 315(e)(1)(B).

⁶⁶ *Id.* § 315(e)(1)(B).

⁶⁷ *Supra* para. 5.

⁶⁸ 47 U.S.C. § 315(e)(1)(A).

⁶⁹ *Id.* § 315(e)(1)(B).

⁷⁰ This category was added to Section 315 as a result of the Bipartisan Campaign Reform Act of 2002. *Supra* n. 7.

including (i) a legally qualified candidate;⁷¹ (ii) any election to Federal office;⁷² or (iii) a national legislative issue of public importance.⁷³

28. As a threshold matter, we interpret the items specified in Section 315(e)(1)(B) – a “legally qualified candidate,” an “election to Federal office,” and a “national legislative issue of public importance” – to represent only three examples of “political matters of national importance” that may trigger a licensee’s obligation to maintain records of requests to purchase broadcast time. Our interpretation is supported by the language of Section 315(e)(1)(B), which refers to “*any* political matter of national importance,” and states that such matters “includ[e],” and thus are not limited to, these three specified items.⁷⁴ In addition, we note that under Section 315(e)(1)(B), a broadcast message must satisfy two requirements in order to trigger a licensee’s disclosure obligations. First, the message must be “political” in nature. Second, it must be of “national importance,” i.e., it must have significance on a national level. If a message relates to a “political matter” *and* is “of national importance,” the Act requires the licensee to disclose information about the message in its political record. As discussed below, we will consider context in determining whether an advertisement communicates a message relating to a “political matter of national importance.”

29. “*Legally Qualified Candidate*” under Section 315(e)(1)(B)(i). Although Section 315(e)(1)(B) requires broadcasters to maintain a political record for any request for broadcast time that “communicates a message relating to any political matter of national importance,” including a “legally qualified candidate” for public office, not every advertisement that references a “legally qualified candidate” will trigger a record-keeping obligation. For example, an advertisement that promotes the virtues of an individual running for state attorney general, yet has no relevance to issues considered or debated at the national level, would not reasonably constitute a message having national importance. Therefore, such an ad, despite having referenced “a legally qualified candidate,” would not rise to the level of communicating a message relating to a “political matter of national importance” and thus would not be subject to Section 315(e) record-keeping requirements. On the other hand, if an ad for state attorney general references the candidate’s position on issues that are debated at the national level, then the ad would be deemed to relate to a “political matter of national importance” and would trigger record-keeping obligations.

30. For purposes of Section 315(e)(1)(B)(i), we interpret the phrase “legally qualified candidate” to include *all* legally qualified candidates for public office, not just candidates for federal office. Given that the very next subsection, section 315(e)(1)(B)(ii), expressly refers to “[f]ederal” office, and Section 315(e)(1)(B)(i) does not contain the word “federal,” we find it reasonable to conclude that Congress did not intend to restrict the definition of “a legally qualified candidate” to federal candidates. Nonetheless, as discussed above, an advertisement that references a non-federal candidate would be covered by Section 315(e)(1)(B) only if it is political in nature and has national importance.

31. In addition, we clarify that a legally qualified candidate for public office need not be mentioned in connection with an election in order to trigger the obligation to maintain information about a particular advertisement under Section 315(e)(1)(B)(i). Based on the record, parties appear to have differing views about the circumstances under which licensees are obligated to maintain political records

⁷¹ 47 U.S.C. § 315(e)(1)(B)(i).

⁷² *Id.* § 315(e)(1)(B)(ii).

⁷³ *Id.* § 315(e)(1)(B)(iii) (emphasis added).

⁷⁴ *Id.* § 315(e)(1)(B) (requiring a licensee to maintain a complete record of a 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”) (emphasis added).

for ads that mention a “legally qualified candidate” for public office. For example, Fox Televisions Stations, Inc., the licensee of station KMSP-TV, suggests that it is obligated to disclose the name of the candidate and the office to which the candidate is seeking election only if the candidate is referenced in connection with an election.⁷⁵ By contrast, Complainants argue that the obligation to disclose this information is triggered whenever a legally qualified candidate for public office is referenced in a political advertisement, even if that candidate is not mentioned in connection with an election.⁷⁶

32. We agree with Complainants’ interpretation. As explained above, the categories listed in Section 315(e)(1)(B)(i), (ii), and (iii),⁷⁷ are examples of “political matters of national importance,” the reference to *any one of which* in an advertisement may, when considered in context, trigger disclosure obligations.⁷⁸ Thus, an ad triggers the obligation to disclose information specified in Section 315(e)(2) if it references a legally qualified candidate but not an election to federal office and vice versa, so long as the ad “communicates a message relating to any political matter of national importance.” Contrary to the suggestion of Fox Television Stations,⁷⁹ nothing in section 315(e)(1) or (e)(2) requires that a candidate be mentioned in connection with an election in order to trigger disclosure requirements. Moreover, we find that use of the word “or” in Section 315(e)(1)(B) indicates that Congress contemplated that each of the items listed in that provision could independently trigger record-keeping obligations. Thus, the reference to a legally qualified candidate and an election to federal office are independent criteria, either of which may trigger appropriate disclosure.

33. “*Any Election to Federal Office*” under Section 315(e)(1)(B)(ii). We will also consider context in evaluating ads that reference an “election to Federal office” under Section 315(e)(1)(B)(ii).⁸⁰ Again, only ads that relate to a political matter of national importance trigger a record-keeping obligation. For example, an advertisement by an auto dealership that announces the sale of new cars to celebrate an upcoming presidential election would not reasonably be deemed to be a message that is political in nature. As a result, such an ad, despite having referenced an “election to Federal office,” would not constitute a message relating to a political matter of national importance.

34. “*National Legislative Issue of Public Importance*” under Section 315(e)(1)(B)(iii). With respect to Section 315(e)(1)(B)(iii), we clarify that a national legislative issue of public importance would not be limited to issues for which legislation is pending, proposed, or contemplated,⁸¹ but rather could encompass an issue for which legislation has already passed and is the subject of continuing controversy or discussion. For example, an advertisement that discusses the future of Social Security likely would trigger record-keeping obligations even if there were no national legislative proposals being actively considered that relate to that topic at the time the ad is aired. We believe this interpretation is consistent with Section 315(e)(1)’s directive that licensees maintain a “complete” record of a request to purchase broadcast time⁸² and with BCRA’s purpose to foster greater public access to certain political information

⁷⁵ KMSP-TV Answer at 3-4 (“The American Encore advertisement does not mention Senator Franken in reference to any election.”).

⁷⁶ Complainants’ Consolidated Reply at 7-8.

⁷⁷ They are: (i) a legally qualified candidate; (ii) any election to Federal office; or (iii) a national legislative issue of public importance.

⁷⁸ However, if the advertisement is made by or on behalf of a legally qualified candidate for public office under Section 315(e)(1)(A), disclosure requirements are automatically triggered without regard to context.

⁷⁹ KMSP-TV Answer at 3.

⁸⁰ 47 U.S.C. § 315(e)(1)(B)(ii).

⁸¹ Complainants’ Consolidated Reply at 5-6.

⁸² 47 U.S.C. § 315(e)(1).

by expanding disclosure obligations.

35. Despite this interpretation, not every advertisement that references a “national legislative issue of public importance” will, when considered in context, constitute a message relating to a political matter of national importance requiring disclosure. Consider, for example, an advertisement that promotes the sale of power-operated wheelchairs and mentions that the cost to consumers will be covered by Medicare. While Medicare coverage is a national legislative issue of public importance, its reference in this particular advertisement, when considered in context, would not reasonably constitute a political matter of national importance because it is not communicating a message about Medicare; rather Medicare is being mentioned to help sell a commercial product.

C. Individual Complaints

36. In this section, we address the merits of Complainants’ allegations with respect to each of the above-captioned licensees. For the reasons explained below, we admonish nine of the 11 licensees for their failures to satisfy record-keeping obligations under Section 315 of the Act. We decline to take enforcement action in those instances in which a licensee’s actions were inconsistent with the obligations that we clarify in this Order. Going forward, we expect all entities that receive requests for broadcast time that trigger disclosure requirements under Section 315(e)(1) to place in their political files immediately the specific items of information required by Section 315(e)(2), as clarified.

1. Station KMSP-TV, Minneapolis, MN

37. We admonish Fox Television Stations, Inc. (Fox), the licensee of Station KMSP-TV, for maintaining a record in its political file for an American Encore⁸³ advertisement that did not identify *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.⁸⁴ The advertisement mentioned Senator Al Franken, who was then a legally qualified candidate for election to the U.S. Senate, and his support of an Internal Revenue Service proposed rulemaking involving the activities of certain non-profit organizations which the sponsor argued would have adverse First Amendment implications.⁸⁵ Fox states that “KMSP-TV reviewed the content of the advertisement and determined that Section 315(e)(1) was implicated,” and, as a result, “KMSP-TV was required to, and did, put records into the public file, including the order and rates charged.”⁸⁶ Fox concedes that even though the ad triggered disclosure requirements under Section 315(e)(1)(B), it failed to identify any political matters of national importance in Station KMSP-TV’s political file, as required by Section 315(e)(2)(E).⁸⁷

⁸³ American Encore describes itself as “an IRS-recognized nonprofit social welfare organization organized under Section 501(c)(4) of the Internal Revenue Code.” See <https://transaxt.com/Donate/EN4LPQ/AmericanEncore/>.

⁸⁴ 47 U.S.C. § 315(e)(2)(E).

⁸⁵ KMSP-TV Complaint at 4. In late 2013, the Internal Revenue Service proposed new regulations to “provide guidance to tax-exempt social welfare organizations on political activities related to candidates that will not be considered to promote social welfare.” 78 Fed. Reg. 71535 (Nov. 29, 2013). According to Complainants, “IRS rulemakings and First Amendment speech issues are subject to nationwide debate and media coverage, and impact citizens across the country.” KMSP-TV Complaint at 6. We conclude that in the context in which it referenced the proposed IRS rule, the American Encore advertisement communicated a message relating to a political matter of national importance. We also conclude that the ad communicated an additional message relating to a political matter of national importance by its reference to Senator Al Franken, a legally qualified candidate. Because the ad triggered disclosure requirements under Section 315(e)(1)(B), the station was required to place in its political file, among other things, the items of information required by Section 315(e)(2)(E).

⁸⁶ KMSP-TV Answer at 2.

⁸⁷ *Id.* at 2-3.

38. Fox acknowledges that the ad referenced Senator Al Franken, but maintains that it was under no obligation to identify him in Station KMSP-TV's political file because the ad did not mention the candidate in connection with an election.⁸⁸ Fox further argues that even if the ad had advocated for or against Senator Franken's election, under Section 315(e)(2)(E), it had the option to disclose either the candidate or the IRS proposed rulemaking issue referenced in the ad.⁸⁹ As discussed above, we disagree with these arguments and clarify that a candidate need not be mentioned in connection with the specific election in which he or she is running in order to trigger disclosure requirements,⁹⁰ and a licensee is required to identify all candidates, elections, and issues, as applicable, which, in context, constitute political matters of national importance.⁹¹ In the instant case, given that the conduct occurred before release of the instant order, we would not take action against Fox had it disclosed at least the candidate *or* the issue in its political file. However, because it disclosed neither political matter of national importance communicated in the ad, we conclude that an admonishment is warranted.

2. Station WTVT(TV), Tampa, FL

39. We admonish New World Communications of Tampa, Inc. (New World), the licensee of Station WTVT(TV), for maintaining a record in its political file for a Democratic Congressional Campaign Committee⁹² advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.⁹³ The ad referenced David Jolly, a legally qualified candidate in the special election for the 2014 U.S. House of Representatives in Florida, and criticized his "lobbying for special interests that received over three million in taxpayer-funded earmarks" at a time that the U.S. "face[d] record debt."⁹⁴ New World states that Station WTVT(TV) determined that the "advertisement communicated a message relating to a legally qualified candidate which implicated an election for Federal office. The station thus placed the record [of the ad] in the public file" ⁹⁵ However, New World concedes that even though the ad triggered disclosure requirements under Section 315(e)(1)(B) because it referenced a political matter of national importance (i.e., a legally qualified candidate), it failed to identify the candidate in Station WTVT(TV)'s political file, as required by Section 315(e)(2)(E).⁹⁶

40. New World argues that "[T]he ad in question did not address a 'national legislative issue of public importance.' The ad attacks Jolly's record as a lobbyist and notes America is facing record debt. There is no national legislative issue presented in the ad."⁹⁷ Furthermore, New World claims that even if the ad had referenced a national legislative issue of public importance, the station had the option

⁸⁸ *Id.* at 3-4.

⁸⁹ *Id.*

⁹⁰ *Supra* paras. 31-32.

⁹¹ *Supra* paras. 12-19, 26-35.

⁹² The Democratic Congressional Campaign Committee describes itself as "the official campaign arm of the Democrats in the House of Representatives." See <http://dccc.org/about/>.

⁹³ 47 U.S.C. § 315(e)(2)(E).

⁹⁴ WTVT(TV) Complaint at 3-4. The national debt, including its effect on the economy, is a subject of continuing debate, dialogue, news reports, and controversy affecting the nation as a whole. Thus, we believe that, in context, the reference to the national debt in the subject ad constituted a national legislative issue of public importance that New World should have disclosed in Station WTVT(TV)'s political file.

⁹⁵ WTVT(TV) Answer at 2.

⁹⁶ *Id.*

⁹⁷ *Id.* at 3-4.

to disclose either the issue or the candidate.⁹⁸ As clarified above, all references to political matters of national importance (including a legally qualified candidate, an election to Federal office, and a national legislative issue of public importance) in each ad must be disclosed in a station's political file.⁹⁹ Even assuming, arguendo, that the subject ad had referenced only one political matter of national importance (i.e., a legally qualified candidate) rather than two (the second being the reference to the national debt), New World failed to identify the one political matter that it acknowledges was referenced in the ad. Had New World disclosed either the candidate or the issue, we would have refrained in this instance from taking action in light of the fact that the conduct occurred before our clarification. However, because New World disclosed neither political matter of national importance communicated in the ad, we conclude that an admonishment is warranted.

3. Station WFLA-TV, Tampa, FL

41. We admonish Media General Communications Holdings, LLC (Media General), the licensee of Station WFLA-TV, for maintaining a record in its political file for a National Republican Congressional Committee (NRCC)¹⁰⁰ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹⁰¹ The subject advertisement compared and contrasted the opposing positions of two competing candidates for the U.S. House of Representatives on two controversial matters of national significance -- the Affordable Care Act and a balanced budget.¹⁰² Media General acknowledges that the station's political file did not disclose either the issues or the candidates.¹⁰³

42. Nevertheless, Media General maintains that the public could have ascertained from other information in the station's political file the identities of the candidates mentioned in the ad.¹⁰⁴ In particular, Media General asserts that based on its identification of the NRCC as the sponsor of the ad, information about the NRCC on that organization's website, and the timing of the ad (just prior to a special election for U.S. House of Representatives), the identity of the candidates should have been

⁹⁸ *Id.* at 4.

⁹⁹ *Supra* paras. 12-19.

¹⁰⁰ The NRCC describes itself as "a political committee devoted to increasing the Republican majority in the U.S. House of Representatives." See <https://www.nrcc.org/about/>.

¹⁰¹ 47 U.S.C. § 315(e)(2)(E). Complainants also allege that station WFLA-TV violated Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules by failing to maintain a list of the NRCC's board of directors or chief executive officers. WFLA-TV Complaint at 7. Media General argues that it disclosed the NRCC's Treasurer in the station's political file, and that it had no way of knowing that there were other officials that should be disclosed because Federal Election Commission rules generally require only one named officer (usually a treasurer) to form a political action committee. WFLA-TV Answer at 4. Because we clarify in this Order how licensees should proceed in situations where they are provided with the name of only one officer or other like official, *supra* paras. 20-25, we take no enforcement action against Media General for its failure to identify all such officials in Station WFLA-TV's political file.

¹⁰² WFLA-TV Complaint at 3-4. We agree with Complainants that the Affordable Care Act (also referred to as "Obamacare") may be the "quintessential legislative and controversial issue of public importance: it was President Obama's key initiative and has been the subject of nationwide debate and court challenges, including at the Supreme Court." *Id.* at 6. The matter of a balanced budget also is a subject of continuing debate, dialogue, news reports, controversy, and national importance. In the context in which they were discussed, these issues and candidates constituted political matters of national importance.

¹⁰³ WFLA-TV Answer at 2-3.

¹⁰⁴ *Id.*

evident to anyone reviewing the file.¹⁰⁵ We find this argument unpersuasive. Section 315(e)(2)(E) of the Act expressly requires that a licensee’s political file contain, among other things, “the name of the candidate” to which an advertisement refers.¹⁰⁶ In addition, we find that requiring the public to “connect the dots” in order to determine the identity of candidates mentioned in an ad, or any other information required to be disclosed under Section 315(e)(2)(E), would improperly shift to the public a burden that Congress expressly imposed on licensees in Section 315(e)(1).

43. We also reject Media General’s contention that by including other information about the ad in the station’s file (such as the rates charged and the dates and times the ads aired), the information in the file “met the Commission’s policy goal that ‘the disclosures included in the political file [should] further the First Amendment’s goal of an informed electorate that is able to evaluate the validity of messages and hold accountable the interests that disseminate political advocacy.’”¹⁰⁷ We agree with Complainants that the statute does not require licensees to disclose “just enough information for viewers to infer the candidates, elections, and issues mentioned by an ad based on political party leanings or names of groups,” and that a licensee’s “[failure] to disclose information required by law does not inform the electorate.”¹⁰⁸ It is not enough for a licensee to provide the information in its political file required by Sections 315(e)(2)(A), (B), (C) and/or (D). It also must provide the information required by Sections 315(e)(2)(E), (F), and/or (G), as applicable.

44. Media General further argues in mitigation of a sanction that it provided public and political file training to its employees prior to the complaint and continues to do so, and is working with its national sales representation firm to ensure that it gathers all information required to be disclosed in its political file.¹⁰⁹ While we recognize Media General’s efforts to train its staff in maintaining the station’s public and political files, such efforts provide no basis for excusing its misconduct.¹¹⁰ Given that Media General did not identify any political matters of national importance communicated in the NRCC ad, we admonish Media General.

¹⁰⁵ *Id.*

¹⁰⁶ 47 U.S.C. § 315(e)(2)(E).

¹⁰⁷ WFLA-TV Answer at 3, citing *Enhanced Disclosure Order*, 27 FCC Rcd 4535 (2012).

¹⁰⁸ Complainants’ Consolidated Reply at 8-9.

¹⁰⁹ WFLA-TV Answer at 4-5.

¹¹⁰ See, e.g., *San Jose Navigation, Inc.*, 22 FCC Rcd 1040, 1043 (2007) (“It is the Commission’s long-standing policy . . . that corrective measures implemented after Commission inquiry or enforcement action do not nullify past violations and thus do not warrant reduction or cancellation of forfeiture liability”); *TCI Cablevision of Maryland, Inc.*, 7 FCC Rcd 6013, 6014, para. 8 (1992) (rejecting a claim that subsequent corrective actions mitigate past violations because it “would tend to encourage remedial rather than preventative action”); *Cate Communications Corp.*, 60 RR2d 1386 (1986) (rejecting a claim that a licensee should be excused from past violations because of subsequent remedial measures). See also *Behringer USA, Inc.*, 21 FCC Rcd 1820, para. 24 (2006) (“implementation of corrective measures in response to an LOI is expected, and thus does not nullify or mitigate past violations”); *ACR Electronics, Inc.*, 19 FCC Rcd 22293, 22304, para. 25 (2004), *forfeiture ordered*, 21 FCC Rcd 3698 (2006) (the Commission expects that corrective action will be implemented to bring past violations into compliance. However, such corrective action does not nullify or mitigate past marketing violations, and thus does not warrant any reduction in the proposed forfeiture); *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891 (2002), *forfeiture ordered*, 17 FCC Rcd 21866, 21875, para. 26 (2002) (all licensees and Commission regulatees are expected to promptly take corrective action when violations are brought to their attention); *Seawest Yacht Brokers*, 9 FCC Rcd 6099, para. 7 (1994) (corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations).

4. Station WTVJ(TV), Miami, FL

45. We admonish NBC Telemundo License, LLC (NBC Telemundo), the licensee of Station WTVJ(TV), for maintaining a record in its political file for a LIBRE Initiative¹¹¹ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹¹² The LIBRA advertisement opposed the Affordable Care Act, arguing that premiums were going up and health policies were being cancelled. NBC Telemundo concedes that the ad referenced a national legislative issue of public importance¹¹³ and that the station did not identify that issue in the station's political file.¹¹⁴

46. The ad also questioned why a particular politician had supported the law.¹¹⁵ Complainants allege that NBC Telemundo violated Section 315(e)(2)(E) by failing to identify in the station's political file that individual, whom Complainants asserted was a candidate for U.S. House of Representatives.¹¹⁶ However, NBC Telemundo maintains that it was not obligated to identify the politician mentioned in the ad because he was not a legally qualified candidate under Florida law and the Commission's rules at the time the ad aired.¹¹⁷ Complainants concede that point.¹¹⁸ We find no basis for enforcement action with regard to the station's failure to disclose the name of an individual who was not at the time a legally qualified candidate for public office under our rules.¹¹⁹

47. NBC Telemundo argues in mitigation of a sanction that Station WTVJ(TV)'s political file previously contained the information required by Sections 315(e)(2)(A)-(D) and it has taken remedial action to ensure that the additional information required by Section 315(e)(2)(E) also is placed in the file.¹²⁰ We see no basis for mitigation. Licensees are required to provide all of the information required under Section 315(e)(2), as applicable. Furthermore, remedial measures do not constitute a basis for mitigating or eliminating a sanction.¹²¹ Given that the ad communicated one national legislative issue of public importance requiring disclosure, and NBC Telemundo failed to include that information in Station WTVJ(TV)'s political file, we admonish NBC Telemundo.

5. Station WTVD(TV), Durham, NC

48. We admonish WTVD Television, LLC (WTVD), the licensee of Station WTVD(TV), for

¹¹¹ The LIBRE Initiative describes itself as “a 501(c)(4) non-partisan, non-profit grassroots organization that advances the principles and values of economic freedom to empower the U.S. Hispanic community.” See <http://thelibreinitiative.com/about-us>.

¹¹² 47 U.S.C. § 315(e)(2)(E).

¹¹³ The Affordable Care Act (also referred to as “Obamacare”) is the subject of continuing controversy, debate, dialogue, news reports, court challenges, and national importance. In the context in which it discussed the Affordable Care Act, the ad communicated a message relating to a national legislative issue of public importance that constituted a political matter of national importance.

¹¹⁴ WTVJ(TV) Answer at 1-2.

¹¹⁵ WTVJ(TV) Complaint at 3.

¹¹⁶ *Id.* at 6.

¹¹⁷ WTVJ(TV) Answer at 2-3.

¹¹⁸ Complainants' Consolidated Reply at n. 2.

¹¹⁹ See 47 CFR § 73.1940.

¹²⁰ WTVJ(TV) Answer at 2.

¹²¹ *Supra* n. 110.

maintaining a record in its political file for an American Crossroads¹²² advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹²³ The ad compared and contrasted the opposing positions of two competing candidates for the U.S. Senate on three controversial matters of national significance -- the Affordable Care Act, the national debt, and a voter identification law.¹²⁴ In its response on behalf of WTVD, ABC, Inc. (ABC) concedes that the advertisement communicated a message relating to multiple political matters of national importance, none of which was disclosed in its political file.¹²⁵ Because ABC failed to disclose any of the information required by Section 315(e)(2)(E), we conclude that an admonishment is warranted.

49. ABC asserts in defense of WTVD that the station's political file disclosed other information required by Sections 315(e)(2)(B), (C), and (G) of the Act (i.e., the rate charged; the date and time on which the ad was broadcast; and the name of the sponsor, and the name and telephone number of a contact person for the sponsor).¹²⁶ Such disclosures, however, do not excuse WTVD's failure to provide specific information about legally qualified candidates and national legislative issues of public importance required by Section 315(e)(2)(E). WTVD also maintains that its failure to comply with Section 315(e)(2)(E) was attributable to "administrative oversight"¹²⁷ and that it took subsequent action to remedy its omission.¹²⁸ Such explanation and remedial measures, however, provide no bases for excusing its misconduct.¹²⁹

6. Station WWJ-TV, Detroit, MI

50. We admonish CBS Broadcasting, Inc. (CBS), the licensee of WWJ-TV, for maintaining a record in its political file for a Senate Majority PAC¹³⁰ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹³¹ The ad mentioned a legally qualified candidate for the U.S. Senate, Terri Lynn Land, arguing that she was being influenced by large donors and taking positions on controversial healthcare policy (including cuts to, and the rising costs of, preventative care for women) that would hurt

¹²² American Crossroads describes itself as "registered with the Federal Election Commission as an independent expenditure committee." See <https://www.americancrossroads.org/donate/>.

¹²³ 47 U.S.C. § 315(e)(2)(E).

¹²⁴ WTVD(TV) Complaint at 2-3. The Affordable Care Act, the national debt and voter ID laws are all issues of continuing controversy, debate, dialogue, news reports, and political deliberation of national importance affecting millions of Americans. In the context in which they were discussed, the references to all three matters communicated messages relating to national legislative issues of public importance that constituted political matters of national importance.

¹²⁵ WTVD(TV) Answer at 3.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Supra* n. 110. Complainants also allege that WTVD violated Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules by providing the name of only one official of the sponsoring entity in its political file, rather than a "list" of officials. WTVD(TV) Complaint at 7. Because the subject disclosure was made prior to the issuance of our clarification regarding licensees' obligations to identify officials of sponsoring entities under these provisions, we decline to take enforcement action against WTVD for this alleged violation.

¹³⁰ Senate Majority PAC is a political action committee that "seeks the election of Democratic U.S. Senators." See <http://www.senatemajority.com/about/>.

¹³¹ 47 U.S.C. § 315(e)(2)(E).

average Americans.¹³² CBS argues that it was required under Section 315(e)(2)(E) to disclose the name of the candidate *or* the issue, but concedes that its political file did not contain information about either.¹³³

51. As discussed above, we clarify in this Order that Section 315(e)(2)(E) requires the disclosure of all candidates and issues (and elections, as applicable) referenced in each ad which, when considered in context, constitute a political matter of national importance.¹³⁴ In those cases before us where the conduct in question occurred before release of the instant order and a licensee has disclosed some, but not all, such information in its political file, we take no enforcement action. However, here, CBS failed to disclose any of the information required by Section 315(e)(2)(E) with respect to the subject advertisement (*i.e.*, neither the candidate nor the issue). Additionally, while CBS asserts that it has taken corrective measures to ensure that the station's political file is complete,¹³⁵ as noted above, such remedial action provides no basis for excusing its misconduct.¹³⁶

7. Station KNXV-TV, Phoenix, AZ

52. We admonish Scripps Media Inc. (Scripps), the licensee of station KNXV-TV, for maintaining a record in its political file for a House Majority PAC¹³⁷ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹³⁸ The House Majority PAC advertisement advocated for the reelection of U.S. Representative Ann Kirkpatrick from Arizona's 1st Congressional District by highlighting how she had worked to fix the Affordable Care Act's HealthCare.gov website, which the ad characterized as "disastrous." The ad also claimed that the candidate had sought to prevent insurance companies from denying coverage for pre-existing conditions or dropping coverage when a patient becomes ill.¹³⁹ Scripps concedes that KNXV-TV's political file failed to disclose the name of the candidate, the office sought, and the issue referenced in the ad.¹⁴⁰

¹³² WWJ-TV Complaint at 2-3. Health care reform is a subject of continuing controversy, debate, dialogue, news reports, and national importance affecting millions of Americans. In the context in which it was discussed, the subject of health care reform constituted a national legislative issue of public importance within the meaning of Section 315(e)(1)(B)(iii) of the Act.

¹³³ WWJ-TV Answer at 1-2. CBS asserts that it placed an incorrect NAB PB-18 form (relating to a previous order by the sponsoring entity in 2013) in the Station WWJ-TV political file. *Id.* at 1.

¹³⁴ *Supra* paras. 12-19, 26-35.

¹³⁵ WWJ-TV Answer at 1-2.

¹³⁶ *Supra* n. 110. Complainants also allege that station WWJ-TV violated Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules by maintaining a political file for the ad that disclosed the name of only one official of the sponsoring entity, rather than a "list" of officials. WWJ-TV Complaint at 6. Because the subject disclosure was made prior to the issuance of our clarification regarding licensees' obligations to identify officials of sponsoring entities under these provisions, we decline to take enforcement action against CBS for this alleged violation.

¹³⁷ House Majority PAC is a political action committee that seeks to "help Democrats win a majority in the House." See <https://secure.actblue.com/contribute/page/hmp20141?refcode=mainpage>.

¹³⁸ 47 U.S.C. § 315(e)(2)(E).

¹³⁹ KNXV-TV Complaint at 3. The subject of health care coverage is a matter of continuing controversy, debate, dialogue, news reports, and intense political deliberations of national importance. In this context, the reference to health care coverage (including the HealthCare.gov website and actions of health insurance companies) communicated a message relating to a national legislative issue of public importance that constituted a political matter of national importance.

¹⁴⁰ KNXV-TV Answer at 1.

53. Although Scripps maintains that it disclosed other information required by Section 315(e)(2),¹⁴¹ such disclosure does not excuse its failure to disclose the specific information required by Section 315(e)(2)(E). Moreover, the fact that Scripps subsequently took corrective action to address the deficiencies in KNXV's political file¹⁴² provides no grounds for excusing its misconduct.¹⁴³

8. Station WMUR-TV, Manchester, NH

54. We admonish Hearst Properties, Inc. (Hearst), the licensee of Station WMUR-TV, for maintaining a record in its political file for an Americans For Prosperity¹⁴⁴ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad, in willful violation of Section 315(e)(2)(E) of the Act.¹⁴⁵ The Americans for Prosperity advertisement was critical of the Affordable Care Act and of Ann McLane Kuster, candidate for the U.S. House of Representatives, for her support of it.¹⁴⁶ Hearst concedes that the station's political file omitted the name of both the legally qualified candidate¹⁴⁷ and a national legislative issue of public importance¹⁴⁸ referenced in the ad. Had Hearst disclosed either the candidate or the issue, we would have refrained in this instance from taking action in light of the fact that the conduct occurred before the issuance of the instant order. However, here, Hearst failed to disclose any of the information required by Section 315(e)(2)(E) with respect to the subject advertisement.

55. Hearst asserts that it has since conducted a review of its political file and taken steps to correct its omissions.¹⁴⁹ As noted above, however, the fact that a licensee may have corrected deficiencies in its political file and instituted measures to ensure future compliance with Section 315(e) provide no grounds for excusing its misconduct.¹⁵⁰

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Supra* n. 110. Complainants also allege that station KNXV-TV violated Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules by maintaining a political file that disclosed the name of only one official of the sponsoring entity, rather than a "list" of officials. KNXV-TV Complaint at 6. Because the subject disclosure was made prior to our clarification regarding licensees' obligations to identify officials of sponsoring entities under these provisions, we decline to take enforcement action against Scripps for this alleged violation.

¹⁴⁴ Americans for Prosperity describes itself as "a § 501(c)(4) entity, as determined by the Internal Revenue Service." See <https://americansforprosperity.org/donate-today/>.

¹⁴⁵ 47 U.S.C. § 315(e)(2)(E). See also WMUR-TV Complaint at 6-7.

¹⁴⁶ *Id.* at 3.

¹⁴⁷ WMUR-TV Answer at 1. Hearst states that the Complaint erroneously identified Carol Shea-Porter as the candidate whose identity was not properly disclosed in the Station WMUR-TV political file. *Id.* at 1 and n. 1.

¹⁴⁸ Complainants describe the Affordable Care Act (also referred to as "Obamacare") as the "quintessential legislative and controversial issue of public importance: the Act was President Obama's key initiative and has been the subject of nationwide debate and court challenges, including at the Supreme Court." WMUR-TV Complaint at 6. In this context, the reference to the Affordable Care Act communicated a message relating to a national legislative issue of public importance that constituted a political matter of national importance.

¹⁴⁹ WMUR-TV Answer at 1-2.

¹⁵⁰ *Supra* n. 110. Complainants also allege that station WMUR-TV violated Section 315(e)(2)(G) of the Act and Section 73.1212(e) of the Commission's rules by maintaining a political file that disclosed the name of only one official of the sponsoring entity, rather than a "list" of officials. WMUR-TV Complaint at 6-7. Because the subject disclosure was made prior to our clarification regarding licensees' obligations to identify officials of sponsoring entities under these provisions, we decline to take enforcement action against Hearst for this alleged violation.

9. Station WDIV-TV, Detroit, MI

56. We admonish Graham Media Group (Graham Media), the licensee of station WDIV-TV, for maintaining a record in its political file for an Americans for Prosperity¹⁵¹ advertisement that did not disclose *any* political matters of national importance that were communicated in the ad or *any* officials of the sponsoring entity, and for failing to place required materials in the file in a timely manner, in willful violation of Sections 315(e)(2)(E), 315(e)(2)(G), and 315(e)(3) of the Act.¹⁵² The ad mentioned U.S. Representative Gary Peters, who was running for the U.S. Senate from Michigan, and his support for the Affordable Care Act, under which, according to the ad, health care premiums were skyrocketing and 225,000 Michigan residents had lost health insurance coverage.¹⁵³ Complainants allege that the political file for station WDIV-TV was deficient because it did not disclose the candidate, and it incorrectly identified the issue as “Americans for Prosperity.”¹⁵⁴ Complainants further argue that the political file did not disclose a list of officers of the sponsoring entity, and materials were placed into the file in an untimely manner.¹⁵⁵

57. In its response on behalf of station WDIV-TV, Post-Newsweek Stations, Inc. (Post-Newsweek), the parent company of the licensee of WDIV-TV, argues that the order form in the political file noted that the ad’s subject was “Anti-Peters Senate Race.”¹⁵⁶ Post-Newsweek asserts that this disclosure satisfied the requirements of Section 315(e)(2)(E) by disclosing the name of the candidate (and the office sought).¹⁵⁷ Post-Newsweek concedes that the station’s file did not identify the issue, but argues that under Section 315(e)(2)(E), it had the discretion to identify either the candidate or the issue in its political file.¹⁵⁸ Post-Newsweek also concedes that it did not identify a list of officers.¹⁵⁹

58. We find that the reference to “Anti-Peters Senate Race” did not adequately identify the “name of the candidate” referenced in the ad.¹⁶⁰ To ensure the public is fully informed as Congress intended, the full name of the candidate must be provided. An oblique reference of the kind included in Station WDIV-TV’s political file to the name of the candidate does not satisfy the requirement that a political file contain a “complete” record of the ad. It also is unrefuted that Post-Newsweek did not identify the issue that was communicated in the ad and it did not provide a list of officers or like officials of the sponsoring organization. In sum, Post-Newsweek failed to properly identify *either* the issue or the candidate in the station’s political file. Furthermore, Post-Newsweek failed to identify any officers of Americans for Prosperity as required under Section 315(e)(2)(G). Had Post-Newsweek identified one

¹⁵¹ Americans for Prosperity describes itself as “a § 501(c)(4) entity, as determined by the Internal Revenue Service.” See <https://americansforprosperity.org/donate-today/>.

¹⁵² 47 U.S.C. §§ 315(e)(2)(E), 315(e)(2)(G), and 315(e)(3). See also WDIV-TV Complaint at 6-7.

¹⁵³ *Id.* at 3-4. According to Complainants, the Affordable Care Act is “the quintessential legislative and controversial issue of public importance. It was President Obama’s key initiative and has been the subject of nationwide debate and court challenges, including at the Supreme Court.” *Id.* at 6. We agree. In the context in which it was discussed, the references to the Affordable Care Act constituted a national legislative issue of public importance that was a political matter of national importance.

¹⁵⁴ *Id.* at 6-7.

¹⁵⁵ *Id.* at 7-8.

¹⁵⁶ WDIV-TV Answer at 3.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 2-3.

¹⁵⁹ *Id.*

¹⁶⁰ 47 U.S.C. § 315(e)(2)(E).

officer, we would have refrained in this instance from taking action in light of the fact that the conduct occurred before the issuance of the instant order. However, here, the licensee did not identify any officers or other like officials of the sponsoring organization.

59. With regard to the allegation that the station failed to place materials into its political file in a timely manner, Section 315(e)(3) provides, in pertinent part, that “[t]he information required under this subsection shall be placed in a political file *as soon as possible . . .*”¹⁶¹ In this context, the Commission has defined the phrase “as soon as possible” to mean “immediately absent unusual circumstances.”¹⁶² Post-Newsweek concedes, as alleged by Complainants,¹⁶³ that while it placed a record of the orders in WDIV-TV’s political file on January 17, 2014, two days before the spots started airing, it has no record that the final dispositions of the orders were placed in the file before April 1, 2014.¹⁶⁴ Post-Newsweek does not claim the existence of unusual circumstances that prevented it from placing the final dispositions of these orders in its political file in a timely manner. Under the circumstances, we find that Post-Newsweek’s delay in placing required materials into WDIV-TV’s political file failed to meet the requirements of Section 315(e)(3) of the Act.¹⁶⁵

60. Based on the foregoing, we admonish Graham Media for not disclosing in Station WDIV-TV’s political file any political matters of national importance, not disclosing the names and titles of any officials of the sponsoring entity, and placing materials in the station’s political file in an untimely manner.

10. Station WCNC-TV, Charlotte, NC

61. We do not take enforcement action against WCNC-TV, Inc., the licensee of station WCNC-TV, for maintaining a record in its political file that did not identify all political matters of national importance communicated in a Patriot Majority USA¹⁶⁶ advertisement. The Patriot Majority USA advertisement mentioned Thom Tillis, a 2014 Republican candidate for the U.S. Senate from North Carolina, and claimed that he supported the interests of insurance companies and “a plan that would end Medicare as we know it”¹⁶⁷

62. Gannett Co., Inc., the parent company of the licensee of WCNC-TV, properly identified the candidate in the Station WCNC-TV political file, but omitted information about the issues in the erroneous belief that Section 315(e)(2)(E) of the Act requires disclosure of one or the other (rather than

¹⁶¹ 47 U.S.C. § 315(e)(3) (emphasis added).

¹⁶² 47 CFR § 73.1943(c).

¹⁶³ WDIV-TV Complaint at 7-8.

¹⁶⁴ WDIV-TV Answer at 3.

¹⁶⁵ Placing information in a political file about the disposition of an order is particularly important because the disposition contains information about “the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.” See 47 CFR. § 73.1943(a). Such information about the ultimate *disposition* of an order frequently differs from information that also is required to be placed in a station’s political file about the initial *request* to purchase broadcast time.

¹⁶⁶ Patriot Majority USA describes itself as an IRS Section 501(c)(4) organization whose primary purpose is to encourage “economic development in the United States.” See <http://www.patriotmajority.org/about>.

¹⁶⁷ WCNC-TV Complaint at 3. Health care reform and Medicare are issues of continuing controversy, debate, dialogue, news reports, and national importance. The funding for and benefits provided by each program are subjects of ongoing political deliberation affecting millions of Americans. In the context in which they were discussed in the ad, the references to health care reform and Medicare communicated messages relating to national legislative issues of public importance that constituted political matters of national importance.

both, as we are clarifying today).¹⁶⁸ Because the subject disclosure was made prior to the issuance of our clarification that licensees must disclose all candidates, elections, and issues referenced in each political ad that they broadcast, we decline to take enforcement action against WCNC-TV, Inc. for this alleged violation.

11. Station KMGH-TV, Denver, CO

63. We do not take enforcement action against Scripps Media, Inc. (Scripps), the licensee of station KMGH-TV, for maintaining a record in its political file that did not identify all political matters of national importance for a Senate Majority PAC¹⁶⁹ advertisement and did not identify all officers or like officials of the sponsoring organization. The ad referenced two legally qualified candidates, Cory Gardner and Mark Udall, both of whom were candidates for the U.S. Senate from Colorado. It endorsed Udall and criticized Gardner by suggesting that the latter candidate would “end Medicare’s guarantee, giving billions in profits to insurance companies, but forcing seniors to pay \$6000 more a year.”¹⁷⁰ Scripps properly identified the two candidates in the Station KMGH-TV political file, but omitted information about Medicare¹⁷¹ because, according to Scripps, the ad’s reference to Medicare was not in the context of any pending legislation.¹⁷²

64. Scripps should have identified in its political file that Medicare was mentioned in the ad because, in this context, Medicare is a national legislative issue of public importance that constitutes a political matter of national importance.¹⁷³ Nevertheless, we do not take action against Scripps in this instance because it properly identified the two candidates, and its failure to also disclose the subject issue was made prior to the issuance of our clarification that licensees must disclose all candidates, elections, and issues referenced in each political ad that they broadcast.

65. Station KMGH-TV’s political file also disclosed the name of the Treasurer of the sponsoring entity, but no other official.¹⁷⁴ As we clarify in this Order, when a licensee is provided with the name of just one official associated with the sponsoring entity, it has an obligation to inquire further whether there are any additional persons who should be disclosed. Given that we had not previously clarified the obligation to make this inquiry, we will not take enforcement action against Scripps for its failure to do so.

IV. ORDERING CLAUSES

66. For the reasons set forth above, and pursuant to Sections 4(i), 4(j), and 315 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) 154(j), and 315; and Sections 0.283 and 73.1212 of the Commission’s rules, 47 CFR §§ 0.283 and 73.1212, **IT IS ORDERED** that Fox Television Stations, Inc., licensee of Station KMSP-TV, Minneapolis, MN, is **ADMONISHED** for its

¹⁶⁸ WCNC-TV Answer at 2.

¹⁶⁹ Senate Majority PAC is a political action committee that “seeks the election of Democratic U.S. Senators.” See <http://www.senatemajority.com/about/>.

¹⁷⁰ KMGH-TV Complaint at 3.

¹⁷¹ *Id.* at 6-7.

¹⁷² KGMH-TV Answer at 1-2.

¹⁷³ KMGH-TV Complaint at 3. Medicare is the subject of considerable ongoing debate, dialogue, controversy, and news reports affecting millions of Americans. The funding for and benefits provided by this federal program are subjects of ongoing political deliberation and concern. In the context in which it was discussed, the reference to Medicare communicated a message relating to a national legislative issue of public importance that constituted a political matter of national importance.

¹⁷⁴ *Id.* at 12.

willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

67. **IT IS FURTHER ORDERED** that New World Communications of Tampa, Inc., licensee of station WTVT(TV), Tampa, FL, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

68. **IT IS FURTHER ORDERED** that Media General Communications Holdings, LLC, licensee of Station WFLA-TV, Tampa, FL, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

69. **IT IS FURTHER ORDERED** NBC Telemundo License, LLC, licensee of Station WTVJ(TV), Miami, FL, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

70. **IT IS FURTHER ORDERED** that WTVD Television, LLC, licensee of Station WTVD(TV), Durham, NC, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

71. **IT IS FURTHER ORDERED** that CBS Broadcasting, Inc., licensee of Station WWJ-TV, Detroit, MI, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

72. **IT IS FURTHER ORDERED** that Scripps Media, Inc., licensee of Station KNXV-TV, Phoenix, AZ, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

73. **IT IS FURTHER ORDERED** that Hearst Properties, Inc., licensee of Station WMUR-TV, Manchester, NH, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E) of the Act.

74. **IT IS FURTHER ORDERED** that Graham Media Group, Michigan, Inc., licensee of Station WDIV-TV, Detroit, MI, is **ADMONISHED** for its willful and/or repeated violation of Section 315(e)(2)(E), (e)(2)(G), and (e)(3) of the Act.

75. **IT IS FURTHER ORDERED** that the complaints filed by Campaign Legal Center and Sunlight Foundation against each of captioned commercial television broadcast stations on May 1, 2014, are **GRANTED** to the extent indicated herein and **OTHERWISE ARE DENIED**.

76. **IT IS FURTHER ORDERED** that the complaint proceedings involving WCNC-TV, Inc., licensee of Station WCNC-TV, Charlotte, NC; and Scripps Media, Inc., licensee of Station KMGH-TV, Denver, CO, **ARE TERMINATED**.

77. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by first class mail to:

Kurt Wimmer, Esq., Covington & Burling, LLC, 1201 Pennsylvania Ave., N.W., Washington, DC 20004, Counsel for Gannett Company, Inc., parent company of WCNC-TV, Inc., licensee of Station WCNC-TV, Charlotte, NC;

Kenneth C. Howard, Jr., Esq., Baker & Hostetler LLP, Washington Square, Suite 1100, 1050 Connecticut Ave., N.W., Washington, DC 20036, Counsel for Scripps Media, Inc., licensee of Station KMGH-TV, Denver, CO;

Joseph M. Di Scipio, Vice President, Legal and FCC Compliance, Fox Television Stations, Inc., 400 N. Capitol St., N.W., Suite 890, Washington, DC 20001, Counsel for Fox Television Stations, Inc., licensee of Station KMSP-TV, Minneapolis, MN;

Joseph M. Di Scipio, Vice President, Legal and FCC Compliance, Fox Television Stations, Inc., 400 N. Capitol St., N.W., Suite 890, Washington, DC 20001, Counsel for New World

Communications of Tampa, Inc., licensee of Station WTVT(TV), Tampa, FL;

Christina H. Burrow, Esq., Cooley LLP, 1299 Pennsylvania, Ave., N.W., Suite 700, Washington, DC 20004, Counsel for Media General Communications Holdings, LLC, licensee of Station WFLA-TV, Tampa, FL;

Margaret L. Tobey, Vice President, Regulatory Affairs and Assistant Secretary, NBCUniversal, 300 New Jersey Ave., N.W., Suite 700, Washington, DC 20001, Counsel for NBC Telemundo License, LLC, licensee of Station WTVJ(TV), Miami, FL

John W. Zucker, Deputy Chief Counsel, ABC, Inc., 77 W. 66th St., New York, NY 10023, Counsel for WTVD Television, LLC, licensee of Station WTVD(TV), Durham, NC;

Martin P. Messinger, Chief Legal Officer, CBS Television Stations, Inc., a wholly owned Division of CBS Corporation, 524 W. 57th St., New York, NY 10019, parent company of CBS Broadcasting, Inc., licensee of Station WWJ-TV, Detroit, MI

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