

May 29, 2015

Dear Senator:

We, the undersigned groups, strongly urge you to cosponsor S. 1260, the “Sunshine in Sponsorship Identification Act,” introduced by Sen. Bill Nelson (D-FL). The bill directs the Federal Communications Commission (FCC) to revise and update its sponsorship identification rules for both commercial and political advertising. It has long been fundamental federal communications policy, as embodied in Section 317 of the Communications Act, that “listeners are entitled to know by whom they are being persuaded.” Under the current rules, it is simply too easy to create a “front” organization and evade the disclosure requirements of Section 317, as we have seen in the case of so many political advertisements.

The organizations are the Campaign Legal Center, Common Cause, Free Press Action Fund, Sunlight Foundation, United Church of Christ, OC Inc., Americans for Democratic Action, and the Wireless Future Project at New America’s Open Technology Institute.

Since the enactment of the Radio Act in 1927, federal law has required broadcasters to identify the sponsors of broadcast content. The FCC has had the authority to adopt and enforce rules requiring the disclosure of the sponsors of commercial and political broadcasts since the passage of Section 317 of the Communications Act of 1934. Section 317 requires the full disclosure of the true identity of the sponsors of all on-air commercial and political broadcasts. The FCC issued rules and guidelines implementing Section 317 in 1944. Minor revisions were made in 1992.

In January 2013, the Government Accountability Office (GAO) recommended that the FCC update its sponsorship ID rules, both to reflect the many changes in the way commercial content is portrayed on television and to take into account significant changes in federal campaign practices and election law.

S. 1260, the “Sunshine in Sponsorship Identification Act,” would require the FCC to commence a rule-making to update and modernize its rules and guidance promulgated under Section 317. Under S. 1260, the FCC would consider “how to best require the disclosure of sponsorship identification information, including by requiring that more detailed sponsorship identification information be placed online or in another form more readily accessible to the public.”

As the Commission has stated, the sponsorship identification requirement is “based on the principle that the public has the right to know whether the broadcast material has been paid for and by whom.” Thus, the purpose of the sponsorship identification requirements mandates that “the audience be clearly informed that it is hearing and viewing matter which has been paid for when such is the case, and that the person paying for the broadcast of the matter be clearly identified.” *Advertising Council*, 17 FCCRcd 22616, 22620-21 (2002).

Concerns about the failure of radio stations to identify the sponsors of political spot announcements were raised as long ago as 1944 when listeners to public affairs broadcasts were told the sponsors of the broadcasts were a group like a “Citizen’s Committee.” (*Identification of Sponsors*, 9 Fed. Reg. 12817 (October 25, 1944)).

The Commission has stated that sponsorship identification is intended to “fully and fairly disclose the *true identity* of the person or persons by whom or on whose behalf payment was made.” *Applicability of Sponsorship Identification Rules*, 40 FCC 141, 150 (1963) (emphasis added). Clearly this goal has not been achieved.

The Supreme Court has repeatedly upheld disclosure requirements for broadcast political advertisements. In *Citizens United v. FEC*, the Court rejected Citizens United’s efforts to strike down required disclaimers for broadcast advertisements, noting that similar requirements had been upheld in previous cases (*Buckley v. Valeo* and *McConnell v. FEC*) and that the “informational interest” for voters in requiring disclaimers is constitutional. In *Citizens United*, the Court noted that “disclosure can be justified by a governmental interest in providing ‘the electorate with information’ about election-related spending sources and also help to “insure that the voters are fully informed about who is speaking.”

Sponsorship identification is not and should not be a partisan issue. Rather, it is the right of listeners and viewers that is paramount. The FCC has an obligation to enforce its authorizing statute and S. 1260 will help to achieve this end. We strongly urge you to cosponsor this critically important legislation.

Sincerely,

Campaign Legal Center
Common Cause
Free Press Action Fund
Sunlight Foundation
United Church of Christ, OC Inc.
Americans for Democratic Action
Wireless Future Project at New America’s Open Technology Institute