

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

In re Request of )  
 )  
INFINITY BROADCASTING CORPORATION )  
OF ILLINOIS )  
 )  
For Declaratory Ruling )  
 )

STAFF RULING

Adopted: January 13, 1997

Released: January 14, 1997

By the Chief, Complaints and Political Programming Branch:

1. The Commission has before it a request for a declaratory ruling filed by Infinity Broadcasting Company of Illinois ("Infinity"), licensee of radio station WJJD, Chicago, Illinois, seeking a Commission determination that news interviews of legally qualified candidates on its program "Ed Vrdolyak & Ty Wansley" ("EVTW") are exempt from the equal opportunities provision of Section 315(a) of the Communications Act of 1934, as amended. (47 U.S.C. Section 315(a)).

2. Infinity states that EVTW is a "four hour, interview-driven, regularly scheduled 'talk- radio'" program which has aired Monday through Friday on WJJD since November 1994. Infinity asserts that EVTW consists of interviews with guests by the program's hosts, Ed Vrdolyak and Ty Wansley; a call-in question and comment period for listeners; and a five minute local newscast at the beginning and end of each hour. Infinity requests an exemption for the guest interview portion as well as the listener call-in segment. Infinity maintains that Vrdolyak, a former alderman on the Chicago City Council, and Wansley, a long time radio personality, utilize their expertise to direct interviews and questioning by listeners to avoid advancement of any candidate. Further, Infinity states that the topics discussed on EVTW are chosen by WJJD staff according to local and national newsworthiness. Infinity also maintains that guests are selected on the basis of potential audience interest, their expertise or positions on various issues, and with the intent to provide news information to WJJD's community of license rather than to oppose or advance a particular candidate.

3. Section 315(a) of the Communications Act provides that if a licensee permits a

legally qualified candidate for public office to use a broadcast station, it must afford equal opportunities to other such candidates for that office. In 1959, Congress amended Section 315 to exempt from equal opportunities appearances by legally qualified candidates on the following news programs:

- (1) *bona fide* newscast,
- (2) *bona fide* news interview,
- (3) *bona fide* news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) on-the-spot coverage of *bona fide* news events (including but not limited to political conventions and activities incidental thereto).

47 U.S.C. Section 315(a)(1)-(4). In determining whether a program qualifies as a "*bona fide* news interview," the Commission considers the following factors: (1) whether it is regularly scheduled; (2) whether the broadcaster or an independent producer controls the program; and (3) whether the broadcaster's or independent producer's decisions on format, content, and participants are based on newsworthiness rather than on an intention to advance an individual's candidacy. See Request for Declaratory Ruling on Independently Produced News Interviews, 7 FCC Rcd 4681 (1992). Furthermore, as the Commission stated therein, whenever a news exemption is sought for an independently produced program, individual "licensees must still make a determination to air individual programs in the exercise of their *bona fide* news judgment." *Id.* at 4685.

4. Based on the information contained in Infinity's request, it appears that the guest interview portion and the listener call-in segment of EVTW qualify for a news interview exemption from equal opportunities pursuant to Section 315(a)(2). EVTW has contained regularly scheduled news interviews for more than two years and Infinity is solely responsible for production and overall control of the program. Further, the program's hosts exercise control over the scope of the guest interviews and participation by the audience. The Commission has previously granted news interview exemptions to programs involving audience participation so long as safeguards exist to ensure journalistic control. See Mutual Broadcasting System, Inc., 56 RR 2d 956 (1984) (Larry King); Multimedia Entertainment Inc., 56 RR 2d 143 (1984) (Donahue). Finally, it appears that the topics and guests selected are based upon their newsworthiness in the exercise of WJJD's good faith judgment rather than an intent to advance a particular candidacy.

5. In view of the foregoing considerations, to the extent that WJJD regularly produces and schedules for broadcast *bona fide* news interviews on EVTW, the program is exempt from Section 315(a) of the Communications Act.

6. Staff action is taken pursuant to delegated authority.

**FEDERAL COMMUNICATIONS COMMISSION**

Norman Goldstein  
Chief, Complaints and  
Political Programming Branch  
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Mass Media Bureau