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The Federal Communications Commission's (FCC's) Authority Over Broadcasters' Programming: An Introduction

Reported statements by President Donald J. Trump regarding the potential for Federal Communications Commission (FCC) revocation of broadcast licenses based on the content presented has led to congressional interest in the authorities of the FCC regarding broadcast content.

The Communications Act of 1934 gives the FCC extensive authority over broadcasters. The FCC is responsible for issuing broadcasting licenses and ensuring that licensees serve the “public convenience, interest, or necessity.” The FCC fulfills this public interest mandate, in part, through the enforcement of various broadcast programming restrictions. These restrictions are subject to First Amendment limitations and a statutory prohibition on censorship. The agency enforces, among other things, a prohibition on obscene, indecent, or profane language; a prohibition on “news distortion”; a requirement that broadcasters give equal opportunities to candidates for public office; and a requirement that broadcasters disclose sponsors of on-air programming. Although some of these requirements might violate the First Amendment’s Free Speech Clause if applied to other forms of media, the U.S. Supreme Court has given the government broader latitude in the context of broadcast communications because of the medium’s unique characteristics (in particular, a scarcity of airwaves).

Broadcast Programming Requirements

Prohibition on Obscene, Indecent, or Profane Content.

Under 18 U.S.C. § 1464, the use of “any obscene, indecent, or profane language by means of radio communications” is forbidden. The FCC’s implementing regulations prohibit the broadcast of obscene speech at any time—as obscenity, as defined by the Supreme Court, is not protected by the First Amendment—and prohibit broadcasts of indecent speech between 6:00 a.m. and 10:00 p.m. FCC regulations do not address “profane” speech. While the FCC has attempted to define profanity in the past, its most recent interpretation was deemed unreasonable by a reviewing court.

News Distortion Policy. The FCC’s news distortion policy prohibits the “deliberate” falsification of news reports regarding a “significant event.” The FCC established the policy in a series of administrative decisions, beginning in 1969. The policy, in the words of one court, makes a “crucial distinction between deliberate distortion and mere inaccuracy or difference of opinion.” The FCC considers news distortion complaints if “extrinsic evidence” (i.e., evidence outside of the broadcast itself), such as “written or oral instructions from station management, outtakes, or evidence of bribery,” demonstrates an intent to mislead. It is not sufficient for news distortion complaints to allege that

the “material in question is false or even that the Licensee might have known or should have known about the falsity of the material.”

Equal Opportunities Rule. The FCC enforces Section 315(a) of the Communications Act, which stipulates that if a licensee allows a legally qualified candidate for public office to use a broadcasting station, it must afford “equal opportunities” to other such candidates. Certain news-related programs are exempt from equal opportunities. Namely, an appearance by a legally qualified candidate on a bona fide newscast, a regularly scheduled bona fide news interview program, certain documentaries, and on-the-spot coverage of a bona fide news event (including debates and political conventions) do not trigger equal opportunities for opposing candidates (47 U.S.C. § 315)(a)).

Sponsorship Rules. The FCC enforces Section 317 of the Communications Act, which requires broadcasters to disclose to their listeners or viewers if matters have been aired in exchange for money, services, or other valuable consideration. The FCC also enforces Section 507 of the Communications Act, which stipulates that when anyone provides or promises to provide money, services, or other valuable consideration to a broadcast employee or station in exchange for airing programming, the broadcaster must disclose this fact to audiences before the programming airs.

Enforcement

If a broadcaster violates the above programming requirements, it may face consequences. The Communications Act gives the FCC authority to impose forfeiture penalties on broadcasters who willfully or repeatedly violate the Communications Act or FCC regulations (although there is a current split in the U.S. Courts of Appeals over the constitutionality of the Act’s forfeiture framework). The FCC may also revoke a broadcaster’s licenses for violations of Section 1464 or for willful or repeated violations of the Communications Act or FCC regulations. The FCC may also take violations of programming requirements into account when considering whether it is in the public interest to renew a broadcaster’s license or transfer a broadcaster’s license to a third party.

Selected Complaints, Investigations, and Petitions

The following describes selected complaints to or investigations by the FCC of broadcast programming in 2024 and 2025 that are related to the FCC programming requirements described above. Due to FCC procedures for investigating complaints, the status of complaints, including most of those described below, are not publicly available.

Prohibition on Obscene, Indecent, or Profane Content.

On July 29, 2024, the nonprofit foundation Judicial Watch filed a complaint with the FCC against the television stations owned by and affiliated with the National Broadcasting Company (NBC) broadcast network. Judicial Watch requested that the FCC investigate whether the stations violated the agency's indecency rules by airing a portion of the Olympics Opening Ceremony featuring a mainly nude adult male.

News Distortion Policy. On October 16, 2024, the nonprofit law firm Center for American Rights (CAR)—the registered assumed corporate name of the National Center for Justice & Liberty, Inc.—filed a complaint with the FCC against WCBS-TV, a television station owned and operated by the CBS network. CAR requested that the FCC investigate whether WCBS-TV violated the agency's news distortion policies when it aired a *60 Minutes* interview with then-Vice President Kamala Harris. On January 16, 2025, the FCC's Enforcement Bureau denied the request, stating that “the allegations are insufficient to rise to the level of an actionable enforcement matter.” On February 3, 2025, in response to a request from the Enforcement Bureau, CBS provided the agency with an unedited transcript and video of the *60 Minutes* interview in question. On February 5, 2025, the agency determined that “the public interest would be served by making the transcript and video available” and by seeking public comment. The investigation of this complaint remains open.

Equal Opportunities Rule. On August 12, 2025, the president of the Arizona State Senate filed a complaint with the FCC against KAET, a television station affiliated with the Public Broadcasting Service (PBS) network. The president requested that the FCC investigate whether KAET violated the agency's equal opportunities rule in 2022 by not inviting one gubernatorial candidate to appear on air.

Sponsorship Rules. On September 4, 2025, CAR filed a complaint with the FCC against KABC-TV, a television station owned and operated by the American Broadcasting Company (ABC) network. CAR alleges that ABC violated FCC policies by permitting *Jimmy Kimmel Live!* to feature elected officials without disclosing that the host contributed to the officials' political campaigns. Citing FCC decisions from 1973 and 1982, among others, CAR contended that the FCC's sponsorship disclosure rules apply to political activities by as well as financial interests by news personnel. CAR requested that the FCC develop a conflict-of-interest policy that “recognizes the gray area of entertainment television.”

Limits on the FCC's Authority

The First Amendment. The Supreme Court has long recognized that broadcast's unique nature allows the government to oversee it in ways that might violate the First Amendment in other media, such as online and print media. In *National Broadcasting Co. v. United States* (1943), the Court explained that the scarcity of radio spectrum made broadcast media subject to licensing requirements, “unlike other modes of expression.” The Court elaborated on this scarcity rationale in *Red Lion Broadcasting Co. v. FCC* (1969), in which it upheld the fairness doctrine, a prior FCC practice of requiring radio and television broadcasters to (1)

“cover controversial issues of public importance” and (2) provide “reasonable opportunities for the presentation of contrasting viewpoints on such issues.” As there “are substantially more individuals who want to broadcast than there are frequencies to allocate,” the Court explained that the government can regulate licensees to ensure a range of voices and ideas are represented on the airwaves. Along with the scarcity rationale, the Court in *FCC v. Pacifica Foundation* (1978) cited broadcast's pervasiveness and its accessibility to children to explain why, of all forms of communications, broadcast “has received the most limited First Amendment protection.”

The FCC's ability to regulate broadcast content is not without First Amendment limitations. In *FCC v. League of Women Voters of California* (1984), the Court struck down a statutory provision prohibiting broadcasters who receive public funds from expressing editorial opinions. The Court reaffirmed the government's power to regulate broadcast content in ways that would be impermissible in other media but explained that the First Amendment “must inform and give shape to the manner in which Congress exercises its regulatory power in this area.” The Court emphasized that broadcasters have the First Amendment right to exercise “the widest journalistic freedom consistent with their public [duties].” Consequently, any government restrictions on broadcast content must be “narrowly tailored to further a substantial governmental interest.”

Section 326's Censorship Prohibition. Section 326 says nothing in the Communications Act “shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any [broadcast] station.” It further prohibits the FCC from issuing rules or conditions that “shall interfere with the right of free speech by means of radio communication.” As the Supreme Court explained in *Pacifica*, Section 326 has historically been read to prohibit the FCC from scrutinizing broadcast matter “prior to its release.” The Court added that Section 326 does not prevent the FCC from “tak[ing] note of past program content” when evaluating whether a licensee is operating in the public interest.

Considerations for Congress

Congress could amend the Communications Act to address the FCC's oversight of broadcasters. For example, Congress could amend Section 326 to restrict the agency from considering past programming content—or particular types of content, such as political commentary—in license renewal, revocation, or transfer proceedings. Congress could also amend the Communications Act to codify, change, or override certain FCC regulations or policies. On November 13, 2025, seven former FCC chairs and commissioners filed a petition asking the FCC to repeal its news distortion policy. Alternatively, Congress could choose to defer to the FCC with respect to the agency's or courts' interpretations of communications statutes and the U.S. Constitution, in the event stakeholders challenge the agency's authority.

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