March 16, 2015

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Re: MB Docket No. 15-24

Dear Ms. Secretary:

I am responding to the NAB’s comments on the request by Canal Partners Media, LLC for a declaratory ruling stating that not only do political candidates receive the lowest-unit-rate but are also free from being pre-empted.

I agree with the NAB’s comments and encourage the Commission to deny their request.

I have been one of the top political media consultants for over thirty-five years in over 300 campaigns from school board to Presidential. My expertise in FCC law is recognized by stations, their representative, communications attorneys and even the FCC. In addition, I have testified before Congress on several occasions. I believe no other political media consultant has more FCC rulings on behalf of their clients than Jan Crawford Communications. I am probably the only political media consultant that has worked at an Owned and Operated station in Local Sales, thus learning the inner workings of commercial advertising and how it is handled.

Section 315(b) of the Communications Act of 1934 requires that “during the 45 days prior to a primary and caucus (if certain criteria is met) and 60 days prior to a general election, a station shall not charge a candidate more than the lowest unit charge of the station for the same class and amount of time for the same period.”

Broadcast commercial selling has evolved over the years. Years ago there were essentially three different classes of time -- immediately pre-emptible, pre-emptible with notice and fixed. With broadcast advertising growing at warp speed (particularly television) so have the differences in each class of time. Commercial advertisers negotiate within each class of time. Canal’s request neglects to take into consideration the various classes of time and the different rates within those classes of time. It is the candidate’s/consultant’s choice as to what class of time they purchase and which rate within that class of time they chose to pay.

Canal’s request purports that political candidates be treated BETTER than the most favored commercial advertiser. They contend that “the broadcast stations’ use of the Last-In-First-Out (LIFO) method to pre-empt political candidates’ advertisers’ spots in favor of commercial advertisers’ spots purchased earlier in time violates Section 315(b) of the Communications Act of 1934 as amended.” They further contend
“that if broadcast stations are using LIFO as a method to determine pre-emption priorities, they must treat political candidates as being the First-In advertiser regardless of when the candidate purchased its airtime in order to be in compliance with Section 315(b)… of the Act” in order to comply with the lowest unit charge rule, 45 days prior to a primary/caucus and 60 days prior to a general. Section 73,1942 of the Commission’s Rules implements this provision of the Act and states, in part, that “[a] candidate shall be charged no more per unit than the station charges its most favored commercial advertiser for the same classes and amounts of time for the same time period” and that “[a]ny station practices offered to commercial advertisers that enhance the value of advertising spots [including pre-emption priorities] must be disclosed and made available to candidates on equal terms.” According to the Communications Act of 1934 as amended, if broadcast stations utilize the LIFO for commercial advertisers, they must apply the same to political. It has been my experience that the same pre-emption rules are used for commercial advertisers.

In stating the above, Canal is effectively arguing that pre-emptible spots purchased by political candidates should be fixed, again treating them BETTER than the “most favored advertiser.”

Canal also states that commercial advertisers have an advantage by purchasing buys well in advance of airing (Upfront Buying). Almost all of the advertisers who do this actually set the lowest unit rates. Many commercial advertisers come in at the last minute and face the same constraints that political candidates face.

When I first start working on a campaign I request not only the political rate card but also the commercial rate card along with the Disclosure statement which I read carefully, scrutinizing for any questionable areas or missing information. If found, I contact the station with questions. If not satisfied, I go immediately to the FCC.

Lastly, they infer that stations are not fully disclosing practices offered to commercial advertisers that enhance the value of advertising spots [including pre-emption priorities] to political candidates or their consultants.

Having worked with the FCC over the years to guarantee full disclosure, I find this allegation absolutely wrong. In the summer of 1990 the FCC conducted an audit of 30 television and radio stations across the country. In December of 1991 the FCC issued its REPORT AND ORDER, requiring “full disclosure.” Since then I have found that the vast majority of stations are fully disclosing.

Stations are not the only ones responsible for proper adherence to FCC political advertising laws. Consultants are equally, if not more, responsible to hold stations accountable. We tout ourselves as the experts, it is our duty to know the law, question it and how stations handle the selling of time to ensure that we protect our clients.

Again, I urge the Commission to deny the Canal Partners Media request.

Sincerely,

Jan Crawford, President
Jan Crawford Communications

cc: Robert Baker, Media Bureau, Federal Communications Commission