



# FCC Underwriting Requirements



Brad C. Deutsch | Foster Garvey PC | February 2025



# Why Does This Matter?

## There's a New Sheriff in Town!

The New York Times

### *F.C.C. Chair Orders Investigation Into NPR and PBS Sponsorships*

Brendan Carr, the chairman of the Federal Communications Commission, said the inquiry could help Congress decide whether to continue funding local stations.

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"I am concerned that NPR and PBS broadcasts could be violating federal law by airing commercials," said Brendan Carr, the chair of the Federal Communications Commission, who was appointed by President Trump. *Erin Schaff/The New York Times*



By Benjamin Mullin and David McCabe



Brendan Carr  
Chairman

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

January 29, 2025

Katherine Maher  
President and Chief Executive Officer  
National Public Radio

Paula A. Kerger  
President and Chief Executive Officer  
PBS

RE: Federal License Obligations of NPR and PBS Member Stations

Dear Ms. Maher and Ms. Kerger,

I am writing to inform you that I have asked the FCC's Enforcement Bureau to open an investigation regarding the airing of NPR and PBS programming across your broadcast member stations.

As you know, NPR and PBS distribute their programming through a network of approximately 1,500 NPR and PBS member broadcast stations. The relevant broadcast stations, which are licensed to operate by the FCC, are limited by the terms of their federal authorizations to operating as noncommercial educational broadcast stations or NCEs.

Federal law prohibits any NCE station from running commercial advertisements. More specifically, Section 399B of the Communications Act prohibits an NCE station from airing commercials or other promotional announcements on behalf of for-profit entities. For-profit entities that contribute funds to NCE stations may receive on-air acknowledgements, but the FCC has long held that these underwriting announcements are for identification purposes only. These announcements should not promote the contributor's products, services, or businesses, and they may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.

I am concerned that NPR and PBS broadcasts could be violating federal law by airing commercials. In particular, it is possible that NPR and PBS member stations are broadcasting underwriting announcements that cross the line into prohibited commercial advertisements.

It is important to me, as Chairman of the FCC, that NCE broadcast stations stay true to their important missions and refrain from operating as noncommercial in name only. That is why, as noted above, I have asked the FCC's Enforcement Bureau, with assistance from the FCC's

# Enhanced Underwriting Announcements vs. Advertisements

The FCC allows Noncommercial Educational Stations to broadcast “Enhanced Underwriting Announcements” but prohibits airing of “Advertisements.”

But what is the difference?!

Remember – Don’t focus on what YOU think the difference is (or what you think the difference should be); all that matters is what the FCC thinks the difference is.



# At the Extremes

## Advertisement

*Come on down to Rocco's on Main Street for the best pizza in Washington DC. Bring the whole family in on a Tuesday and you can get two delicious extra-large pizzas for just \$15. Washington has been loving our amazing service and award-winning drinks since 1971!*

## Enhanced Underwriting Announcement

*Sponsored by Rocco's on Main Street, serving pizza and drinks since 1971.*

**The extremes are easy to distinguish but when you get close to line between the two it can be very difficult to distinguish.**



# The FCC's Definition of Advertisement

- An announcement that promotes a for-profit product, service or facility.
- The station receives some form (any form!) of compensation for airing the announcement.



# Promotion - Four No's and a Not



- **NO** Price Information
- **NO** Call to Action
- **NO** Inducements
- **NO** Qualitative or Comparative Language
- **NOT** Too Long

# No Price Information

No mention of any price, cost or value associated with a product or service.



# No Call to Action

No mention of something the listener should do related to the product or service.





# No Inducements

No mention of inducements to buy, sell, rent or lease.



# No Qualitative or Comparative Language

No mention of how good a product or service is and no comparisons to other products or services.



# Not Too Long

The FCC has indicated that any announcement longer than 30 seconds is likely to be promotional.

Also, any long list of goods or services, or even a long description runs the risk of becoming promotional.



# Established Names & Slogans

Watch Out - This Can Get Tricky!



# “For Profit”

Don't Forget About “For Profit”



# Compensation

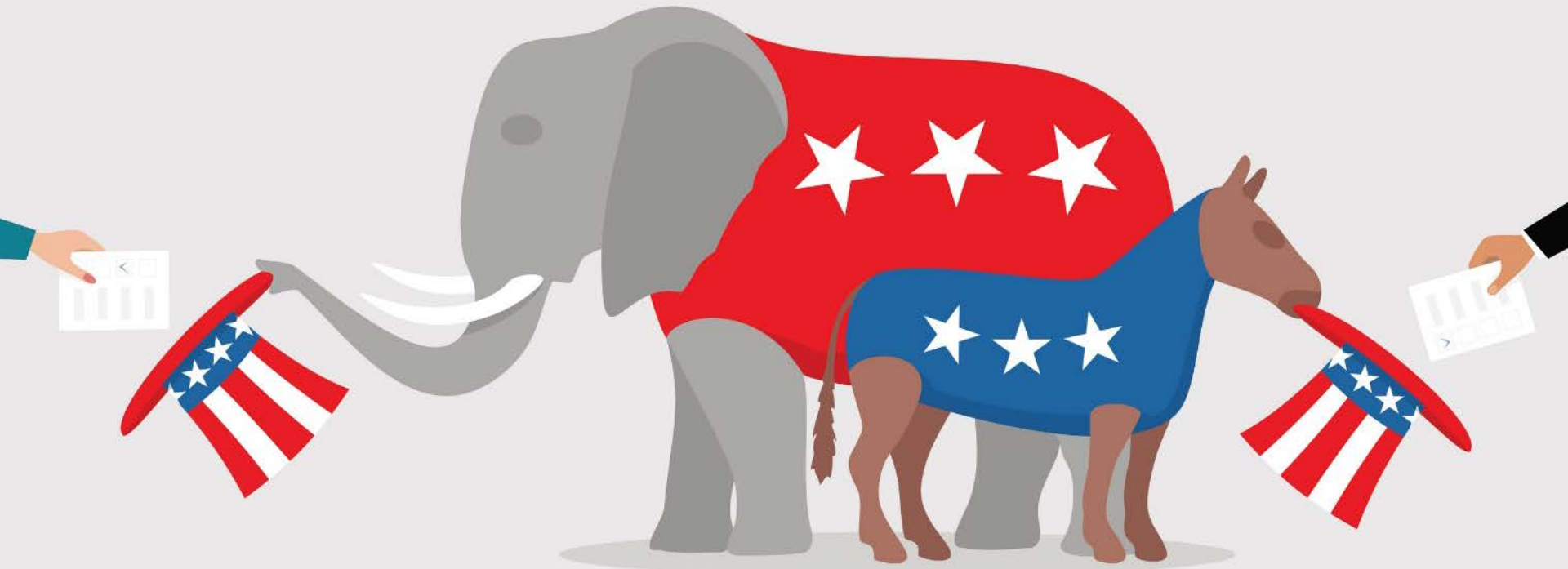
The station receives some form (any form!) of compensation for airing the announcement.

Compensation – The question to ask is “What motivated the airing of the announcement?”



# Clear and Accurate Sponsorship Identification





## Political Announcements

No Political Announcements  
Supporting or Opposing a  
Candidate.



# Public Importance

No Views on Issues of Public Importance



# Fundraising

No Fundraising for Other Non-Profits



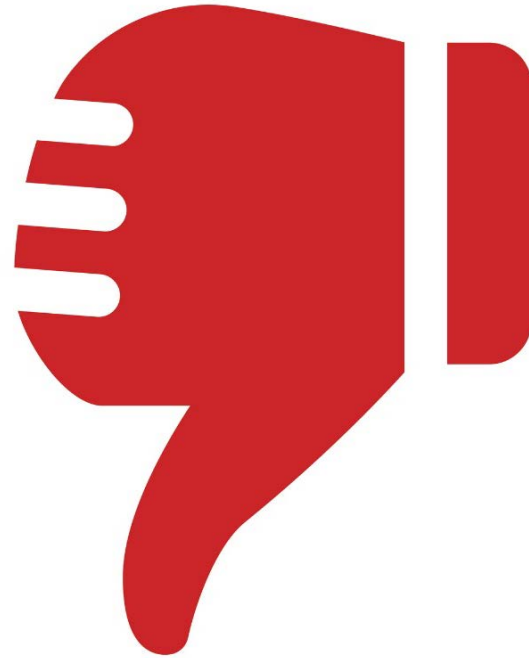


## In a Nutshell

- Announcements **may include:**
- Name and contact information such as, address, telephone number, or web address
- Brands or trade names of products or services offered
- Value neutral descriptions of product or services
- Non-promotional slogan
- Historical information

# In a Nutshell

- Announcements **may not include**:
- Price information
- Calls to action
- Inducements to buy, sell, or lease
- Comparative or qualitative language
- Excessive repetition of information



# Contact Information



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