

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

In the Matter of Online Political Files of)
)
MEREDITH CORPORATION) File No. 082117a
Licensee of Station WPCH-TV, Atlanta, GA) Facility ID No. 64033
and)
)
GEORGIA TELEVISION, LLC) File No. 082117b
Licensee of Station WSB-TV, Atlanta, GA) Facility ID No. 23960
)

ORDER

Adopted: December 3, 2019

Released: December 3, 2019

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Order, the Media Bureau admonishes Meredith Corporation (Meredith), licensee of Station WPCH-TV, Atlanta, GA, and Georgia Television, LLC (Georgia Television), licensee of Station WSB-TV, Atlanta, GA, for failing to include in their respective stations' online political files certain information about requests to purchase political advertising time for non-candidate issue advertisements, in willful and repeated violation of section 315(e)(2) of the Communications Act of 1934, as amended (Act).1 This Order resolves a total of six complaints filed jointly by Issue One2 and Campaign Legal Center3 (collectively Complainants) on August 21, 2017. Three complaints were directed against Meredith, and three against Georgia Television.4 Because the allegations in all six complaints are substantially similar, we are considering them jointly.

1 47 U.S.C. § 315(e)(2).

2 Issue One describes itself as "a nonpartisan, nonprofit organization that seeks to 'strengthen democracy and return government to the American people' through 'political reform and government ethics.'" See e.g., "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Meredith Corporation, licensee of Station WPCH-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a House Majority PAC advertisement (Meredith House Majority Ad Complaint).

3 Campaign Legal Center describes itself as "a nonpartisan, nonprofit legal organization that seeks 'to improve our democracy and protect the fundamental right of all Americans to participate in the political process' by, among other things, seeking the enforcement of media and campaign laws." See id.

4 See Meredith House Majority Ad Complaint; "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Meredith Corporation, licensee of Station WPCH-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a National Republican Congressional Committee (NRCC) advertisement, (Meredith NRCC Ad

2. In the *Political File Clarification Order*,⁵ the Commission recently resolved similar complaints alleging violations of our political file rules. In so doing, the Commission clarified certain record-keeping obligations that the Act and the Commission's rules impose on broadcast licensees and other entities with respect to the purchase of non-candidate issue advertising time.⁶ In that proceeding, the Commission did not take enforcement action in instances where a licensee failed to satisfy a requirement that it was then clarifying. However, the Commission admonished various licensees for political file-related violations if their conduct was inconsistent with the clear mandate of section 315 and our implementing rules.⁷ Because the alleged misconduct at issue in the instant case predated the release of the *Political File Clarification Order*, we take the same approach here as discussed below.

II. BACKGROUND

3. Broadcast licensees have long been required by the Act and the Commission's rules to maintain political files for public inspection. The Commission has stated that political file record-keeping requirements are intended "to provide for accurate documentation of the disposition of requests for time."⁸ Every broadcast licensee bears a critical responsibility to ensure that its political files are complete.

4. Section 315(e) of the Act requires licensees to maintain political files for certain types of advertisements. Specifically, pursuant to section 315(e)(1)(B),⁹ licensees are required to make available for public inspection a "complete record" of each request to purchase broadcast time that "communicates a message relating to any political matter of national importance, including (i) a legally qualified candidate;¹⁰ (ii) any election to Federal office;¹¹ or (iii) a national legislative issue of public importance."¹²

5. As to each request to purchase political advertising time, licensees are required under section 315(e)(2) to identify in their political files "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)."¹³ The Commission clarified in the

(...continued from previous page)

Complaint); "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Meredith Corporation, licensee of Station WPCH-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a Patriot Majority USA advertisement; "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Cox Media Group, licensee of Station WSB-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a House Majority PAC advertisement; "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Cox Media Group, licensee of Station WSB-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a National Republican Congressional Committee advertisement (Georgia Television NRCC Ad Complaint); and "Complaint" filed on August 21, 2017, by Issue One and Campaign Legal Center against Cox Media Group, licensee of Station WSB-TV, Atlanta, GA, for violations of section 315 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules, regarding the broadcast of a Patriot Majority USA advertisement. The three complaints involving Station WSB-TV inadvertently identified Cox Media Group, rather Georgia Television, as the licensee of that station. Georgia Television and Cox Media Group are affiliated subsidiaries, both of which are wholly-owned by Cox Enterprises, Inc.

Both Meredith and Georgia Television responded to the complaints on October 10, 2017. See Letter, from Joshua N. Pila, General Counsel, Local Media Group, Meredith Corporation, to Gary Schonman, Special Counsel, Media Bureau, Federal Communications Commission, dated October 10, 2017 (Meredith Letter); and Answer to Complaints, filed on behalf of Georgia Television on October 10, 2017, by Michael D. Basile, Esq., and Christina H. Burrow, Esq., Cooley LLP (Georgia Television Answer).

Political File Clarification Order that for each request to purchase political advertising time that triggers record-keeping obligations under section 315(e)(1)(B), licensees must identify in their political files *all* political matters of national importance referenced in the ad, including the names of all federal candidates (and the offices to which they are seeking election), all elections to federal office, and all national legislative issues of public importance to which the communication refers.¹⁴

6. Complainants filed three substantially identical complaints against Meredith about advertisements sponsored, respectively, by the National Republican Congressional Committee (NRCC), Patriot Majority USA (Patriot Majority), and House Majority PAC (House Majority). The complaints against Georgia Television involved the same three advertisements and organizations. Complainants state that the ads communicated messages relating to political matters of national importance, and thus triggered political file disclosure obligations for the stations.¹⁵ According to Complainants, all of the ads referenced the then-ongoing campaign for United States House of Representatives in Georgia's 6th Congressional District.¹⁶ Complainants further maintain that the House Majority ads also specifically referenced Karen Handel, a legally qualified candidate running in the 2017 election,¹⁷ and the NRCC ad additionally referenced the issue of "lower taxes"¹⁸

7. Complainants acknowledge that the stations uploaded an NAB Form PB-18¹⁹ for each of the six ads to their respective online political files, but contend that they failed to complete the forms properly. Complainants also allege that neither station disclosed in its online file any political matters of national importance referenced in the three ads, in violation of section 315(e)(2)(E) of the Act.²⁰

8. Meredith and Georgia Television do not dispute that the ads triggered disclosure obligations under section 315(e)(1)(B).²¹ However, they maintain that Complainants misstate the extent of the obligations imposed by section 315 and claim that their respective political files were substantially complete.²² The arguments advanced by the licensees are addressed in more detail below.

(...continued from previous page)

⁵ *Complaints Involving the Political Files of WCNC-TV, Inc., licensee of Station WCNC-TV, Charlotte, NC, et al.*, Memorandum Opinion and Order, FCC 19-100, 2019 WL 5296781 (Oct. 16, 2019). (*Political File Clarification Order*).

⁶ *Political File Clarification Order*, at *5-14, paras. 11-38. 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 digital audio radio licensees (*see* 47 CFR § 25.702(b)).

⁷ *Political File Clarification Order* at *2, 14-23, paras. 3, 39-71.

⁸ *In the Matter of Codification of the Commission's Political Programming Policies*, Memorandum Opinion and Order, 7 FCC Rcd. 4611, 4621 (1992).

⁹ 47 U.S.C. § 315(e)(1)(B).

¹⁰ *Id.* at § 315(e)(1)(B)(i).

¹¹ *Id.* § 315(e)(1)(B)(ii).

¹² *Id.* § 315(e)(1)(B)(iii). In the *Political File Clarification Order*, the Commission clarified that it will consider context in determining whether an advertisement that references a legally qualified candidate, an election, and/or a national legislative issue of public importance constitutes a "political matter of national importance" that triggers record-keeping obligations under section 315(e)(1)(B) of the Act. *Political File Clarification Order* at *10-14 paras. 27-38. The Commission also clarified that, for purposes of section 315(e)(1)(B)(i), the term "legally qualified candidate" refers to candidates for federal office, and for purposes of section 315(e)(1)(B)(iii), the term "national

III. DISCUSSION

A. Meredith

9. We admonish Meredith for its failure to disclose in its political file any political matters of national importance with respect to the three ads at issue in this case broadcast by Station WPCB-TV. All three ads communicated messages relating to the election in Georgia's 6th Congressional District, one ad additionally referenced Karen Handel, then a legally qualified candidate in that race, and another referenced the election and the issue of lower taxes. Station WPCB-TV's political files inadequately disclosed information about the election and omitted other information about candidate Handel and the issue of lower taxes.

10. Meredith maintains that, under section 315(e)(2)(E), Station WPCB-TV was required to disclose in its political file only the name of the candidate, the election *or* the national legislative issue of public importance to which the ads referred.²³ Meredith further maintains that it complied with this obligation by disclosing that the ads communicated messages about the election in Georgia's 6th Congressional District. According to Meredith:

the paperwork for each of these advertisers were filed under "Federal" then under "U.S. House" in the station's online public file. Accordingly, the very placement of the paperwork in the WPCB-TV public file told the public that information in that folder was related to a U.S. House race, i.e. the GA-6 special election. Furthermore, on two of the NAB forms the station hand-wrote "GA CD-6" which then explicitly told the public the race that was the subject of the ads. Consequently, in each case, the station disclosed "the election to which the communication refers" which, as discussed above, complies with the station's obligations under the statute.²⁴

(...continued from previous page)

legislative issue of public importance" refers to an issue that is the subject of federal legislation that has been introduced and is pending in Congress at the time a request for air time is made. *Id.* at *11-14, paras. 31-35, 37-38.

¹³ 47 U.S.C. § 315(e)(2)(E).

¹⁴ *Political File Clarification Order* at *5-8 paras. 12-20. The Commission also clarified that under section 315(e)(2)(G) of the Act, 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 political advertising 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, 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. *Political File Clarification Order* at *8-10, paras. 21-26.

¹⁵ *See, e.g.*, Georgia Television NRCC Ad Complaint at 4-5.

¹⁶ *See, e.g.*, Meredith NRCC Ad Complaint at 4-5.

¹⁷ *See, e.g.*, Meredith House Majority Ad Complaint at 3.

¹⁸ *See, e.g.*, Georgia Television NRCC Ad Complaint at 5.

¹⁹ NAB Form PB-18 is a form that the National Association of Broadcasters makes available to stations to facilitate the entry of required information into their political files for public inspection. Stations are not required by any Commission rule or statute to use NAB Form PB-18.

11. Initially, we disagree with Meredith concerning the scope of its obligations under section 315(e)(2)(E) of the Act. As noted above, the Commission explained in its *Political File Clarification Order* that a licensee does not have the discretion to selectively disclose political matters of national importance referenced in political advertisements. Rather, a licensee must disclose all candidates, elections and legislative issues of public importance referenced in such ads.

12. Because the misconduct in this instance predated the guidance provided by the Commission in its *Political File Clarification Order*, we would have excused it if Meredith had properly identified in its political files even one political matter of national importance referenced in the subject ads.²⁵ We find, however, that Meredith did not sufficiently identify in its political files *any* political matters of national importance for the ads in question, including the 2017 election that was referenced in all three ads, the name of the federal candidate referenced in the House Majority ad, and the issue of taxes referenced in the NRCC ad. The act of placing documents in a particular subfolder identified as “U.S. House Race” does not provide the kind detailed information that section 315 of the Act requires to disclose the election at issue. Stations bear the responsibility of maintaining political files that provide meaningful disclosure. This requires that they make clear, affirmative representations in their political files about each ad that references a political matter of national importance. While the instant case involved a single race in Georgia’s 6th Congressional District, many stations serve areas that encompass multiple congressional districts. It is not enough therefore for a station to leave it up to the public to figure out which election may be the subject of a political ad based merely upon the name of the subfolder into which documents for that ad have been placed. We also do not believe that a handwritten note in a station’s political file referring to “GA CD-6” adequately identifies for members of the public that the ad communicated a political matter of national importance involving the election in Georgia’s 6th Congressional District. While some politically-oriented individuals and groups may recognize that the term “GA CD-6” means “Georgia’s 6th Congressional District,” stations should not assume that such a notation provides clear and meaningful disclosure to members of the general public.

13. Meredith concedes that Station WPCH-TV incorrectly completed its NAB Forms PB-18 for the ads. However, it argues that such forms are intended for station convenience and are not required by any Commission rule or statute.²⁶ According to Meredith, “[w]hile it may be a ‘best practice’ to change an incorrect or incomplete ‘NAB Form,’ it is not a requirement so long as the relevant information is in the [political] file.”²⁷ We agree with Meredith that stations are not required to use NAB Form PB-18. However, stations are obligated to provide -- using whatever form they choose -- meaningful disclosure about non-candidate issue ads they broadcast that communicate messages relating to political matters of national importance. In the instant case, such meaningful disclosure was lacking in connection with the files for each of the three ads in question. On balance, therefore, we find that Meredith failed to

(...continued from previous page)

²⁰ See, e.g., Georgia Television NRCC Ad Complaint at 5-6. Complainants also reference in their filings the requirements imposed by section 73.1212(e) of the Commission’s Rules, 47 CFR § 73.1212(e), but do not appear to allege that either licensee violated those obligations. See, e.g., Georgia Television NRCC Ad Complaint at 4, 6.

²¹ See Meredith Letter at 2; Georgia Television Answer at 3.

²² See Meredith Letter at 2-3; Georgia Television Answer at 4-7.

²³ Meredith Letter at 2.

²⁴ Meredith Letter at 3.

²⁵ See *Political File Clarification Order* at *2, 14-23 paras. 3, 39-71.

²⁶ Meredith Letter at 3.

²⁷ Meredith Letter at 3.

include in Station WPCB-TV's political files required information about requests to purchase broadcast time for non-candidate issue advertisements, in willful and repeated violation of section 315(e)(2)(E).

B. Georgia Television

14. We admonish Georgia Television for its failure to disclose in its political file any political matters of national importance with respect to the three ads at issue in this case, each of which referenced the election in Georgia's 6th Congressional District, legally qualified candidate Karen Handel, and/or the issue of lower taxes. Similar to Meredith, Georgia Television maintains that under section 315(e)(2)(E), Station WSB-TV was required to disclose in its political files only the name of the candidate, the election *or* the national legislative issue of public importance to which the ads referred.²⁸ For the same reason discussed above, we reject that interpretation of the statute.²⁹

15. Georgia Television concedes that WSB-TV's political file for the three ads was incomplete, stating that it:

inadvertently omitted one item from its political public file: the otherwise obvious fact that the NRCC, Patriot Majority and House Majority PAC ads concerned the GA CD-6 race. However, this inadvertent omission caused no public harm, as it was self-evident that these spots were about the GA CD-6 federal race.³⁰

Georgia Television's claims that the subject of the ads was "obvious," and its omission caused no public harm lack merit. In the absence of providing affirmative, meaningful disclosure in Station WSB-TV's political files about political matters of national importance, the subject (or subjects) of the ads was not evident. Although the record does not indicate the specific harm the public may have suffered from Georgia Television's omission, a finding that a licensee violated section 315(e)(2)(E) by failing to upload required information to its political file requires only that its actions were willful and/or repeated.³¹

16. Had Georgia Television properly identified in its political files even one political matter of national importance referenced in each of the subject ads, we would excuse such misconduct in this instance on the basis that it occurred prior to the date on which the Commission provided guidance in its *Political File Clarification Order*.³² Because it failed to do so, we find that Georgia Television failed to include in Station WSB-TV's political files required information about requests to purchase broadcast time for non-candidate issue advertisements, in willful and repeated violation of section 315(e)(2)(E) of the Act.

IV. ORDERING CLAUSES

17. **ACCORDINGLY, IT IS ORDERED** that Meredith Corporation **IS ADMONISHED** for failing to maintain complete political files for Station WPCB-TV, Atlanta, GA, in willful and repeated violation of section 315(e)(2)(E) of the Act.

18. **IT IS FURTHER ORDERED** that Georgia Television, LLC, **IS ADMONISHED** for failing to maintain complete political files for Station WSB-TV, Atlanta GA, in willful and repeated

²⁸ Georgia Television Answer at 5.

²⁹ Georgia Television Answer at 4-5. Georgia Television further claims that Station WSB-TV's use of NAB Form PB-18 was purely voluntary, and any failure to properly fill in the form does not constitute a violation of any Commission rule or statute. We treat this claim in the same manner as above. *See supra* para 12.

³⁰ Georgia Television Answer at 4. *See also* Georgia Television Answer at 7.

³¹ *See, e.g.*, 47 U.S.C. § 503(b).

³² *See Political File Clarification Order* at *2, 14-23 paras. 3, 39-71.

violation of section 315(e)(2)(E) of the Act.

19. **IT IS FURTHER ORDERED** that the six complaints filed jointly by Issue One and Campaign Legal Center on August 21, 2017, are **GRANTED** to the extent indicated and **DENIED IN ALL OTHER RESPECTS**.

20. **IT IS FURTHER ORDERED** that this action is taken pursuant to authority delegated by Section 0.283 of the Commission's Rules.³³

21. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by United States first class and certified mail, return receipt requested, to: Joshua N. Pila, General Counsel, Local Media Group, Meredith Corporation, 1716 Locust Street, Des Moines, IA 50309; Michael D. Basile, Esq., Cooley LLP, 1299 Pennsylvania Avenue, N.W., Suite 700, Washington, DC 20004, counsel for Georgia Television, LLC; Meredith McGhee, Esq., Issue One, 1401 K Street, N.W., Suite 350, Washington, DC 20005; and Brendan M Fischer, Esq., Campaign Legal Center, 1411 K Street, N.W., Suite 1400, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Media Bureau

³³ 47 CFR § 0.283.