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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

April 30, 2015

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FCC Mail Room

*CGB
Consumer
Public
Interest
Obligation*

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Chairman Wheeler:

I am writing to call on the Federal Communications Commission (FCC) to update its rules and guidance concerning the adequate disclosure of the identity of an entity that buys advertising time, whether commercial or political, on television and radio. Given the dramatic changes in technology in the many years since the FCC put forth formal guidance on these issues, it is only fair and appropriate that the FCC review its policies to make sure that American citizens are fully apprised of the identity of entities seeking to influence them.

As you know, Section 317 of the Communications Act requires the on-air identification of the sponsors of all advertisements. In fact, the concept of full and fair disclosure of sponsorship identification information has been part of the nation's communications laws since before the Communications Act of 1934 was passed. The Federal Radio Commission maintained sponsorship identification policies in the 1920s, and the FCC's authority to issue and enforce such policies was part of the original Communications Act.

The FCC has always updated its sponsorship identification rules responsive to changes in technology and the way advertisers seek to influence Americans. The original 1934 rules applied to radio, but as broadcast TV and cable's popularity grew, the FCC expanded its sponsorship identification rules to respond. But the core principle of the rule has always remained the same – citizens should know the “true identity” of the speaker seeking to influence them. In fact, in implementing this statute, the FCC has said, “listeners are entitled to know by whom they are being persuaded.” This is especially true where the content of an advertisement is political in nature.

In a January 2013 report to Congress, the non-partisan General Accountability Office (GAO) confirmed the FCC's broad authority over requiring adequate sponsorship identification for all advertisements and made recommendations for the FCC to update its sponsorship identification rules.

Honorable Wheeler
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It was noted by the GAO, and has been reinforced by others, that key provisions of these rules have not been updated since the 1940s and 1950s. And the last significant FCC action in this area was in 1992 – over two decades ago. While I appreciate the FCC’s continued work to ensure that entities are in full compliance with these rules, it is now time for your agency to begin a holistic review and update of its sponsorship identification requirements. The past 20 years have seen increased sophistication in the way companies commercialize their products on TV (through means like video news releases) and the growth of new political entities, like super political action committees, influencing the nation’s elections.

In an era where billions of dollars are being spent to market products and influence political races with TV advertising, it is high time that the FCC update its rules to ensure viewers know who actually is footing the bill for these advertisements. The FCC’s recent steps to make the contents of public files accessible online are laudable, but they are no substitute for making sure listeners know who is behind the ads they are seeing on television and hearing on the radio.

I intend to introduce legislation in the coming days directing the FCC to take action under Section 317 and modernize its sponsorship identification rules to reflect the ways commercial and political advertisers seek to influence Americans today. That legislation will require the FCC to issue new rules and guidance on both commercial and political advertisements, and to consider how to make those disclosures more effective given changes in technology and the ways Americans access information. I look forward to working with the FCC as this legislation moves forward.

At the same time, I urge the Commission to immediately launch a long-overdue rulemaking to update its sponsorship identification requirements. Supreme Court Justice Louis Brandeis made his famous statement that “sunlight is said to be the best of disinfectants” in a 1913 *Harper's Weekly* article. The FCC has a critical but largely underused role to play in making sure that information about the sponsors of television and radio advertising is open, honest, and transparent to the American public.

Sincerely,



Bill Nelson
Ranking Member

cc: Honorable John Thune